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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated June 8, 2020 which reads as follows:

G.R. No. 212109 (*David Wayne Stonecypher v. Office of the Deputy Ombudsman for Luzon, Ruth P. Bernabe, Michaela U. Matammu-Sion, Myrna Valencerina, Arfil Joseph, and Rodel Amano*)

The Case

This petition for *certiorari* assails the following dispositions of the Office of the Deputy Ombudsman in OMB-L-C-08-0668-H entitled "*David Wayne Stonecypher v. Ruth P. Bernabe, Michaela U. Matammu-Sion, Myrna Valencerina, Arfil Joseph, and Rodel Amano*":

1. Joint Resolution¹ dated October 30, 2009 dismissing petitioner David Wayne Stonecypher's complaint against respondents Ruth P. Bernabe, Michaela U. Matammu-Sion, Myrna Valencerina, Arfil Joseph, and Rodel Amano, finding no probable cause to charge them with purported violations of Republic Act (RA) 3019,² RA 7610³ and the Revised Penal Code; and
2. Order⁴ dated June 23, 2011 denying reconsideration.

- over - twenty-eight (28) pages...

¹ *Rollo* (Vol. II), p. 841.

² Anti-Graft and Corrupt Practices Act.

³ Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

⁴ *Rollo* (Vol. III), p. 1,242.

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The assailed dispositions likewise dismissed OMB-L-A-08-0552-H pertaining to petitioner's administrative charge against respondents for grave misconduct. Petitioner appealed the dismissal of OMB-L-A-08-0552-H before the Court of Appeals.⁵

Antecedents

Petitioner's Version

In his Affidavit-Complaint⁶ dated July 7, 2008, petitioner **David Wayne Stonecypher**, an American citizen, alleged that he was charged before the Regional Trial Court - Branch 4, Baguio City with two (2) counts of qualified trafficking in persons under RA 9208,⁷ and one (1) count of sexual abuse under RA 7610. The cases were filed based on the testimonies of private complainants therein Johnson Louie A. Taripe and Louie B. Suan who were placed under the protective custody of the Office of the City Social Welfare and Development (OCSWD) of Baguio City. Respondents Myrna Valencerina, Arfil Joseph, and Rodel Amano were social workers at the OCSWD. Respondent Prosecutor Michaela Matammu-Sion issued the Resolution recommending the filing of the information against him for sexual abuse, while respondent Prosecutor Ruth P. Bernabe handled the human trafficking cases during the trial proper.⁸

He met Louie at Nick's *Carinderia* in Bislig City, Surigao del Sur where the latter worked as a waiter. Louie was a pleasant and hardworking young man and the two (2) of them became friends. Louie even shared his life story with him. As it turned out, Louie never knew his father who abandoned his mother while she was still pregnant with him. Louie's mother died when he was just thirteen (13) and his stepfather was killed shortly after. Orphaned, Louie got passed around among relatives until his maternal aunt and uncle became his guardians. They cared for Louie and paid for his education. Louie introduced him (petitioner) to his guardians who were supportive of their friendship.⁹

He felt deep compassion for Louie. For he too lost his father, brother, and uncle in a car accident when he was only twenty-four (24) years old. He

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⁵ Docketed as CA-G.R. SP No. 134294.

⁶ *Rollo* (Vol. I), p. 50.

⁷ Anti-Trafficking in Persons Act of 2003.

⁸ *Rollo* (Vol. I), p. 50.

⁹ *Id.* at 50-51.

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knew how it felt to lose a parent and the awkwardness of having to depend on other people to care for him. He wanted to help Louie.¹⁰

After spending much time with Louie and his family, he offered Louie to move to Baguio City with him. He intended to work in Baguio City as an English teacher in one of its language schools and possibly stay long-term in the Philippines. He was, after all, a graduate of St. Michael's College in Vermont, United States of America where he received a Master's degree in teaching English as a second or foreign language. They discussed the plan with Louie's guardians who supported the idea.¹¹

Five (5) days before their planned departure, Louie introduced him to his classmate Johnson who told them a very distressing story: his father disapproved of him being gay and beats him up for it. Johnson showed them the bruises on his body and the choke marks around his neck which he got when his parents pinned him down to forcibly cut off his hair.¹² Louie and Johnson's other friend Jomar Cotillas Beberino was also present when Johnson narrated his story. Jomar even executed a sworn statement dated June 25, 2008 explaining in detail how desperate Johnson was to leave his abusive father.¹³

He sympathized with Johnson since he too was gay. He became aware of his sexual orientation as early as fourteen (14) years of age. Growing up in rural America, people were not very accepting of him. He got called names, pushed, hit, and made fun of every day for four (4) years in high school. He never told his parents of the bullying he had been enduring and the hell he had been facing on a daily basis. Seeing Johnson weep reminded him of his past so he wanted to help Johnson, too. He thus offered Johnson to join him and Louie in going to Baguio City. Johnson agreed and secured his parents' written permission.¹⁴

The three (3) of them arrived in Baguio City with their luggage in tow. They found an apartment for rent which was shown to them by the landlady's nephew. They agreed to take it for ₱5,000.00 a month, inclusive of electricity bills. After moving their luggage into the apartment, the landlady Norma Caccam and her daughter arrived. They renegotiated on the

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¹⁰ *Id.* at 51.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 52.

¹⁴ *Id.* at 51-52.

terms of the lease because Norma wanted them to pay extra for electricity but he did not agree. Norma then asked why he, Louie, and Johnson were traveling together so he explained their situation and showed her Johnson's written parental permission.¹⁵

An hour later, Norma called to tell them that she would no longer be leasing them the apartment. Her nephew also arrived to tell them that they had to leave; they were not even allowed to spend the night there because of Johnson's age. This triggered an argument between him, Louie, and Johnson so he told the two (2) that he wanted Johnson to stay with his cousin in Manila or go back to Bislig City. Louie replied that if Johnson had to leave, Louie would be leaving with him. He got angry with Louie's answer.¹⁶

Just moments after their argument, the police arrived and separated him from Louie and Johnson. Norma and her daughter were also there. He initially thought that it was either Louie or Johnson who called for the police, but apparently, it was Norma who did it. The police asked Louie and Johnson leading questions such as "Did you have intercourse with David?" This line of questioning revealed that the police were already heavily influenced by Norma's suspicions on why they were traveling together. Norma's daughter even screamed violently at him: "How dare you God damned American come to the Philippines to abuse our children!"¹⁷

The police then arrested him allegedly without a warrant and without any personal knowledge of him having committed any crime. Meanwhile, the OCSWD took custody of Louie and Johnson. On April 8, 2007, Louie and Johnson were made to sign sworn statements which they did not understand. Two weeks later, petitioner's former counsel Atty. Enrique Palsiw met with Louie and Johnson at the OCSWD and learned that they were being forced by respondent social worker Myrna Valencerina to pursue the case.¹⁸

In August 2007, Louie and Johnson visited him in jail and apologized to him. He showed them the Visayan translation of their respective sworn statements dated April 8, 2007 and they both said it was not their words. They denied the truth thereof on the dorsal portion of their sworn statements.¹⁹ Louie and Johnson also made the following revelations during their conversation:

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¹⁵ *Id.* at 52-53.

