



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

FLORENCIO MORALES, JR.,  
Petitioner,

G.R. No. 208086

Present:

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, JJ.

- versus -

OMBUDSMAN CONCHITA  
CARPIO-MORALES,  
ATTY. AGNES VST DEVANADERA,  
ATTY. MIGUEL NOEL T. OCAMPO,  
ATTY. JOYCE MARTINEZ-BARUT,  
ATTY. ALLAN S. HILBERO, and  
ATTY. EDIZER J. RESURRECION,  
Respondents.

Promulgated:

27 JUL 2016

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DECISION

CARPIO, J.:

The Case

Before this Court is a petition for *certiorari*<sup>1</sup> under Rule 65 of the Rules of Court filed by Florencio Morales, Jr. (petitioner) assailing the Order dated 13 January 2012, Review Order dated 25 October 2012, and Order dated 15 April 2013, denying his motion for reconsideration, issued by the Office of the Ombudsman in CPL-C-11-2601.

The Facts

On 16 June 2007, Atty. Demetrio L. Hilbero was gunned down near his home in Calamba City, Laguna.<sup>2</sup> The Philippine National Police (PNP) in Calamba City conducted an investigation on the incident. Among the

<sup>1</sup> *Rollo*, pp. 3-32.

<sup>2</sup> *Id.* at 4.

findings were that the shooting was committed by two motorcycle-riding perpetrators and that it was a case of mistaken identity, since other members of the Hilbero family have been found to have conflicts with groups capable of carrying out the killing. The PNP also reported that on 26 December 2007, Atty. Allan S. Hilbero, the victim's son, prepared his *Sinumpaang Salaysay* claiming that the shooting was committed by Sandy Pamplona, petitioner and two others. The PNP's Criminal Investigation and Detection Group in Cabuyao, Laguna recommended the filing of a criminal case for Murder against petitioner, Sandy Pamplona, Lorenzo Pamplona, and Primo Lopez.<sup>3</sup>

In an undated Memorandum,<sup>4</sup> respondent Atty. Miguel Noel T. Ocampo (Atty. Ocampo) of the Calamba City Prosecutors Office, voluntarily inhibited himself from handling the investigation on the ground that the complainant is his friend, and that the Administrative Officer in his office is a relative of the victim.

On 10 January 2008, Regional State Prosecutor Ernesto C. Mendoza issued Order No. 08-04<sup>5</sup> designating Assistant Regional State Prosecutor Dominador A. Leyros to investigate I.S. No. 1428-07, *Atty. Allan Hilbero v. Florencio Morales, Jr., et al.*, for Murder. After the preliminary investigation, on 6 May 2008, the Office of the Regional State Prosecutor, Region IV issued a Resolution<sup>6</sup> finding probable cause for the filing of an Information for Murder against Lorenzo Pamplona and Primo Lopez. The charges against petitioner and Sandy Pamplona were dismissed.<sup>7</sup>

Atty. Allan S. Hilbero appealed the resolution to the Department of Justice (DOJ), while Lorenzo Pamplona and Primo Lopez also filed their separate petition for review. In Resolution No. 212, series of 2009,<sup>8</sup> dated 18 March 2009, the DOJ dismissed the appeal and absolved the four accused. Atty. Allan S. Hilbero filed a motion for reconsideration. In a Resolution<sup>9</sup> dated 30 September 2009, then Secretary of Justice Agnes VST Devanadera (Sec. Devanadera) ordered the prosecution of all four accused, thus:

WHEREFORE, premises considered, the motion for reconsideration is hereby GRANTED. The DOJ resolution (Resolution 212, series of 2009) is hereby RECONSIDERED and SET ASIDE. Accordingly, the Office of the Regional State Prosecutor of Region IV, San Pablo City, is directed to file the necessary information for murder against respondents Primo Lopez, Lorenzo Pamplona, Florencio Morales, Jr. and Sandy Pamplona, should the information filed earlier against respondents Primo Lopez and Lorenzo Pamplona was already withdrawn,

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<sup>3</sup> Id. at 43-44.

<sup>4</sup> Id. at 45.

<sup>5</sup> Id. at 47.

<sup>6</sup> Id. at 50-53.

<sup>7</sup> Id. at 52.

<sup>8</sup> Id. at 55-60.