¹⁶ *Id.* at 53.

¹⁷ *Id.*

¹⁸ *Id.* at 53-54.

¹⁹ *Id.* at 54.

1. Respondent social worker Myrna Valencerina threatened them that they would go to jail if they did not sign the sworn statements prepared by the police;²⁰
2. Respondent Prosecutor Ruth Bernabe who was handling the case exploited Johnson's poverty by giving him birthday and Christmas gifts in exchange for Johnson's testimony. In contrast, Prosecutor Bernabe did not give gifts to Louie who refused to cooperate with her and pursue the case;²¹
3. They wanted to stop their cases but respondents Valencerina and Bernabe got angry at them and replied "*Gagawin namin ang gusto naming gawin*";²²
4. Respondent Social Worker Rodel Amano tried to intimidate them into believing that he (petitioner) filed a case against them so they would be angry at him;²³ and
5. Respondent Social Worker Arfil Joseph exploited Johnson's poverty by giving him ₱100.00 for his cooperation in testifying before the investigating prosecutor.²⁴

Subsequently, the OCSWD separated Louie from Johnson to keep Johnson under their control. The OCSWD even prevented them from communicating with their families.²⁵ When Louie's guardians sent him ₱850.00 just so he could leave and travel back to Manila to be with his brother, the OCSWD confiscated his money and cellphone and placed him in the custody of the Silungan Center. They told him that he was not allowed to leave and could no longer withdraw the case.²⁶

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²⁰ *Id.*

²¹ *Id.* at 54-55.

²² *Id.* at 55.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 55-56.

Even though Louie was already eighteen (18) years of age at that time, the OCSWD did not respect his right as an adult to decide for himself. Thus, on November 9, 2007, Louie ran away from the Silungan Center and sought help from petitioner's new counsel Atty. Cecilia Dulay-Archog to execute an affidavit of desistance.²⁷

Louie's affidavit of desistance was filed before the trial court and respondent Prosecutor Michaela U. Matammu-Sion of the Las Piñas City Prosecutor's Office where another case against him petitioner was pending preliminary investigation. Respondent Prosecutor Matammu-Sion ignored Louie's disavowal of his sworn statement dated April 8, 2007 and still issued a resolution recommending that petitioner be charged with sexual abuse.²⁸

On February 16, 2008, Johnson also ran away from the OCSWD and went to the residence of Atty. Dulay-Archog. They contacted Johnson's mother to get her consent so that Atty. Dulay-Archog may have custody over Johnson and assist him in preparing an affidavit of desistance.²⁹ Atty. DulayArchog and Johnson then went to the office of respondent Prosecutor Bernabe before whom Johnson was supposed to subscribe his affidavit. But respondent Prosecutor Bernabe called up respondent social workers to pick up Johnson instead.³⁰

It was brutal how respondents Joseph and Amano manhandled a minor and forcibly boarded him into a taxi. Johnson was visibly upset at that time since he was to be taken to the Silungan Center to be locked up in a room all by himself. To this, respondent Valencerina remarked "*Wag ka na nga magdrama drama dyan. Buti sana kung magkakaopera tayo dyan sa drama mo.*"³¹

This showed that the OCSWD wanted to make money out of the cases at the expense of abusing Louie and Johnson. Meanwhile, respondent Prosecutor Bernabe cooperated with the OCSWD's abuse of power and refused to file Louie and Johnson's desistance. He denied ever abusing Louie or Johnson. On the contrary, it was respondents who exploited them. Hence, he filed the Affidavit-Complaint before the Ombudsman to charge respondents with violations of RA 3019, RA 7610, and the Revised Penal Code.³²

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²⁷ *Id.*

²⁸ *Id.* at 55.

²⁹ *Id.* at 56.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 56-58.

Respondents' Version**a. Myrna B. Valencerina, Arfil P. Joseph, and Rodel L. Amano**

In their Joint Counter-Affidavit,³³ respondent social workers **Myrna B. Valencerina, Arfil P. Joseph, and Rodel L. Amano** denied the allegations against them and claimed that petitioner was merely destroying their credibility as social workers. The complaint against them was designed as leverage to pressure them against taking the witness stand in Criminal Case Nos. 27133-R and 27134-R.³⁴ The real facts were as follows:

On April 7, 2007, Police Chief Inspector David D. Marano referred Louie and Johnson to the OCSWD. They were fifteen (15) and eighteen (18) years old, respectively, at that time.³⁵

On April 8, 2007, respondent Joseph interviewed Louie and Johnson as part of their standard operating procedure. The two (2) revealed that they were friends because they studied in the same school and had the same sexual orientation. They had been in Baguio City for two (2) days with petitioner who promised to send them to school.³⁶

Louie disclosed during the interview that he met David in Bislig City while working in a *carinderia*. He became intimate and lived with David at Casa de Babano in Bislig City. They decided to go to Baguio City and had sexual intercourse several times along the way. These happened in Bislig City, Surigao del Sur; Tubod, Surigao del Norte; Butuan City; and Las Piñas City. He admitted though that it was okay for him to have sex with petitioner since petitioner was his boyfriend.³⁷

Louie also admitted introducing Johnson to petitioner. He and petitioner invited Johnson to come with them to Baguio City because Johnson's father was unaccepting of his sexual orientation to the point of being abusive. Johnson stated though that petitioner sexually abused him while making their way to Baguio City. He felt helpless during the abuse and feared that petitioner would send him back to Bislig City. He could not bear imagine the shame that he would have brought to his family had they found

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³³ *Id.* at 371.