<sup>9</sup> Id. at 61-68.

otherwise, to cause the amendment thereof to include respondents Sandy Pamplona and Florencio Morales, Jr. in the information as co-accused, and report the action taken hereon within ten (10) days from receipt thereof.<sup>10</sup>

Petitioner then filed a petition for *certiorari* before the Court of Appeals (CA) docketed as CA-G.R. SP No. 111191. In a Decision<sup>11</sup> dated 7 June 2011, the CA modified the DOJ Resolution by dropping the charge against petitioner. Atty. Allan S. Hilbero filed a motion for reconsideration, which was denied.<sup>12</sup> In a Resolution<sup>13</sup> dated 17 October 2011, the RTC complied with the CA decision and dropped petitioner as an accused.

On 19 December 2011, petitioner filed a Complaint-Affidavit before the Office of the Ombudsman charging Sec. Devanadera, Atty. Ocampo, Assistant City Prosecutors Joyce Martinez-Barut, Allan S. Hilbero and Edizer J. Resurrecion with (1) Grave Abuse of Authority, (2) Grave Misconduct, (3) Falsification of Public Documents, and (4) violations of the Anti-Graft and Corrupt Practices Act, as amended, the Code of Conduct of Professional Services, and the Revised Penal Code.

### **Orders of the Office of the Ombudsman**

In the first of the assailed orders dated 13 January 2012,<sup>14</sup> the Office of the Ombudsman dismissed petitioner's complaint. It said, "[a] judicious examination of complainant's allegations and his pieces of evidence impels us to dispense with the conduct of the necessary investigation on the herein complaint."<sup>15</sup>

Meanwhile, in its Review Order<sup>16</sup> dated 25 October 2012, the Office of the Ombudsman noted that the administrative complaint against Sec. Devanadera was filed "after she had ceased to be in service."<sup>17</sup> Citing jurisprudence, it held that "this Office can no longer institute an administrative case against a public servant who, at the time the case was filed, is no longer with the service."<sup>18</sup>

It further held:

[Under] paragraph[s] (1) and (2), Section 20 of Republic Act 6770 (The Ombudsman Act of 1989), x x x the Office of the Ombudsman may not conduct the necessary investigation of any *administrative* act or omission complained of if it believes that:

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<sup>10</sup> Id. at 68.

<sup>11</sup> Id. at 71-83.

<sup>12</sup> Id. at 84-86.

<sup>13</sup> Id. at 87-90.

<sup>14</sup> Id. at 120-123.

<sup>15</sup> Id. at 121.

<sup>16</sup> Id. at 125-129.

<sup>17</sup> Id. at 128.

<sup>18</sup> Id.

- (1) The complainant has an adequate remedy in another judicial or quasi-judicial body;
- (2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;  
[x x x x]

Parenthetically, the complainant already availed of a legal remedy when he elevated respondent Devanadera's Resolution *via* Petition for Certiorari, Prohibition and Mandamus with the CA, which held that there was abuse of discretion and thus, ordered the dropping of complainant's name in the Information.

Moreover, the determination on the correctness of the contents of the questioned Amended Information rests with the Regional Trial Court where the same was filed, and not with this Office.

Moreover, complaint's bare allegation that Hilbero was regularly attending the hearing of [C]riminal [C]ase No. 1582-08 conducted at Branch 37 of the Regional Trial Court of Calamba City without filing of leave of absence cannot be given probative value for being unsubstantiated.

WHEREFORE, the complaint filed by Florencio Morales, Jr. against former Acting Secretary of Justice Agnes VST Devanadera, City Prosecutor Miguel Noel T. Ocampo, and Assistant City Prosecutors-[Designate] Joyce Martinez-Barut, Allan S. Hilbero and Edizer J. Resurrecion is DISMISSED.

SO ORDERED.<sup>19</sup>

Petitioner moved for reconsideration of the Review Order.<sup>20</sup> In its Order<sup>21</sup> dated 15 April 2013, the Office of the Ombudsman denied said motion for reconsideration holding that "[n]o new evidence was submitted nor were there grave errors of facts and laws or serious irregularities committed by this Office prejudicial to the interest of the movant Morales, which would warrant a reversal of the [Review] Order."<sup>22</sup>

Thereafter, petitioner filed the present petition for *certiorari* under Rule 65, arguing that respondent Ombudsman Conchita Carpio-Morales committed grave abuse of discretion in issuing the three assailed orders.

### **Petitioner's Arguments**

Petitioner argues that Ombudsman Carpio-Morales committed grave abuse of discretion:

- (1) in not conducting the proper preliminary investigation of the criminal case and taking cognizance of the complaint against private respondents Ocampo, Bar[u]t and [Allan] Hilbero who acted in

<sup>19</sup> Id. at 128-129.

<sup>20</sup> Id. at 130-139.

<sup>21</sup> Id. at 140-142.

<sup>22</sup> Id. at 141.

conspiracy with each other, when with abuse of authority and total disregard of the law, caused the alteration or falsification of the Information and the Amended Information in Criminal Case No. 15782-08-C by making untruthful statement[s] in the Information and Amended Information filed in court by fabricating and including treachery and abuse of superior strength which were not even found and mentioned in the Resolution of respondent Agnes Devanadera dated September 30, 2009 and the Resolution of the Panel of Prosecutors dated May 6, 2008. Petitioner and his then co-accused in said case were denied their constitutional right to due process;<sup>23</sup>

- (2) when she refused to investigate and charged [sic] the private respondents of the proper criminal case/s despite the existence of clear and convincing evidence against them which act clearly constitutes denial of due process;<sup>24</sup>
- (3) when she failed to rule that respondent Devanadera violated the Code of Professional Conduct, Revised Penal Code and the Anti[-]Graft and Corrupt Practices Act as Amended;<sup>25</sup>
- (4) when she failed to assume jurisdiction and investigate the Complaint filed by petitioner which clearly established participation and acts of conspiracy of private respondent Hilbero with the other respondents. Private respondent Hilbero's participation was clearly established from the inception of the fabricated case against petitioner Florencio Morales, Jr.;<sup>26</sup>
- (5) in not taking cognizance of the complaint filed by the petitioner despite clear and convincing evidence that private respondent Hilbero as then Clerk of Court was actively participating and appearing in the hearings of Criminal Case No. 15782-08-C without filing leave of absence from his work as clerk of court;<sup>27</sup> and
- (6) in not taking cognizance of the complaint filed by the petitioner despite the clear and convincing evidence that private respondent Resurrecion should also be charged and be held accountable.<sup>28</sup>

Petitioner points out that "Ocampo, Bar[u]t and Hilbero were not the one[s] who conducted the preliminary investigation x x x [but nonetheless] made it appear in the [allegedly] falsified Information and Amended Information that treachery and abuse of superior strength were established during the preliminary investigation."<sup>29</sup>

Petitioner argues that the Ombudsman "should have properly conducted a preliminary investigation to determine the culpability of the

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<sup>23</sup> Id. at 18-19.

<sup>24</sup> Id. at 21-22.

<sup>25</sup> Id. at 26.

<sup>26</sup> Id. at 27.

<sup>27</sup> Id. at 27-28.

<sup>28</sup> Id. at 29.

<sup>29</sup> Id. at 19.

private respondents”<sup>30</sup> since there was “clear and convincing documentary proof of the existence of two (2) counts of falsification committed by private respondents.”<sup>31</sup>

He further argues that filing the case with the Court of Appeals “could not be considered adequate remedy” since that case “involved only the person of [petitioner]” and merely addressed the issue of “erroneously impleading petitioner in the case and NOT the issue of alteration or falsification of the Information and Amended Information.”<sup>32</sup>

Petitioner also accuses respondent prosecutors of falsification and abuse of authority for changing the aggravating circumstances in the original Information (nighttime) to treachery and abuse of superior strength in the Amended Information.<sup>33</sup>

Next, petitioner alleges that Sec. Devanadera defied the Court of Appeals’ ruling in CA-G.R. SP No. 101196 and, without legal basis, “disregarded the Resolution dated May 6, 2008 made by the Panel of Prosecutors x x x wherein petitioner was exonerated in both decisions.”<sup>34</sup>

### **Respondent Prosecutors’ Arguments**

In their Comment,<sup>35</sup> Attys. Ocampo, Martinez-Barut, Allan S. Hilbero, and Resurrecion prayed that the petition be dismissed for lack of merit.<sup>36</sup>

They argue that “findings of fact of the Ombudsman, when duly supported by evidence, are conclusive.”<sup>37</sup> Respondent prosecutors pointed out that the Court has refrained from interfering with the Ombudsman’s exercise of her constitutional powers to investigate and to prosecute.<sup>38</sup>

Next, they aver that “the record clearly reveals that respondents Ocampo, [Martinez-Barut] and Resurrecion had acted within the scope of their authority and in line with their official duties. Respondent Ocampo amended the [I]nformation as a matter of function, as was the case with respondent [Martinez-Barut] who re-amended the [I]nformation pursuant to a directive<sup>39</sup> dated October 22, 2009 from the Office of the Regional State Prosecutor in conjunction [with] a Resolution<sup>40</sup> dated September 30, 2009

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<sup>30</sup> Id. at 20.