³⁴ *Id.* at 373.

³⁵ *Id.*

³⁶ *Id.* at 374.

³⁷ *Id.*

out about the abuse.³⁸ Johnson further expressed that he felt so dirty that he wanted to commit suicide.³⁹

After the social workers apprised them of their rights, both Louie and Johnson decided to file a case against petitioner. Respondents Joseph and Amano accompanied them to Baguio City Police Office (BCPO) – Precinct 1 to file a formal complaint. There, Louie and Johnson relayed to the police officers what they earlier told the social workers. Louie and Johnson were then brought to the Baguio General Hospital and Medical Center for medical and psychiatric examination. When they got back to the police station, Louie and Johnson voluntarily executed their respective sworn statements. Respondents Joseph and Amano merely listened while Louie and Johnson narrated their experiences. The police officers arrested petitioner that very evening.⁴⁰

On April 9, 2007, respondents Joseph and Amano accompanied Louie and Johnson to Prosecutor Gloria C. Agunos for the inquest proceedings against petitioner. As a result of the inquest, petitioner got charged with two (2) counts of violations of Sections 4 and 6 of RA 9208.⁴¹ Meanwhile, Louie and Johnson were placed under the official care and custody of the OCSWD which enrolled them as fourth year high school students at Irisan National High School in Baguio City. The city government shouldered their education.⁴²

On July 4, 2007, Louie's uncle Iñigo Asotique, Sr., aunt Melinda Asotique and brother Geniel Suan arrived at the OCSWD allegedly due to summons issued by a Director of the Department of Social Welfare and Development (DSWD). Upon verification though, no summons was actually issued. The relatives later admitted that it was petitioner who paid for their transportation expenses from Mindanao through one Martin Alidem.

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³⁸ *Id.*

³⁹ *Id.* at 380.

⁴⁰ *Id.* at 374.

⁴¹ **Section 4. *Acts of Trafficking in Persons.*** - It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer; harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

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Section 6. *Qualified Trafficking in Persons.* - The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

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⁴² *Rollo* (Vol. I), pp. 374-375.

A few weeks later, on July 26, 2007, Louie's brother Geniel returned to the OCSWD to take custody over him. The OCSWD agreed on the condition that Louie should first finish the first grading period at Irisan National High School, Geniel would bring Louie to Baguio whenever he had to appear for a court hearing, and Geniel would shoulder Louie's education in Cuzao where they would be living.⁴³

Considering that Louie and Johnson were alleged victims of sexual abuse which occurred in various places, the OCSWD transmitted the pertinent case records to the social welfare offices of Bislig City in Surigao del Sur, Tubod in Surigao del Norte, Butuan City, and Las Piñas City.⁴⁴

On August 31, 2007, Louie and Johnson received a subpoena from the City Prosecutor of Las Piñas directing them to appear for preliminary investigation. Respondents Joseph and Amano accompanied them to Las Piñas City on September 11 and 21, 2007 so they could give their respective testimonies.⁴⁵

Meantime, between July and September 2007, petitioner, Louie, and Martin had been trying to bribe, intimidate, and force Johnson into desisting from the cases filed against petitioner. Because of this, the OCSWD transferred Louie to the Silungan Center on October 29, 2007. Louie, however, left Silungan Center without permission on November 9, 2007 and sought help from Atty. Dulay-Archog in preparing an affidavit of desistance.⁴⁶

As for Johnson, he testified against petitioner during the bail hearings in Criminal Case Nos. 27133-R and 27134-R on October 30, 2007, November 19, 2007, January 23, 2008 and February 4, 2008. Upon Johnson's request, his houseparent Janine Abalos also attended these hearings to provide him moral support.⁴⁷

On February 17, 2008, Johnson was given permission to take his examination for the Special Program for Employment of Students at Baguio City Central School. But he did not return to the OCSWD. The OCSWD personnel tried to locate Johnson, but to no avail.⁴⁸

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⁴³ *Id.* at 375.

⁴⁴ *Id.* at 375-376.

⁴⁵ *Id.* at 376.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 377.

On February 21, 2008, respondent Prosecutor Bernabe called the OCSWD because Johnson was at her office intending to execute an affidavit of desistance before her without the assistance of a parent or legal guardian. The OCSWD stepped in since it was the duty of the government to protect the rights and welfare of minors.⁴⁹

On March 5, 2008, Johnson had his affidavit of desistance subscribed by a different prosecutor. Thereafter, the OCSWD informed the trial court that Johnson was no longer under its custody and was then with Atty. Dulay-Archog.⁵⁰

Despite Johnson leaving, respondent social workers still encouraged him to pursue his studies. Thus, when Johnson finished high school on April 3, 2008, he invited the OCSWD staff to attend his graduation and stand in for his parents.⁵¹

On April 15, 2008, the OCSWD received a Resolution from the Office of the City Prosecutor of Las Piñas finding probable cause to charge petitioner with sexual abuse under Section 5(b) of RA 7610. The OCSWD thus informed the Regional Trial Court – Branch 254, Las Piñas City where the case was then pending that Johnson was no longer under their custody.⁵²

On June 17, 2008, Atty. Dulay-Archog informed the OCSWD that Johnson went back home to Bislig City. On August 11, 2008, the cases against petitioner got transferred to the Regional Trial Court – Branch 4, Baguio City. In September, the OCSWD reported to the trial court the status of Louie and Johnson, and the circumstances on how and why they left the OCSWD's protective custody.⁵³

On November 11, 2008, respondent social workers Valencerina, Joseph and Amano received copy of petitioner's Complaint-Affidavit. Petitioners' allegations against them, however, were devoid of basis since he had no personal knowledge thereof. Except for a one-week furlough granted by the trial court, he had been incarcerated for the entire time the criminal cases against him were pending. He could not have therefore personally known Louie and Johnson's circumstances under OCSWD custody.

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⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 378.