<sup>31</sup> Id. at 19.

<sup>32</sup> Id. at 21.

<sup>33</sup> Id. at 24.

<sup>34</sup> Id. at 26.

<sup>35</sup> Id. at 148-161.

<sup>36</sup> Id. at 157.

<sup>37</sup> Id. at 152.

<sup>38</sup> Id. at 152-153.

<sup>39</sup> Id. at 162.

<sup>40</sup> Id. at 163-170.

from the Department of Justice to include in the indictment accused Sandy Pamplona and Florencio Morales, Jr. Thus, the fact that their action was later not completely sustained by the Court of Appeals would not render them administratively nor criminally liable.”<sup>41</sup>

These amendments, they argue, were “given imprimatur by the trial court, which imprimatur was used by the Ombudsman in brushing aside petitioner’s gripe on the matter.”<sup>42</sup>

Lastly, they insist that “as a rule, a public officer, whether judicial, quasi-judicial or executive, is not personally liable to one injured in consequence of an act performed within the scope of his official authority, and in the line of his official duty.”<sup>43</sup>

### **Office of the Ombudsman’s Arguments**

On the other hand, the Office of the Ombudsman prays that the Court dismiss the petition on the following grounds:

#### I.

PUBLIC RESPONDENT OFFICE OF THE OMBUDSMAN DID NOT COMMIT GRAVE ABUSE OF DISCRETION IN DISMISSING THE COMPLAINT FILED BY THE PETITIONER AS THIS IS ALLOWED BY THE PROVISIONS OF PARAGRAPH (1) AND (2), SECTION 20 OF REPUBLIC ACT NO. 6770 (The Ombudsman Act of 1989).

#### II.

THIS HONORABLE COURT SHOULD UPHOLD ITS POLICY OF NON-INTERFERENCE IN THE EXERCISE OF THE OMBUDSMAN’S CONSTITUTIONALLY MANDATED POWERS.<sup>44</sup>

The Office of the Ombudsman maintains that it did not commit grave abuse of discretion in issuing the assailed orders. There is grave abuse “if a body, tribunal or office tasked to exercise discretion reaches a conclusion that deviates from the evidence before it or disregards the applicable laws. x x x. In short, there is grave abuse of discretion, in the present case, if public respondent issued the Order and Review Order dismissing the complaint against respondents without any basis.”<sup>45</sup>

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<sup>41</sup> Id. at 153.

<sup>42</sup> Id.

<sup>43</sup> Id. at 155.

<sup>44</sup> Id. at 188.

<sup>45</sup> Id. at 189.

However, in this case, the Office of the Ombudsman argues that the “assailed Order and Review Order were not issued without legal bases,”<sup>46</sup> underscoring that the Office “found no substantial basis to hold respondents administratively liable.”<sup>47</sup>

Next, it asserts that it is “beyond the ambit of this Court to review the exercise of discretion of the Ombudsman in prosecuting or *dismissing a complaint before it*. Such initiative and independence are inherent in the Ombudsman who, beholden to no one, acts as the champion of the people and preserver of the integrity of the public service.”<sup>48</sup>

Lastly, the Office of the Ombudsman holds that petitioner cannot insist that his complaint should not have been dismissed because “[i]n the absence of substantial evidence to support a finding of administrative liability, [the] Office of the Ombudsman cannot maintain otherwise.”<sup>49</sup> Likewise, given “the absence of any indication of arbitrariness on the part of the prosecutor or any officer authorized to conduct preliminary investigation, judicial authorities, as a rule, must respect such findings since the determination of the existence of probable cause is the function of the prosecutor.”<sup>50</sup>

### **The Issue**

The lone issue in this case is whether the Ombudsman committed grave abuse of discretion in issuing the assailed orders and dismissing petitioner’s complaint against respondent prosecutors.

### **The Court’s Ruling**

The Court rules that the Office of the Ombudsman did not commit grave abuse discretion. Accordingly, the petition for *certiorari* is dismissed for lack of merit.

### **Special Civil Action Under Rule 65**

In *certiorari* proceedings under Rule 65 of the Rules of Court, the Court’s inquiry is limited to determining whether or not the public officer acted without or in excess of his jurisdiction, or with grave abuse of discretion.

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<sup>46</sup> Id. at 190.

<sup>47</sup> Id. at 191.

<sup>48</sup> Id. at 192-193.

<sup>49</sup> Id. at 194.

<sup>50</sup> Id. at 196.

As the Court has previously explained:

A tribunal, board or officer acts without jurisdiction if it/he does not have the legal power to determine the case. There is excess of jurisdiction where, being clothed with the power to determine the case, the tribunal, board or officer oversteps its/his authority as determined by law. And there is grave abuse of discretion where the tribunal, board or officer acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of his judgment as to be said to be equivalent to lack of jurisdiction.<sup>51</sup>

It is well to remember that “*certiorari* is an extraordinary prerogative writ that is never demandable as a matter of right.” It is “meant to correct only errors of jurisdiction and not errors of judgment committed in the exercise of the discretion of a tribunal or an officer.”<sup>52</sup>

Clearly, in this case, the Office of the Ombudsman was acting within the bounds of its constitutionally-mandated authority. As such, the next question to be determined is whether the Office of the Ombudsman is guilty of grave abuse of discretion when it issued the assailed orders.

### **Non-interference with the Exercise of Powers of the Ombudsman**

The Court reiterates, “[t]he determination of grave abuse of discretion as the exception to the general rule of non-interference in the Ombudsman’s exercise of [his] powers is precisely the province of the extraordinary writ of *certiorari*. However, we highlight the exceptional nature of that determination.”<sup>53</sup>

The Court has always adhered to the general rule upholding the “non-interference by the courts in the exercise by the office of the prosecutor or the Ombudsman of its plenary investigative and prosecutorial powers.”<sup>54</sup> The Court “will not ordinarily interfere with the Ombudsman’s exercise of his investigatory and prosecutory powers without good and compelling reasons to indicate otherwise.”<sup>55</sup>

This is a recognition of the “initiative and independence inherent in the said Office” which, “beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service.”<sup>56</sup>

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<sup>51</sup> *Dr. Brito v. Office of the Deputy Ombudsman for Luzon*, 554 Phil. 112, 125 (2007).

<sup>52</sup> *Angeles v. Gutierrez*, 685 Phil. 183, 193 (2012).

<sup>53</sup> *Id.* at 197.

<sup>54</sup> *Id.* at 194.

<sup>55</sup> *Id.*, citing *Esquivel v. Ombudsman*, 437 Phil. 702 (2002).

<sup>56</sup> *Agdeppa v. Office of the Ombudsman*, G.R. No. 146376, 23 April 2014, 723 SCRA 293, 330, citing *Casing v. Ombudsman*, 687 Phil. 468, 475-476 (2012).

Thus, for the Court to exercise its powers, petitioner must “demonstrate clearly that the Office of the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction.”<sup>57</sup>

### **Plenary Powers of the Ombudsman**

The Office of the Ombudsman is “empowered to determine whether there exists reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof and, thereafter, to file the corresponding information with the appropriate courts.”<sup>58</sup>

In its role as “protector of the people,” the Office of the Ombudsman has the power and duty “to act promptly on complaints filed in any form or manner against public officials” and “to investigate any act or omission of any public official when such act or omission appears to be illegal, unjust, improper, or inefficient.”<sup>59</sup>

The Rules of Procedure of the Office of the Ombudsman provide:<sup>60</sup>

#### **Rule II PROCEDURE IN CRIMINAL CASES**

Section 1. Grounds – A criminal complaint may be brought for an offense in violation of R.A. 3019, as amended, R.A. 1379, as amended, R.A. 6713, Title VII, Chapter II, Section 2 of the Revised Penal Code, and for such other offenses committed by public officers and employees in relation to office.

Section 2. Evaluation – Upon evaluating the complaint, the investigating officer shall recommend whether it may be:

- a) dismissed outright for want of palpable merit;
- b) referred to respondent for comment;
- c) indorsed to the proper government office or agency which has jurisdiction over the case;
- d) forwarded to the appropriate office or official for fact-finding investigation;
- e) referred for administrative adjudication; or
- f) subjected to a preliminary investigation.