⁵² *Id.*

⁵³ *Id.*

Respondents further countered:

First. Petitioner's former counsel Atty. Enrique Palsiw indeed met with Louie and Johnson but contrary to petitioner's claim, they never talked about respondent Valencerina allegedly forcing them to pursue the cases against petitioner. Atty. Palsiw merely asked how they were doing and informed them that petitioner was in jail. They did not talk about Louie and Johnson's sworn statements.⁵⁴

Second. Respondent social workers did not force Louie and Johnson to execute sworn affidavits on April 8, 2007. They willingly and voluntarily did so. Louie and Johnson even confirmed to Prosecutor Agunos that they had read and understood their statements.⁵⁵ Louie and Johnson could have easily reported to the police, or even to petitioner's counsel for that matter, any threat they supposedly received from respondent social workers.⁵⁶

Third. Had Louie and Johnson lied in their sworn statements, they would not have been able to easily give a detailed account on how they ended up in Baguio City all the way from Surigao del Sur. In fact, the testimony given by Johnson during the bail hearing was the same story he gave the OCSWD during his interview, the police when he executed his sworn statement, and the doctors of Baguio General Hospital and Medical Center when he had his medical and psychiatric examination.⁵⁷

Fourth. Respondent social workers never threatened Louie or Johnson with imprisonment had they refused to sign their sworn affidavits. The OCSWD could have filed a formal complaint on its own since qualified human trafficking is a public offense.⁵⁸

Fifth. It was petitioner who was enticing Louie to file a case against respondents, not the other way around. Once he was able to persuade Louie, he started to use the latter to put pressure on Johnson to desist from the case. Martin and Jomar (Johnson and Louie's classmate who petitioner flew in from Bislig City) aided him in his cause. The pressure and threat began to escalate as Johnson started to testify in court.⁵⁹

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⁵⁴ *Id.* at 379.

⁵⁵ *Id.* at 379-380.

⁵⁶ *Id.* at 380.

⁵⁷ *Id.* at 379-380.

⁵⁸ *Id.* at 379.

⁵⁹ *Id.* at 380.

Sixth. Respondent Valencerina never uttered “*Gawin namin ang gusto naming gawin.*” She was not even aware that Louie and Johnson had any inclination to desist in the cases they had filed. The OCSWD only found out about their supposed intention to do so when Louie was being interviewed by respondent Prosecutor Matammu-Sion in Las Piñas City, and when Johnson was about to execute an affidavit of desistance before respondent Prosecutor Bernabe.⁶⁰

Seventh. They did not separate Louie from Johnson to keep the latter under their control, but to keep Louie from pressuring Johnson to desist from prosecuting his case against petitioner. More, there was no control over Johnson to speak of. In fact, Louie and Johnson were unescorted on their way to and from school, allowed to use their cellular phones to contact their families, and free to seek help from the police officers stationed nearby.⁶¹

Eighth. Contrary to petitioner’s claim, respondent social workers allowed Louie and Johnson to contact their families. In fact, Louie’s relatives visited him at OCSWD. Louie’s brother Geniel even had an arrangement with OCSWD to be able to take custody over him.⁶²

Ninth. Respondent social workers never took ₱850.00 from Louie. It was the staff of Silungan Center who took his belongings, but only for safekeeping and not to gain control over him. It was also a policy of the Silungan Center to regulate the use of cellular phones and access to money to avoid incidents of theft and feelings of jealousy or resentment among its residents. Louie himself could have retrieved his belongings at any time after he left the Silungan Center’s custody.⁶³

Tenth. Respondent Joseph did not pay Johnson ₱100.00 for his testimony before Prosecutor Matammu-Sion. Their meager budget of ₱3,000.00 for their trip from Baguio City to Las Piñas City and back was barely enough to cover the transportation expenses and toll fees, as well as food expenses for two (2) nights and one (1) day. He simply did not have any fund to bribe Johnson. On the contrary, it was petitioner, Louie, Jomar and Martin who had been showering Johnson with gifts, money, and other personal items.⁶⁴

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⁶⁰ Id. at 381

⁶¹ at 381-383.

⁶² 381-382.

⁶³ 382.

⁶⁴ 383.

Finally. Respondents Joseph and Amano did not manhandle Johnson into going back with them to the OCSWD on February 21, 2008. Respondent Joseph calmly spoke with Johnson and asked why he suddenly wanted to file an affidavit of desistance but he just kept on crying. Joseph explained that the OCSWD would take care of him (Johnson) until his return to his hometown, but if he no longer wished to pursue the case against petitioner, he should at least finish his schooling since it was only one (1) month left until his graduation. Respondent Valencerina also comforted Johnson, telling him that whatever his decision was, it was up to him but it would be best if he first finished his studies. Johnson agreed to this and voluntarily went back to the OCSWD with respondent social workers. If indeed respondents threatened, pressured, and coerced Johnson back to the OCSWD, he would not have invited them to attend his graduation ceremony.⁶⁵

All told, respondents never abused Louie or Johnson. There was no evidence to support any claim otherwise. It was petitioner who was the abuser and culprit in Louie and Johnson's lives.

Johnson was deeply affected by his experiences in the hands of petitioner. The thought of committing suicide even crossed his mind because he perceived his body to be dirty. He also worried about the shame his experiences had brought to him and his conservative family.

When petitioner, through Louie, Jomar, and Martin successfully pressured Johnson into signing an affidavit of desistance, they immediately sent Johnson back home to Bislig City, Surigao del Sur as if they were getting rid of a hindrance. This never stopped Johnson though from sending respondents text messages and communicating his remorse for allowing himself to be sent back to Mindanao.

As for Louie who admitted to being boyfriends with petitioner, respondents noted that he had already stopped schooling and decided to work under the care of Martin.⁶⁶ Petitioner would not have allowed this if he was indeed looking after Louie's welfare.

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⁶⁵ *Id.* at 383-384

⁶⁶ *Id.* at 385-386.

b. Prosecutor Ruth P. Bernabe

In her Counter-Affidavit,⁶⁷ respondent **Prosecutor Ruth P. Bernabe** averred that the accusations against her had no basis and were intended to malign and embarrass, if not harass her into dropping the cases she had been handling against petitioner.⁶⁸

On April 8, 2007, Louie and Johnson executed separate sworn statements before the BCPO – Precinct 1 against petitioner David Wayne Stonecypher for alleged sexual abuses committed against them. On even date, petitioner got arrested by virtue of a warrantless arrest.⁶⁹

On April 9, 2007, Louie and Johnson affirmed the truthfulness of the contents of their sworn affidavits before inquest prosecutor Agunos, who subsequently found probable cause to order petitioner's detention at the Baguio City Jail. The case records were then forwarded to the City Prosecutor's Office for appropriate action. Meanwhile, Louie and Johnson were placed under the care and protective custody of the OCSWD.⁷⁰

On April 10, 2007, Atty. Anne Beatrice G. Aguana-Balmaceda issued a Resolution finding probable cause to indict petitioner for two (2) counts of violation of Sections 4 and 6, RA 9208. The corresponding informations were filed before the Regional Trial Court, Baguio City on April 11, 2007. Criminal Case Nos. 27133-R and 27134-R were raffled to Branch 59 where she (respondent Prosecutor Bernabe) had been assigned as one of the trial prosecutors.⁷¹

She noted that at the time petitioner got into contact with Louie and Johnson in December 2006 and March 2007, respectively, the latter were still minors. Louie was still seventeen (17) years of age, albeit he turned eighteen (18) in March 2007 just before the cases against petitioner were filed, while Johnson was only fifteen (15) years old.⁷²

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⁶⁷ *Id.* at 97.

⁶⁸ *Id.*

⁶⁹ *Id.* at 98.

⁷⁰ *Id.* at

⁷¹ *Id.* at 98-99.

⁷² *Id.* at 99.

On September 10, 2007, petitioner filed a motion for bail before the trial court which she opposed. During the bail hearings, she presented Johnson as the prosecution's first witness. Johnson testified against petitioner on October 30, 2007, November 19, 2007, and January 23, 2008, and February 4, 2008. But on February 20, 2008, Johnson left the protective custody of OCSWD. Louie had earlier left OCSWD custody on November 9, 2007.⁷³

On March 11, 2008, petitioner filed a motion to dismiss on ground that Louie and Johnson had already executed their affidavits of desistance on November 9, 2007 and March 5, 2008, respectively. She noted, though, that Johnson, who was still a minor, executed his affidavit unassisted by a parent or guardian, thus, she objected against petitioner's motion.⁷⁴

On May 6, 2008, the trial court denied petitioner's motion on ground that Louie and Johnson had already lost their privilege to have the cases against petitioner dismissed after they have been filed in court. This is especially so for petitioner's cases since he was charged with trafficking of minors, a public crime which may be prosecuted de officio.⁷⁵

Afterwards, Louie and Johnson would repeatedly manifest before the trial court their desire to have Criminal Case Nos. 27133-R and 27134-R dismissed. Subsequently, Atty. Dulay-Archog and the OCSWD also manifested that Johnson had already returned to Bislig City, Surigao del Sur.⁷⁶ Criminal Case Nos. 27133-R and 27134-R later got transferred to the Regional Trial Court-Branch 4, Baguio City, another Family Court.

Apart from prosecuting petitioner's cases before they got transferred to Branch 4, she had no other participation in the proceedings against petitioner. She was not even present during the inquest which led to the filing of two (2) Informations against him for qualified human trafficking. If petitioner honestly believed that he was unjustly charged as he repeatedly claimed in his Affidavit-Complaint, he could have immediately filed cases against his accusers for concocting stories and false charges against him;

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⁷³ *Id.* at 100-101.

⁷⁴ *Id.* at 101.

⁷⁵ *Id.* at 102.

⁷⁶ *Id.* at 103.

Norma Caccam who contacted the police; the police officers of BCPO – Precinct 1 for his alleged unlawful arrest; the inquest prosecutor Agunos who ordered his detention; or Prosecutor Aguana-Balmaceda who filed the twin informations against him for qualified human trafficking.⁷⁷

She denied ever threatening Louie and Johnson into pursuing the cases against petitioner. As for their affidavits of desistance, Louie executed his affidavit about seven (7) months after the cases against petitioner had already been filed. On the other hand, Johnson had already testified against petitioner during the bail hearings before he executed his affidavit of desistance. Notably, Johnson testified that he was not being forced to give his testimony.⁷⁸ Their affidavits of desistance did not state that they were forced to testify against petitioner, only that their earlier affidavits dated April 8, 2007 were false.⁷⁹ At any rate, whether said affidavits of desistance ought to be given credence was up to the sound discretion of the trial court.

Neither did she influence nor manipulate Johnson through gifts. On the contrary, it was petitioner through Louie, Martin, or Jomar who would visit Johnson in school and other venues to convince him to drop the case against petitioner in exchange for monetary consideration.⁸⁰

Finally, it was ironic that petitioner filed a case against respondents for violation of RA 7610 in behalf of Louie who was no longer a minor, and Johnson who did not even file a case against her. He took the cudgels for Louie and Johnson when it was precisely through their complaints that he got detained in the first place. Instead of choosing to fight his cases in court, petitioner opted to file a baseless complaint against her and co-respondents to pressure them against prosecuting the cases.⁸¹

c. Respondent Prosecutor Michaela U. Matammu-Sion

Respondent **Prosecutor Michaela U. Matammu-Sion** denied the charges against her and moved for outright dismissal of the case. She averred that she was the investigating prosecutor in the preliminary investigation of Louie and Johnson's complaints against petitioner for sexual abuse under RA 7610. The complaints were referred to the Las Piñas City Prosecutor's Office by the OCSWD.⁸²

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⁷⁷ *Id.* at 104.

⁷⁸ *Id.* at 105-106.

⁷⁹ *Id.* at 106-107.

⁸⁰ *Id.* at 107-111.

⁸¹ *Id.* at 115-116

⁸² *Rollo* (Vol. II), pp. 857-858.

The case was raffled to her on August 14, 2007. During the preliminary investigation, she gave petitioner the opportunity to refute the allegations against him. But instead of presenting countervailing evidence, his counsel Atty. Emiliano L. Gayo merely filed a motion to dismiss, a prohibited pleading. In the absence of evidence in support of petitioner's defense and on the basis of the complaint filed before her, she issued a Resolution dated February 4, 2008 recommending that petitioner be indicted for sexually abusing Johnson in violation of Section 5(b) of RA 7610. Her recommendation was approved by City Prosecutor Cynthia M. Luang on April 2, 2008.⁸³

She was merely exercising her lawful functions as prosecutor when she conducted a preliminary investigation against petitioner. She did not commit any violation of procedural and substantive laws in recommending that petitioner be criminally charged. As for the affidavits of desistance of private complainants, they were mere afterthought which she viewed with suspicion and reservation. Other than dwelling tediously on the purported desistance, petitioner miserably failed to controvert the allegations against him, nay establish his defense. At any rate, petitioner could have appealed her resolution to the Secretary of Justice who exercises control and supervision over prosecutors.⁸⁴

The Office of the Ombudsman's Ruling

By Joint Resolution⁸⁵ dated October 30, 2009, the Office of the Deputy Ombudsman for Luzon exonerated respondents, *viz*:

WHEREFORE, premises considered, the criminal and administrative complaints filed against RUTH P. BERNABE, MICHAELA U. MATAMMU-SION, MYRNA B. VALENCERINA, ARFIL P. JOSEPH and RODEL L. AMANO are hereby dismissed for lack of merit.

SO RESOLVED.

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⁸³ *Id.* at 858-859.

⁸⁴ *Id.* at 859 and 864.

⁸⁵ *Id.* at 841.

The Office of the Deputy Ombudsman did not give credence to petitioner's allegation that respondents had been bribing, exploiting, and abusing Louie and Johnson.⁸⁶ Petitioner purportedly failed to comply with its Order dated February 18, 2009 requiring the parties to submit their respective position papers.⁸⁷

Contrary to petitioner's claim, what appeared on record was that respondent social workers took care of Louie and Johnson while the latter were still under OCSWD custody. They provided them emotional and psychological support to the point of accompanying Johnson to his court hearings.⁸⁸

Respondent Prosecutor Bernabe could not also be faulted for the trial court's order not to dismiss Criminal Case Nos. 27133-R and 27134-R on the basis of the affidavits of desistance. For the trial court had sole discretion on whether to accept such affidavits.⁸⁹

Respondent Prosecutor Matammu-Sion's resolution recommending petitioner's criminal indictment could not be taken against her. She merely performed her solemn duty of determining the veracity of the complaints filed before her office. If petitioner believed that respondent Prosecutor Matammu-Sion erroneously appreciated the evidence, he should have filed a petition for review before the Department of Justice. To entertain the complaint against respondent prosecutors, therefore, is to review the findings of probable cause against petitioner, a function beyond the jurisdiction of the Office of the Ombudsman.⁹⁰

The Office of the Deputy Ombudsman likewise dismissed the administrative charge against respondents for grave misconduct due to petitioner's failure to present substantial evidence in support of his allegations.⁹¹

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⁸⁶ *Id.* at 865.

⁸⁷ *Id.* at 864.

⁸⁸ *Id.* at 867.

⁸⁹ *Id.* at 865.

⁹⁰ *Id.* at 866.

⁹¹ *Id.* at 867.

Petitioner moved for reconsideration,⁹² alleging that he did in fact file his position paper contrary to the Office of the Deputy Ombudsman's finding. Under Order⁹³ dated June 23, 2011, the Office of the Deputy Ombudsman admitted that it indeed failed to consider petitioner's position paper, but nevertheless sustained its earlier ruling. It did not find any new evidence that would have warranted a different outcome for petitioner's case.

As stated, petitioner appealed the dismissal of the administrative charges before the Court of Appeals in CA-G.R. SP NO. 134294. Meanwhile, petitioner brought the dismissal of the criminal aspect of his complaint before this Court through the present petition for *certiorari*.

The Present Petition

Petitioner essentially argues that respondent Office of the Deputy Ombudsman acted in grave abuse of discretion when it ignored the presence of probable cause to indict respondents for the following offenses, thus:⁹⁴

1. Respondent Prosecutor Matammu-Sion, for falsification of documents in violation of Article 171(4) of the Revised Penal Code.⁹⁵ In particular, she stated in her resolution that "*Louie affirmed the several instances of oral sex and anal penetration he had with [petitioner]*" despite clear showing that there was no affirmance on Louie's part. She also claimed that the evidence submitted were "*unrebutted and uncontroverted*" which was not true. She overstepped her authority when she made false statements in her resolution to lay a foundation for an indictment,⁹⁶

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⁹² *Id.* at 871.

⁹³ *Rollo* (Vol. III), p. 1242.

⁹⁴ *Rollo* (Vol. I), p. 29.

4. Making untruthful statements in a narration of facts;

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⁹⁶ *Rollo* (Vol. I), pp. 33-35.

2. Respondent social worker Joseph, for acts prejudicial to a child's development under Section 10(a) of RA 7610.⁹⁷ In particular, he corrupted Johnson by giving him ₱100.00 whenever the latter testified before respondent Prosecutor Matammu-Sion at the City Prosecutor's Office of Las Piñas;⁹⁸ and
3. Respondents social workers Valencerina, Amano, and Joseph, as well as respondent Prosecutor Bernabe, for arbitrary detention under Article 124 of the Revised Penal Code.⁹⁹ In particular, they acted in conspiracy to manhandle Johnson and deprive him of his liberty during the February 18, 2018 incident at respondent Prosecutor Bernabe's office.

Petitioner submits the sworn statements of Louie, Johnson, Atty. Dulay-Archog, Martin, Jomar, and one Jorge Quirap Mandiit to support his accusations against respondents.¹⁰⁰ He also points out respondents' inconsistent statements as to when the incident at respondent Prosecutor Bernabe's office took place.¹⁰¹ Respondents had also been suppressing evidence since they never disclosed that Johnson left the OCSWD twice, first on February 17, 2008 and then on February 20, 2008.¹⁰² Finally, petitioner laments that respondent Office of the Deputy Ombudsman allegedly cherry-picked from the facts when it issued the assailed resolutions; it did not consider all the incidents pointing to respondents' supposed crimes.¹⁰³

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⁹⁷ Section 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. –

- (a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

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⁹⁸ *Rollo* (Vol. I), pp. 35-36.

⁹⁹ **Article 124. Arbitrary detention.** - Any public officer or employee who, without legal grounds, detains a person, shall suffer;

1. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if the detention has not exceeded three days;
2. The penalty of *prision correccional* in its medium and maximum periods, if the detention has continued more than three but not more than fifteen days;
3. The penalty of *prision mayor*, if the detention has continued for more than fifteen days but not more than six months; and
4. That of *reclusion temporal*, if the detention shall have exceeded six months.

The commission of a crime, or violent insanity or any other ailment requiring the compulsory confinement of the patient in the hospital, shall be considered legal grounds for the detention of any person.

¹⁰⁰ *Rollo* (Vol. I), pp. 36-37

¹⁰¹ *Id.* at 38-43

¹⁰² *Id.* at 44.

¹⁰³ *Id.* at 44-45.

In its Comment,¹⁰⁴ the Office of the Deputy Ombudsman maintains the validity of its assailed rulings. It also invokes the Court's policy of noninterference in the Ombudsman's exercise of investigatory power.

Respondent Prosecutor Bernabe also opposes the petition,¹⁰⁵ labeling petitioner's complaint as a SLAPP suit (Strategic Lawsuit Against Public Participation suit). More, petitioner's arguments are mere rehash of the ones he raised before the Ombudsman. She, too, relies on the Court's policy of non-interference. In any event, the dismissal of the complaint was already final and unappealable under Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman.¹⁰⁶

For her part,¹⁰⁷ respondent prosecutor Matammu-Sion enumerates the pieces of evidence she considered when she recommended the filing of a criminal charge against petitioner for sexual abuse. Further, Department Circular No. 54 of the Department of Justice enjoins prosecutors from dismissing complaints for violation of RA 7610 based on a mere affidavit of desistance of private complainants.¹⁰⁸ At any rate, her recommendation was still subject to approval by the City Prosecutor of Las Piñas, and appeal before the Secretary of Justice.

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¹⁰⁴ *Rollo* (Vol. III), p. 1271

¹⁰⁵ *Id.* at 1359.

¹⁰⁶ Section 7. Finality and execution of decision.- Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one-month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer.

¹⁰⁷ *Rollo* (Vol. III), p. 1259.

¹⁰⁸ *Id.* at 1264-1265.

Finally, respondent social worker Valencerina repleads her arguments before the Ombudsman and echoes the defenses of respondent Prosecutor Bernabe.¹⁰⁹ As for respondents Joseph and Amano, records show that they are no longer connected with OCSWD and were not able to comment on the petition.¹¹⁰

Threshold Issue

Did the Office of the Deputy Ombudsman gravely abuse its discretion when it did not find probable cause to charge respondents with acts prejudicial to a child under Section 10(a) of Republic Act (RA) 7610, and falsification of documents and arbitrary detention under Articles 171(4) and 124 of the Revised Penal Code, respectively?

Ruling

At the threshold, the Court had already elucidated in *Kuizon v. Desierto*¹¹¹ on the remedies for challenging the rulings of the Office of the Ombudsman, *viz*:

In dismissing petitioners' petition for lack of jurisdiction, the Court of Appeals cited the case of *Fabian vs. Desierto*. **The appellate court correctly ruled that its jurisdiction extends only to decisions of the Office of the Ombudsman in administrative cases.** In the *Fabian* case, we ruled that appeals from decisions of the Office of the Ombudsman in *administrative disciplinary cases* should be taken to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure. It bears stressing that when we declared Section 27 of Republic Act No. 6770 as unconstitutional, we categorically stated that said provision is involved only whenever an appeal by *certiorari* under Rule 45 is taken from a decision in an administrative disciplinary action. **It cannot be taken into account where an original action for *certiorari* under Rule 65 is resorted to as a remedy for judicial review, such as from an incident in a criminal action. In fine, we hold that the present petition should have been filed with this Court.** (emphasis added)

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¹⁰⁹ *Id.* at 1312.

¹¹⁰ *Id.* at 1365.

¹¹¹ 406 Phil. 611, 625-626 (2001)

Petitioner, thus, correctly appealed the dismissal of his administrative complaint before the Court of Appeals in CA-G.R. SP NO. 134294, and brought the dismissal of the criminal aspect of his complaint before this Court through the present petition for *certiorari*.

On this score, respondents' reliance on Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman is misplaced. Rule III of the said rules is entitled "Procedure in Administrative Cases". Certainly, it bears no application here.

On the merits, the petition should be dismissed. For petitioner's failed to establish that respondent Office of the Deputy Ombudsman committed grave abuse of discretion in finding no probable cause to charge private respondents with violations of RA 3019, RA 7610 and Articles 171(4) and 124 of the Revised Penal Code.

Probable cause is the existence of such facts and circumstances as would lead a person of ordinary caution and prudence to entertain an honest and strong suspicion that the person charged is guilty of the crime subject of the investigation. It implies probability of guilt and requires more than bare suspicion but less than evidence which would justify a conviction.¹¹²

The Court has adopted the policy of non-interference when it comes to the Ombudsman's performance of its constitutional mandate, including its exercise of authority to act on criminal complaints against public officials and determine the presence of probable cause. We enunciated this policy in *Dichaves v. Office of the Ombudsman*,¹¹³ thus:

As a general rule, this Court does not interfere with the Office of the Ombudsman's exercise of its constitutional mandate. Both the Constitution and Republic Act No. 6770 (The Ombudsman Act of 1989) give the Ombudsman wide latitude to act on criminal complaints against public officials and government employees. The rule on non-interference is based on the "respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman"

An independent constitutional body, the Office of the Ombudsman is "beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service." Thus, it has the sole power to determine whether there is probable cause to warrant the filing of a criminal case against an accused. This function is *executive* in nature.

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¹¹² *Lim v. Secretary of Justice*, 572 Phil 118, 132 (2008).

¹¹³ 802 Phil. 564, 589 (2016).

The executive determination of probable cause is a highly factual matter. It requires probing into the "existence of such *facts and circumstances* as would excite the belief, in a reasonable mind, *acting on the facts within the knowledge of the prosecutor*, that the person charged was guilty of the crime for which he [or she] was prosecuted."

The Office of the Ombudsman is armed with the power to investigate. It is, therefore, in a better position to assess the strengths or weaknesses of the evidence on hand needed to make a finding of probable cause. As this Court is not a trier of facts, we defer to the sound judgment of the Ombudsman.

Practicality also leads this Court to exercise restraint in interfering with the Office of the Ombudsman's finding of probable cause. *Republic v. Ombudsman Desierto* explains:

[T]he functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.¹¹⁴

The Court, however, is not precluded from reviewing the Office of the Ombudsman's action when there is grave abuse of discretion. Grave abuse of discretion is the capricious and whimsical exercise of judgment tantamount to lack or excess of jurisdiction. In other words, the Office of the Ombudsman's exercise of power must have been done in an arbitrary or despotic manner which must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined by law.¹¹⁵

We find no such abuse of discretion here.

First. Petitioner charged respondent Prosecutor Matammu-Sion with falsification of documents in violation of Article 171(4) of the Revised Penal Code for making false statements in her resolution to lay a foundation for an indictment against petitioner, *viz.*¹¹⁶

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¹¹⁴ *Id.*

¹¹⁵ *Senator Estrada v. Office of the Ombudsman, et al.*, G.R. Nos. 212761-62, July 31, 2018.

¹¹⁶ *Rollo* (Vol. I), p. 33.

Complainant Louie averred that he first came to know of Respondent David Stonecypher, an American Tourist, in December 2006 while he was working at a *carinderia* in Mangagoy, Bislig City, Surigao City. After his duty, he invited David to his house where he introduced David to his aunt. Later on, David told him to stop working at the “*carinderia*” and that David would shoulder his school expenses. For the period between 09 January to March 2007, he lived, slept and ate with David at the latter’s rented room at the Casa de Babano Hotel in the same City. Thereafter Respondent promised him to bring him to Baguio City and to answer for his future education. On 24 March 2006, Louie introduced to respondent David his co-complainant Johnson. During that time, complainant Johnson was seeking help as his parents denounce his being a gay. Respondent David took pity on complainant Johnson and requested a waiver from his parents before respondent could bring him along to Baguio City and pay for his education. From Butuan City the three embarked to Metro Manila on 05 April 2007. After spending a day in Las Piñas City, the group proceeded to Baguio City. **Louie affirmed the several instances of oral sex and anal penetrations he had with David but that all happened voluntarily and with his consent.**

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During the scheduled preliminary investigation, respondent being detained at the Baguio City Jail was represented by a certain Atty. Emiliano I. Gayo of the E.I. Gayo & Associates who filed a Motion to Dismiss in lieu of filing a Counter Affidavit xxx

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Coming to the main issue of the instant case, after a thorough consideration of **the un rebutted and uncontroverted allegations** of the evidence submitted, undersigned finds reasonable grounds sufficient in themselves to engender a belief that a violation of Section 5(b) of Republic Act No. 7610 has been committed and that Respondent David Stonecypher is probably guilty thereof.

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Petitioner makes much ado of respondent Prosecutor Matammu-Sion’s use of the phrase “affirmed” and “unrebutted and uncontroverted” despite the affidavits of desistance executed by Louie and Johnson. To our mind, however, respondent prosecutor Matammu-Sion used the word “*affirm*” not in legalese, but in its more generic meaning, *i.e.* state as a fact; assert strongly and publicly.¹¹⁷ The context of the statement even reveals that respondent prosecutor Matammu-Sion was merely narrating what Louie stated as facts in his sworn affidavit dated April 8, 2007.

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¹¹⁷ <https://www.dictionary.com/browse/affirmed?s=t>, last accessed on March 12, 2020.

Similarly, respondent prosecutor Matammu-Sion's use of the phrase "*unrebutted and uncontroverted*" in describing the allegations against petitioner merely emphasized petitioner's admitted failure to file a counter-affidavit during the preliminary investigation.

Second. Petitioner charged respondent social worker Joseph with violation of Section 10(a) of RA 7610 for allegedly corrupting Johnson by giving him ₱100.00 whenever he testified against him.¹¹⁸ As proof, he offered Louie's affidavit wherein he narrated his alleged experience at the City Prosecutor's Office at Las Piñas. According to Louie, respondents Amano and Joseph got angry at him for denying his sworn statement dated April 8, 2007, while respondent Joseph rewarded Johnson with ₱100.00 for cooperating during the investigation.

Louie's affidavit, however, could hardly be considered as convincing evidence of the crime charged. In fact, Louie's testimonies should be taken with a grain of salt. For one, Louie admitted to being petitioner's boyfriend. This gives him motive to implicate respondent Joseph for a crime he did not commit. For another, Louie had been changing his stories, putting his credibility into issue.

Third. Petitioner charged respondent social workers Valencerina, Amano, and Joseph, as well as respondent Prosecutor Bernabe with acting in conspiracy to deprive Johnson of his liberty.

The totality of circumstances shows, however, that neither Louie nor Johnson appeared to have been held captive at the hands of the social workers. We give credence to respondents' assertion that Louie and Johnson were, in fact, unescorted on their way to and from school, allowed to use their cellular phones to contact their families, and free to seek help from the police officers stationed nearby. More, Louie's relatives were able to visit him at the OCSWD. The OCSWD, in turn, allowed Louie's brother Geniel to take custody over him. Johnson, on the other hand, was able to "escape" by merely asking permission from respondent social workers to take an exam.

Simply put, there was no unreasonable restriction on the movements of either Louie or Johnson. The allegations of threat and control are easily belied by Louie and Johnson's conditions at the OCSWD. In the same vein, we also see no reason to believe that respondent social workers manhandled

¹¹⁸ *Rollo* (Vol. I), pp. 35-36.

Johnson into going back with them to the OCSWD. As it was, Johnson even invited respondent social workers to his graduation after the alleged manhandling incident.

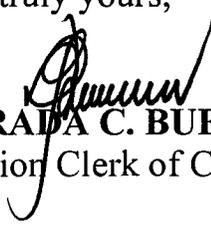
Johnson's subsequent Sworn Statement of Facts¹¹⁹ which supposedly confirms petitioner's allegation still does not persuade. Johnson's constant change of narrative renders us hesitant to accept his statement as credible. On the contrary, the presumption of regularity in the performance of official functions has always been a formidable defense against alleged irregularities, and has been known for tipping the scale in favor of good faith. Operating on this presumption, the Court sees no probable cause to indict respondents for arbitrary detention.

Verily, the Ombudsman did not act in grave abuse of discretion in dismissing petitioner's complaint. Petitioner's allegations do not arouse even the slightest suspicion that respondents abused or arbitrarily detained Louie or Johnson, or made false statements in respondent prosecutors' resolutions. On the contrary, petitioner's complaint reeks of a harassment suit designed not to achieve any purported higher form of justice, but as a vindictive move to pressure respondents against prosecuting the case.

WHEREFORE, the petition is **DISMISSED** for utter lack of merit.

SO ORDERED."

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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¹¹⁹ *Rollo* (Vol. I), pp. 36-37.

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