Accordingly, if the Office of the Ombudsman, upon evaluation, finds that the case has no merit, it has the power to recommend that the same be “dismissed outright.” Likewise, it has the authority to determine if a preliminary investigation is necessary in the case.

<sup>57</sup> Id. at 333, citing *Callo-Claridad v. Esteban*, 707 Phil. 173, 183 (2013).

<sup>58</sup> *Presidential Commission on Good Government v. Desierto*, 553 Phil. 733, 742 (2007). Citations omitted.

<sup>59</sup> *Garcia-Rueda v. Pascasio*, 344 Phil. 323, 329 (1997), citing *Deloso v. Domingo*, 269 Phil. 580, 586 (1990).

<sup>60</sup> Office of the Ombudsman Administrative Order No. 07, Series of 1990.

The Office of the Ombudsman is empowered to determine if there exists probable cause or “whether there exists a reasonable ground to believe that a crime has been committed, and that the accused is probably guilty thereof and, thereafter, to file the corresponding information with the appropriate courts.”<sup>61</sup> This determination is done by means of a preliminary investigation. However, “a preliminary investigation is by no means mandatory.”<sup>62</sup>

The Office of the Ombudsman “has full discretion to determine whether a criminal case should be filed, including whether a preliminary investigation is warranted.”<sup>63</sup> Thus, it is still acting within its powers when it finds that preliminary investigation is unnecessary and that the complaint should be dismissed. The Court gives due deference to said decision and will not interfere with such exercise of power.

The Court emphasizes that the Ombudsman’s duty is not only to prosecute but, more importantly, to **ensure that justice is served**. This means determining, at the earliest possible time, whether the process should continue or should be terminated. The duty includes using all the resources necessary to prosecute an offending public officer where it is warranted, as well as to refrain from placing any undue burden on the parties in the case, or government resources where the same is not.

### **Burden of Proof**

On which party has the burden to prove allegations in a complaint before the Office of the Ombudsman, the Court has ruled:

The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence. When the complainant relies on mere conjectures and suppositions, and fails to substantiate his allegations, the complaint must be dismissed for lack of merit.<sup>64</sup>

Petitioner has the duty to prove by substantial evidence the allegations in his administrative complaint.<sup>65</sup>

The Court reiterates that “on the petitioner lies the burden of demonstrating, plainly and distinctly, all facts essential to establish his right to a writ of *certiorari*.”<sup>66</sup> “The burden of proof to show grave abuse of

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<sup>61</sup> *Esquivel v. Ombudsman*, 437 Phil. 702, 711 (2002).

<sup>62</sup> *Angeles v. Gutierrez*, supra note 52, at 195.

<sup>63</sup> *Angeles v. Gutierrez*, supra note 52, at 196.

<sup>64</sup> *Agdeppa v. Office of the Ombudsman*, supra note 56, at 333 citing *De Jesus v. Guerrero III*, 614 Phil. 520, 529.

<sup>65</sup> *De Jesus v. Guerrero III*, 614 Phil. 520, 529 (2009).

<sup>66</sup> *People v. Sandiganbayan*, 681 Phil. 90, 110 (2012), citing *Corpuz v. Sandiganbayan*, 484 Phil. 899, 912 (2004).

discretion is on petitioner.”<sup>67</sup> As petitioner for the writ of *certiorari*, he must “discharge the burden of proving grave abuse of discretion on the part of the Office of the Ombudsman, in accordance with the definition and standards set by law and jurisprudence.”<sup>68</sup>

Petitioner’s belief does not constitute proof. Neither is it enough to impel action on the part of the Office of the Ombudsman. His conviction that there exists sufficient basis to charge respondent prosecutors – no matter how strong – must be duly supported by evidence. The power to determine whether said allegations would suffice to support a finding of probable cause belongs to the proper authorities designated by law, which in this case, is the Office of the Ombudsman.

In sum, the Office of the Ombudsman did not act with grave abuse of discretion or in excess of its jurisdiction in issuing the assailed orders.

**WHEREFORE**, the petition is **DISMISSED** for lack of merit. The Order dated 13 January 2012, Review Order dated 25 October 2012, and Order dated 15 April 2013 issued by the Office of the Ombudsman in CPL-C-11-2601 are **AFFIRMED**.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



**ARTURO D. BRION**  
Associate Justice

<sup>67</sup> *Angeles v. Gutierrez*, supra note 52, at 197.

<sup>68</sup> *Agdeppa v. Office of the Ombudsman*, supra note 56, at 332.

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice