REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
NATIONAL CAPITAL JUDICIAL REGION
BRANCH 221, QUEZON CITY

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

Criminal Case Nos. Q-09-162148-72
Q-09-162216-31
Q-10-162652-66
Q-10-163766
GL-Q-12-178638

DATU ANDAL "UNSAY" AMPATUAN, JR.
DATU ANDAL AMPATUAN, SR.
DATU ZALDY "PUTI" U. AMPATUAN
DATU AKMAD "TATO" AMPATUAN, SR.
DATU SAJID ISLAM U. AMPATUAN
DATU ANWAR U. AMPATUAN, SR.
TAKPAN DILON y MANIBPOL
PCINSP SUKARNO A. DICAY
PSINSP ABDULGAPOR B. ABAD
PSUPT ABUSAMA MUNDAS MAGUID AL HAJ
PSUPT BAHNARIN U. KAMAONG
PSUPT ABDULWAHID U. PEDTUCASAN
SPO2 GEORGE S. LABAYAN
SPO2 BADAWI P. BAKAL
SPO1 OSCAR DONATO
SPO1 SAMAD USMAN MAGUINDRA
SPO1 ALIMOLA L. GUIANATON
SPO1 ALI MLUK SOLANO
SPO1 EDUARDO H. ONG
SPO1 ELIZER S. RENDAJE/RENDAJI
PO3 GIBRAEL R. ALANO
PO3 FELIX ABABAO DAQUILOS
PO3 ABIBUDIN S. ABDULGANI
PO3 RICKY D. BALANUECO
PO3 RASID T. ANTON
PO3 FELIX E. ENATE, JR.
PO2 HAMAD NANA
PO2 KENDATU S. RAKIM
PO2 HERNANIE S. DECIPULO, JR.
PO2 SAUDIAR ULAH
PO2 SAUDI PASUTAN
PO2 REXSON D. GUIAMA

PO1 HERICH AMABA
PO1 BADJUN IBAD PANEGAS
PO1 BENSEDICK/BERSEDICK T. ALFONSO
PO1 MOHAMMAD K. BALADING
PO1 DATU JERRY M. UTTO
PO1 ABDULA/ABDULLAH BAGUADATU
PO1 TAMANO SAHIBAL HADI
PO1 ABDULBAYAN U. MUNDAS
PO1 ESPRIELITO G. LEJARSO
PO1 ESMAEL MANUEL GUIDAL/GUIALAL
PO1 JIMMY M. KADTONG/KADLONG
PO1 MARJUL T. JULKADI
PO1 ABDURAHMAN S. BATARASA
PO1 ABDULANAN/ABDULMANAN L. SAAVEDRA
PO1 MARSMAN E. NILONG
PO1 NARKOUK D. MASCUD
PO1 ARNULFO A. SORIANO
PO1 RAINER T. EBUS[1]
PO1 EBARA G. BEBOT
PO1 PENDATUN A. DIMA
PO1 MICHAEL M. MACARONGON
DATU JIMMY AMPATUAN y MASUKAT
DATU KANOR AMPATUAN*
DATU BAHNARIN A. AMPATUAN*
DATU MAMA AMPATUAN*
DATU SAUDI AMPATUAN, JR.*
DATU ANWAR SAJID "ULO" U. AMPATUAN
DATU ANWAR "IPI" U. AMPATUAN, JR.
DATU HARRIS AMPATUAN*
DATU MONING AMPATUAN*
MOGIRA HADJI ANGGULAT*
PARIDO ZANGKALA GOGO*
JUN PENDATUN*
KAGI FAIZAL*
PINSP REX ARIEL T. DIONGON[2]
PINSP MICHAEL JOY MACARAEG
PINSP SAUDI M. MOKAMAD/MUKAMAD
PO2 TANY DALGAN *a.k.a.* TANNY DALGAN
PO1 AMIR SOLAIMAN
PO1 MICHAEL MADSIG y JUANITAS
PO1 SANDY D. SABANG
PO1 YSMAEL BARAQUIR*

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*At large.

[1] One of the accused whose discharge was sought by the prosecution in its Motion to Discharge Accused Mohammad Sangki, P/Insp. Rex Ariel Diongon, x x x, PO1 Rainer Ebus as State Witnesses filed on April 20, 2010. After the presentation of said accused, the court denied said Motion in its Omnibus Order dated July 29, 2011. The respective Motions for Reconsideration filed by P/Insp. Rex Ariel Diongon and the prosecution were likewise denied in an Omnibus Order dated November 10, 2011.

[2] See footnote 1.

PO1 ABBEY GUIADEM*
PO1 EBAD MUSA*
PO1 CADER DATUNOT*
PO1 PIA KAMIDON
PO1 DUKOY BADAL *a.k.a.* AHMAD CAMSA BADAL
PO1 ALFIE PAGABANGAN*
PO1 WARDEN KUSAIN LEGAWAN
PO1 JONATHAN ENGID y SOLAIMAN *a.k.a.* TAN
PO1 DATU NOR KADIR*
PO1 JOHARTO KAMINDAN*
PO1 ANWAR D. MASUKAT
SGT ABDULLAH KARIM FALCON*
SGT BANZAR MAULANA*
SGT ABDUL SOKOR ABDULLAH*
SGT ALNOR AMPATUAN*
DATU NORODIN "NORDS" DATUMANONG AMPATUAN*
HAMID DELAYUDIN*
DATU DAINGA AMPATUAN*
RODEL U. AMPATUAN*
MANNY UPAM AMPATUAN
MISUARI S. AMPATUAN
KERTZ B. AMPATUAN*
TONY KENIS AMPATUAN*
JONATHAN S. AMPATUAN
INTAN B. AMPATUAN*
MOHADES A. AMPATUAN
KAGI AMAR AMPATUAN*
MOHAMAD D. AMPATUAN*
REK TONY T. DEK*
ABAS G. ANONGAN *a.k.a.* ABAS G. ANDONGAN / ABAS GANI ABUTAZIL[3]
MUHAMAD SANGKI *a.k.a.* MOHAMAD SANGKI y SIMPAL[4]
DATUTUHON M. ESMAEL *a.k.a.* DATUTULON MALAGUIAL ESMAIL
ALEX U. ZAIPON*
MOACTAR T. DAUD *a.k.a.* MOKTAR A. DAUD
DHODS A. KAMONG*
ALIMUDIN S. SANGUYOD *a.k.a.* NORUDIN GARAPUTAY / NORODIN MALANG
FAHAD WATAMAMA UTTO *a.k.a.* RICHARD HABOTSHI GOFEL
SURIN K. MENTANG*
HARON K. AROB*
SAMSUDIN M. DAUD *a.k.a.* DAVID A. OLIVARES
THENG P. SALI *a.k.a.* ABDULLAH HAMID ABDULKAHAR
TOKTOK K. GUIABAL*
BATUTA G. ZAILON*

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[3] After the prosecution had rested its case, accused filed a Demurrer to Evidence which was subsequently granted on June 23, 2017. He was released from detention on June 27, 2017.
[4] See footnote 1.

MACTON A. BILUNGAN[5]
NASSER S. ESMAEL
ABEDIN ALAMADA *a.k.a.* KUMANDER BEDI
MAOT M. BANGKULAT *a.k.a.* BENJIE LUMANGGAL DAGINDINGAN
BONG S. ANDAL
MANDO M. BALANGAN*
RENE GUIAPAL*
LATIP GANI*
ALEX KADIL*
KAMPER SILONGAN*
SUKOR S. KAMSA*
EDRES G. KASAN *a.k.a.* EDRIS GOGO ALIP
AKAD B. MACATON *a.k.a.* MOHAMAD SALAZAR PIANG
MAOT M. DUMLA *a.k.a.* NOT ABDUL / NOT DUMA
NASER TALIB *a.k.a.* MORALES SISAY AMILOL
SANGGUTIN MUSA *a.k.a.* MORES SALI MUSA*[6]
ROLEX KUSEN*
BUTO UMAL*
SURIN KAYUKAY*
BATUTI K. BARA*
BASSIR L. ABDULMAGUID*
GAMBAYAN M. KASIM*
MAMUGKAY R. CAMSA*
TAYA M. BANGKULAT *a.k.a.* TAYA KARIM BANGKULAT
ZAMORA G. SAMBULAWAN*
SALIK S. BANGKULAT *a.k.a.* SALIK B. BANGKULAT
TOKAN A. PAMSAG*
ABDUL MAULA E. UDAY*
MAGUID S. ALBA*
THO AKMAD AMINO
TUMI TIMBA ABAS *a.k.a.* GUIAMIL[7]
MADS P. UTTO*
ABEDIN E. KENNY*
GIE S. TAKILID*
MALAGUIAL S. TANURI *a.k.a.* JOHARI/JUHARI MONTOK MALAGUIAL
ZACARIA P. AKIL *a.k.a.* GUAGO PAGALAD AKIL / QUAGO PAMA AKIL / TINTINGAN KAMAD MAKAALAY

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[5] Passed away on September 1, 2019 due to cardio-respiratory arrest per Certificate of Death issued by Taguig City dated September 2, 2019.

[6] A person who answers by the name of Sanggutin Musa *a.k.a.* Mores Sali Musa was arrested on December 6, 2015 and brought to this court on December 16, 2015. He was arraigned on December 17, 2015 in 58 cases. During the Pre-trial Conference of said accused on January 28, 2016, the prosecution had required the attendance of their witness, Sukarno Badal, for him to identify whether the arrested Sanggutin Musa *a.k.a.* Mores Sali Musa is the same Commander Sangguten Musa he earlier mentioned in his testimony, to which he answered in the negative. On February 11, 2016, the prosecution filed a "Motion to Dismiss (Re: Accused Sanggutin Musa @ Mores Sali Musa)" on the ground of mistaken identity. On February 29, 2016, the court granted said Motion and directed the immediate release of Mores Sali Musa, as well as ordered the issuance of a 2nd Alias Warrant of Arrest against the real Sanggutin Musa.

[7] After the prosecution had rested its case, accused filed a Demurrer to Evidence which was granted by the court on September 22, 2017. He was released from detention on September 25, 2017.

ANDAMI M. SINGKALA*
NASRUDIN S. GUIAMADIL*
DENGA O. MENTOL *a.k.a.* RONNIE OFONG
TOY K. DATUMANONG*
SAMAON M. ANDATUAN
KUDZA MASUKAT UGUIA *a.k.a.* KUDZA UGUIA MASUKAT / DATU TENG IBRAHIM / MUSTAPHA IBRAHIM
SALIPAD M. TAMPOGAO *a.k.a.* TATO SAMPOGAO / TATO
TALEMBO "TAMMY" MASUKAT *a.k.a.* TALEMBO KAHAR ABDULRAKMAN
BEN A. MENDOG*
SAHID A. GUIAMADIL *a.k.a.* SAHID GUIAMADEL / SAHID ARNEL ABDULLAH / ARNEL BACAR ABDULLAH / IDEN[8]
KOMINIE K. INGGO[9]
ESIAM MANTAWIL*
MAMA HABIB
MOHAMAD K. MACAUYAG*
RUSTY U. DAUD*
KASIM T. LINGKONG *a.k.a.* ABDULKADIR SALUDIN
ABUSAMA B. GUIAPAL*
RAKIM M. AMIL *a.k.a.* RAKIM KENOG
DATUNOT G. AYOB*
NORMAN M. TATAK *a.k.a.* NORMAN MADIDIS TATAK / NORMAN MADIDIS SUBO[10]
BUTUKAN S. MALANG*[11]

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[8] A person who answers by the name of Sahid Guiamadel *a.k.a.* Jun Aliman y Paiting was arrested on December 14, 2011 and committed to Quezon City Jail-Annex, Bicutan, Taguig, City on December 19, 2011. On December 27, 2011, his counsel filed an "Urgent Motion for the Immediate Release of Detainee from Detention" on the ground that Jun Aliman was mistakenly identified and illegally detained as Sahid Guiamadel. On May 08, 2012, he filed a "Supplemental Motion to Release Detainee with Prayer for the Enforcement of Warrant of Arrest against the Real Accused Sahid A. Guiamadel", alleging therein among others, that the real Sahid Guiamadel *a.k.a.* Arnel Bacar Abdullah/Iden was already arrested on February 22, 2012. Both Motions were denied in a Joint Order dated July 11, 2013. On July 23, 2013, Jun Aliman filed a "Motion for Reconsideration (with Prayer to Suspend Arraignment)". The court granted the prayer to suspend arraignment pursuant to the Order dated August 07, 2013, in view of the absence of opposition from the prosecution. After the submission of the CIDG's Investigation Report re: True Identities of Sahid Guiamadel *a.k.a.* Jun Aliman and Arnel Abdullah *a.k.a.* Iden and the parties' respective pleadings, the court, in its Order dated January 22, 2014, granted Jun Aliman's Motion for Reconsideration, and directed his immediate release from detention. The court likewise ordered the issuance of a Warrant of Arrest against Arnel Bacar Abdullah taking into consideration the overwhelming evidence that he is the real Sahid Guiamadel. On February 06, 2014, the Warrant of Arrest was served upon Sahid Guiamadel *a.k.a.* Arnel Bacar Abdullah at the Sultan Kudarat Provincial Jail. Thereafter, a Commitment Order was issued on February 11, 2014. He was actually brought to the Quezon City Jail-Annex on January 05, 2015 and subsequently arraigned on January 07, 2015**.**

[9] After the prosecution had rested its case, accused filed a Demurrer to Evidence which was granted on June 23, 2017. He was released from detention on June 27, 2017.

[10]After the accused' arraignment on November 17, 2010, a Motion was filed by his counsel, Atty. Andres P. Manuel, Jr. In an Order dated October 17, 2011, said accused was found to be a minor at the time of the alleged commission of the offense charged. Thereafter, he was allowed to be released on bail or recognizance in an Order dated February 06, 2012. However, for failure to comply with the Orders dated April 02, 2014 and August 12, 2014 in relation to the Order dated February 06, 2012, the prayer in the "Compliance" dated December 11, 2015 for the issuance of an Order for his release on recognizance to the custody of his parents or Abdulbayan U. Ayob, an Imam of Muslim Religion, was denied. Neither was accused able to post bail. He is listed as number 173 in the body of the Third Amended Informations dated March 02, 2016.

[11] A person who answers by the name of Butukan Malang Salibo *a.k.a.* Datukan Malang Salibo was arrested on August 04, 2010. However, his arrest was questioned via a Petition for Habeas Corpus of Datukan Malang Salibo before the Court of Appeals on September 17, 2010. Thereafter, the Sixth

SONNY K. PINDI *a.k.a.* JOVEN SALAZAR PIANG / BIMBO SALAZAR PIANG
KASIM K. DALENDING*
EDRIS TEKAY NANDING *a.k.a.* IBRAHIM KAKOB
ABDULKARIM L. MANALASAN*
MAGUID AMIL DATUN*
THONG E. GUIMANO *a.k.a.* IBRAHIM KAMAL TATAK
TINO T. SANDAY*
ARMANDO O. AMBALGAN *a.k.a.* JAMIL BULATUKAN KAYANSANG / BOLATOKAN OMAR
NASSER M. MALAGUIA *a.k.a.* RAMON DADULO
EBRAHIM M. ABON*
MUKTAR SANTO KINDU*
ANDRO K. AWIL*
UPAM S. SAUDI*
SAMSUDIN R. KAMILON*
MARCO G. ENGED*
DEXSON A. SAPTULA *a.k.a.* MOHAMMAD ADAM / RENE MATUTI[12]
NORHATO M. KAMINO *a.k.a.* ALFECHE BANDING
MOHAMAD T. DATUMANONG *a.k.a.* NICOMEDES AMAD TOLENTINO
NASSER I. GUIA*
NASSER ADAM*
x - x

Division of the Court of Appeals, where the petition was raffled, promulgated a Resolution on September 21, 2010, and issued a Writ of Habeas Corpus making the same returnable to the Second Vice Executive Judge of the Regional Trial Court, Branch 153, Pasig City. After trial, said court issued a Decision on October 29, 2010, which granted the Petition for Habeas Corpus. On appeal, said Decision was reversed and set aside by the Court of Appeals, Ninth Division, in its Resolution dated April 19, 2011. Datukan Malang Salibo filed a Motion for Reconsideration thereof, but the same was denied by the Court of Appeals on July 06, 2011. Subsequently, he filed a Petition for Review on Certiorari with the Supreme Court. Meanwhile, Datukan Malang Salibo filed before this court a "Motion to Quash Return of Warrant and Commitment Order" and "Motion to Quash for Lack of Jurisdiction" on May 11, 2011 and May 20, 2011, respectively, which were both denied in an Order dated June 20, 2013. Thus, he was arraigned on June 26, 2013. On June 29, 2015, this court received an Order of Release from the Supreme Court, pursuant to its Decision dated April 08, 2015, in G.R. No. 197597, which granted the Petition for Review on Certiorari, reversing and setting aside the Court of Appeals Decision dated April 19, 2011, and ordering the respondent Warden, Quezon City Jail Annex, BJMP, Camp Bagong Diwa, Taguig, to immediately release petitioner Datukan Malang Salibo from detention on the ground that he is not Butukan S. Malang. Thereafter, a 2nd Alias Warrant of Arrest was issued by this court against the real Butukan S. Malang on July 27, 2015.

[12] A person who answers by the name of Dexson Saptula *a.k.a.* Rene Matuti was arrested on July 18, 2012, and committed on February 20, 2013. He was arraigned on March 13, 2013 and May 29, 2013 on 57 counts of murder and in the 58th case, respectively. Thereafter, trial on the merits ensued as against said person. Subsequently on November 14, 2013, a Return of Warrant of Arrest dated November 11, 2013 was made by PSUPT Joe Wilson J. Denamarca involving another Dexson Saptula whose alias name is Mohamad Adam. Then, on January 27, 2014, Rene Matuti filed a "Motion to Dismiss". In view of the submission of a Return of Warrant of Arrest involving Dexson Saptula *a.k.a.* Rene Matuti and his filing of the said Motion, the court deemed it proper to set for hearing the matter of the return of Warrant of Arrest of Dexson A. Saptula *a.k.a.* Mohammad Adam on November 18, 2013. On February 05, 2014, the court issued an Order granting the Motion to Dismiss on the ground of mistaken identity and directing the immediate release of Rene Matuti. On even date, a Commitment Order was also issued for Dexson Saptula *a.k.a.* Mohammad Adam. He was arraigned in 58 cases on March 27, 2014. Thereafter, trial ensued. After the prosecution had rested its case, accused filed his Demurrer to Evidence which was granted on June 23, 2017. He was released from detention on June 27, 2017.

CONSOLIDATED PARTIAL DECISION

In fifty eight (58) [13] similarly worded Informations except as to the names of the victims, filed by the Panel of Public Prosecutors, the above-named accused,[14] stand charged with the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, committed as follows:

> "That on November 23, 2009, at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with evident premeditation, taking advantage of superior strength, treachery, with cruelty, in an uninhabited place and by a band, armed with high powered firearms, with intent to kill, did then and there willfully, unlawfully, and feloniously attack, assault and shoot **GENALIN MANGUDADATU y TIAMSON,** with the use of the said firearms, thereby inflicting upon him (*sic*) multiple gunshot woods, (*sic*) that caused his (*sic*) death, to the damage and prejudice of his (*sic*) heirs.
>
> **<u>That accused Norman M. Tatak @ [15] Norman Madidis Tatak/Norman Madidis Subo (no. 173 above) is a minor (16 years old) who acted with discernment in the commission of the offense.</u>**
>
> CONTRARY TO LAW."

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[13] *Third Amended Information* dated March 02, 2016 and filed on March 04, 2016 by the Panel of Prosecutors (under D. O. No. 857 dated October 05, 2015) headed by then City Prosecutor Archimedes V. Manabat, Taguig City; *(Second) Amended Information* dated May 31, 2011 and filed on June 01, 2011 by the Panel of Prosecutors headed by then Asst. Regional State Prosecutor Peter L. Medalle (under D.O. No. 172, dated March 09, 2011) for Criminal Case Nos. Q-09-162148-72, Q-09-162216-31, Q-10-162652-66, Q-10-163766; and *Information* dated July 02, 2012 and filed on September 21, 2012 by Asst. State Prosecutor Bernardo L. Parico for Criminal Case No. GL-Q-12-178638. The said *(Second) Amended Information* for 57 counts of Murder which excluded/dropped Zukarno Badal as an accused (to be utilized as State witness) pursuant to of R.A. 6981 and provisionally admitted the latter to the Witness Protection Program effective November 10, 2010 per Certification dated May 30, 2011, signed by Ma. Nerissa A. Molina-Carpio, Asst. Program Director of Witness Protection Security and Benefit Program, is subsequent to the *(First) Amended Information* for Murder on 56 counts dated February 22, 2010, which named/included therein additional 196 accused filed by the Panel of Investigating Prosecutors as Acting Provincial Prosecutor of Maguindanao under D.O. Nos. 935 and 948, and signed by State Prosecutors Alexander Q. Suarez and Niven R. Canlapan. In turn, the *(First) Amended Information* is subsequent to the original Informations for Murder dated November 27, 2009 (for 25 counts), December 14, 2009 (16 counts) and December 02, 2009 (15 counts), or for a total of 56 counts filed against accused Datu Andal Ampatuan, Jr. alias "Unsay" and several John Does by the Panel of Investigating Prosecutors then headed by City Prosecutor Al P. Calica of Cotabato City.

[14] 115 (arraigned) in all excluding 80 accused who are at large, one (1) accused who was arrested but the cases filed against him were dismissed due to lack of probable cause and one (1) accused was discharged pursuant to Section 10 of R.A. 6981.

[15] The use of "@" herein means *alias*, *a.k.a.*, or *otherwise known as*.

The following are the victims as appearing in the respective Third Amended Informations in Crim. Case Nos. Q-09-162148-72, Q-09-162216-31, Q-10-162652-66, Q-10-163766, and GL-Q-12-178638, viz: Genalin Mangudadatu y Tiamson, Bai Farinah M. Hassan, Bai Eden G. Mangudadatu, Faridah G. Sabdullah, Surayda Bernan *y* Gaguil, Rowena Ante *y* Mangudadatu, Lailani Balayman, Pinky Balayman, Wahida A. Kalim, Marife Cordova *y* Montaño, Marites Cablitas, Mamotobai G. Mangudadatu, Raida S. Abdul, Gina dela Cruz, Concepcion Brizuela *y* Jayme, Bienvenido Legarta, Norton "Sedick" Edza *y* Ebus, Rasul Daud, Rosell Morales *y* Vivas, Eugene P. Demillo, Rahima P. Palawan, Noel Decena, Jephon Cadagdagon, Alejandro Medrano Reblando, Catalino Palmani Oquendo, Jr., John Caniban, Mercy Palabrica, Anthony Ridao, Hannibal D. Cachuela, Romeo O. Cabillo, Joy "Jose" Duhay, Benjie Adolfo, Henry Heneroso Araneta, Ernesto S. Maravilla, Jr., Jolito Evardo, Daniel D. Tiamzon, Eduardo Lechonsito, Cecil Lechonsito, Fernando Razon, Lindo Lipugan, Daryll Vincent delos Reyes, Andres M. Teodoro, Abdillah Ayada, Wilhelm S. Palabrica, Cynthia Oquendo-Ayon, Francisco Subang, Jr., Napoleon Salaysay, Leah Dalmacio *y* Soguilon, Meriam Paandal Calimbol, Mc Delbert Areola, Junpee Gatchalian, Arturo Betia, Rey Villareal Merisco, Joel V. Parcon, Ronnie Laru-an Perante, Rubello R. Bataluna, Victor O. Nuñez, and Reynaldo Geneblaza Momay.

Upon arraignment on various dates, the following accused whose names appear hereunder assisted by their respective counsels, and a Maguindanaon Interpreter,[16] entered separate pleas of "Not Guilty" to the charge of Murder on fifty eight (58) counts, namely:

No.	**Names**	**Q-09-162148 to 72 Q-09-162216 to 31 (41 counts)**	**Q-10-162652 to 66 (15 counts)**	**Q-10-163766 (57th count)**	**GL-Q-12-178638 (58th count)**
01	Datu Andal Ampatuan, Jr. @ *Unsay*	01/05/10	02/03/10	07/28/10	05/29/13
02	PInsp. Rex Ariel T. Diongon[17]	→	04/21/10	07/28/10	05/29/13

[16] Atty. Rolando Abo served as the official Maguindanaon Interpreter in these cases from July 28, 2010 until July 28, 2011. He was replaced by Mr. Iskak "Tenex" Racman starting on August 11, 2011 up to the present.

[17] *See* footnote 1. However, said accused was subsequently discharged pursuant to an Order dated April 25, 2016 which granted the prosecution's (second) Motion to Discharge Accused P/Insp. Rex Ariel Tabao Diongon filed on June 22, 2012 (the same was resolved pursuant to the Decision of the Court of Appeals in CA-G.R. SP No. 122837, promulgated on November 07, 2014, which ordered this court to proceed with the presentation of evidence in connection with the (Second) Motion to Discharge and to resolve the same with dispatch without awaiting the resolution of the (Prosecution's) Partial Motion

03	PInsp. Michael Joy Macaraeg[18]	→	04/21/10	07/28/10	05/29/13
04	PO2 Hernanie S. Decipulo, Jr.[19]	→	04/21/10	07/28/10	X
05	PO2 Saudiar Ulah	→	04/21/10	07/28/10	05/29/13
06	PO2 Saudi Pasutan	→	04/21/10	07/28/10	05/29/13
07	PO1 Herich Amaba	→	04/21/10	07/28/10	05/29/13
08	PO1 Esprielito Lejarso	→	04/21/10	07/28/10	05/29/13
09	PO1 Pia Kamidon	→	04/21/10	07/28/10	05/29/13
10	PO1 Rainer T. Ebus	→	04/21/10	07/28/10	05/29/13
11	Takpan Dilon	→	04/21/10	07/28/10	05/08/14
12	Esmael Canapia[20]	→	04/21/10	07/28/10	X
13	PCI Sukarno A. Dicay	→	→	07/28/10	05/29/13
14	PO3 Rasid T. Anton	→	→	07/28/10	05/29/13
15	Mohamad Sangki	→	→	07/28/10	05/12/14
16	Maot M. Dumla @ *Naot M. Duma/Not Abdul*[21]	→	→	07/28/10	10/23/13

for Reconsideration in connection with this court's denial of the first Motion to Discharge. The Partial Motion for Reconsideration was subsequently denied by the Court of Appeals in its Resolution promulgated on July 10, 2018.

[18] Accused filed his Petition for Bail in the 57 Infofrmations for murder on November 23, 2010 and his Petition for Bail in the 58th Information for murder on July 30, 2013, which were all granted pursuant to the Omnibus Order dated October 13, 2014. Subsequently, he posted bail which was approved on March 12, 2017, and was ordered released thereafter.

[19] Based on a letter dated February 22, 2012 by JSI John Conrad Marcelino Basilio, with attached Certificate of Death of accused PO2 Hernanie Decipulo, Jr. y Saulong, said accused died from multiple physical injuries secondary to fall on February 6, 2012 inside the Quezon City Jail-Annex, Camp Bagong Diwa, Bicutan, Taguig City.

[20] On June 22, 2012, the prosecution filed a Motion to Discharge Accused Esmael Canapia which was granted in an Order dated February 21, 2014, and the latter was discharged as an accused in these cases. He was released on March 14, 2014.

[21] On April 15, 2015, JSINSP Lloyd F. Gonzaga submitted a letter dated April 13, 2015, informing the court that accused Maot Dumla y Samama @ Nhot Abdul expired at Taguig-Pateros District Hospital, Taguig City, due to acute respiratory failure secondary to heart disease. On April 30, 2015, accused' counsel, Atty. Ibrahim Marohombsar, filed a Motion to Dismiss with attached Report of Inmate's Death from BJMP. The court directed accused' counsel to submit a certified true copy of the accused' Death Certificate within five (5) days or until May 05, 2015. However, it was only on November 26, 2015 when Ms. Esperanza P. Fernandez, OIC, Medical Records of Taguig-Pateros District Hospital submitted to this court a certified true copy of the Death Certificate of Nhot Abdul. Thus, on June 30, 2016, the court issued an Order granting the Motion to Dismiss, and the cases as against deceased accused Maot Dumla *a.k.a.* Not (Nhot) Abdul were dismissed.

17	Thong E. Guimano *@ Ibrahim Kamal Tatak*	→	→	07/28/10	10/23/13
18	PO1 Narkouk D. Mascud	→	→	09/15/10	05/29/13
19	PO1 Arnulfo A. Soriano	→	→	09/15/10	05/29/13
20	Mohades A. Ampatuan	→	→	10/06/10	10/23/13
21	Moactar T. Daud *@ Moktar A. Daud*[22]	→	→	10/20/10	10/23/13
22	SPO2 George S. Labayan	→	→	11/10/10	05/29/13
23	SPO1 Ali M. Solano	→	→	11/10/10	05/29/13
24	SPO1 Samad U. Maguindra	→	→	11/10/10	05/29/13
25	SPO1 Alimola L. Guianaton	→	→	11/10/10	05/29/13
26	SPO1 Elizer S. Rendaje	→	→	11/10/10	05/29/13
27	SPO1 Eduardo H. Ong[23]	→	→	11/10/10	05/29/13
28	PO3 Felix A. Daquilos	→	→	11/10/10	05/29/13
29	PO3 Gibrael R. Alano	→	→	11/10/10	05/29/13
30	PO3 Ricky D. Balanueco	→	→	11/10/10	05/29/13
31	PO3 Felix Eñate, Jr.	→	→	11/10/10	05/29/13
32	PO2 Kendatu S. Rakim	→	→	11/10/10	05/29/13
33	PO2 Rexzon D. Guiama	→	→	11/10/10	05/29/13
34	PO1 Bersedick T. Alfonso	→	→	11/10/10	05/29/13

[22] A letter dated September 08, 2016 was filed by JSUPT Randel H. Latoza, Jail Warden, Quezon City Jail-Male Dorm, with attached Report of Inmate Death of accused Moactar Daud y Taher, informing the court that said accused died on even date at the Lung Center of the Philippines, due to respiratory failure.

[23] A letter dated November 23, 2017 with attached Referral Slip dated November 22, 2017, was submitted by JCINSP Luis Franco P. Cleofe, OIC, Quezon City Jail-Annex, Camp Bagong Diwa, Bicutan, Taguig City, informing the court among others, that on November 23, 2017, accused SPO1 Eduardo Ong was pronounced clinically dead by Dr. Noah A. Ercillo of the Taguig Pateros District Hospital, due to congestive heart failure. On November 24, 2017, JCINSP Cleofe submitted a photocopy of the Death Certificate of said accused. In an Order of even date, the court directed the counsel of the accused, Atty. Adilberto Golla, to submit an original copy of the Death Certificate of the accused duly registered with the Philippine Statistics Authority, but the latter failed to comply therewith.

35	PO1 Jimmy M. Kadtong	→	→	11/10/10	05/29/13
36	PO1 Abdurahman Batarasa	→	→	11/10/10	05/29/13
37	PO1 Datu Jerry M. Utto	→	→	11/10/10	05/29/13
38	PO1 Abdulbayan U. Mundas	→	→	11/10/10	05/29/13
39	PO1 Marjul T. Julkadi	→	→	11/10/10	05/29/13
40	PO1 Abdulmanan L. Saavedra	→	→	11/10/10	05/29/13
41	PO1 Pendatun A. Dima	→	→	11/10/10	05/29/13
42	PO1 Ebara G. Bebot	→	→	11/10/10	05/29/13
43	PO1 Amir Solaiman	→	→	11/10/10	05/29/13
44	PO1 Tamano S. Hadi	→	→	11/10/10	05/29/13
45	PO1 Marsman E. Nilong	→	→	11/10/10	05/29/13
46	PO1 Badjun I. Panegas	→	→	11/10/10	05/29/13
47	PO1 Michael M. Macorongon	→	→	11/10/10	05/29/13
48	PO1 Mohammad K. Balading	→	→	11/10/10	05/29/13
49	Samaon M. Andatuan	→	→	11/10/10	05/29/13
50	Norman M. Taktak *@ Norman Madidis Tatak*	→	→	11/17/10	10/23/13
51	Macton A. Bilungan	→	→	11/17/10	10/23/13
52	SPO2 Badawi Bakal	→	→	04/07/11	05/29/13
53	Nasser S. Esmael *@ Nasrudin G. Esmael*	→	→	04/07/11	05/29/13
54	Misuari S. Ampatuan	→	→	05/04/11	10/23/13
55	Salipad Tampogao *@ Tato*	→	→	05/11/11	10/23/13
56	Taya M. Bangkulat	→	→	05/11/11	10/23/13

57	Salik S. Bangkulat	→	→	05/11/11	10/23/13
58	Datu Andal Ampatuan, Sr.[24]	→	→	06/01/11	05/29/13
59	Mohamad T. Datumanong @ *Nicomedes Amad Tolentino*	→	→	06/01/11	05/29/13
60	PO2 Tany Awal Dalgan *@ Tanny Dalgan*	→	→	08/10/11	05/29/13
61	PO1 Dukoy Badal *@ Ahmad Camsa Badal*	→	→	08/10/11	05/29/13
62	Tumi Timba Abas *@ Guiamil*	→	→	08/10/11	05/29/13
63	Rakim M. Amil *@ Ramil Kenog*	→	→	08/10/11	05/29/13
64	Naser Talib *@ Morales Sisay Amilol*	→	→	08/10/11	05/29/13
65	Armando O. Ambalgan *@ Jamil Bulatukan Kayansang & Bolatokan Omar*	→	→	12/01/11	05/29/13
66	PO3 Abibudin S. Abdulgani	→	→	01/05/12	05/29/13
67	PO2 Hamad Nana	→	→	01/05/12	05/29/13
68	PO1 Esmael M. Guialal	→	→	01/05/12	05/29/13
69	SPO1 Oscar Donato	→	→	01/05/12	05/29/13
70	PO1 Abdullah Baguadatu	→	→	01/05/12	05/29/13
71	PSI Abdulgapor Abad	→	→	03/29/12	05/29/13
72	Edres G. Kasan *@ Edris Gogo Alip*	→	→	05/23/12	05/29/13
73	Zacaria P. Akil *@ Quago Pama*	→	→	05/23/12	05/29/13

[24] A letter dated July 18, 2015 with attached Discharge Summary/Clinical Abstract from the National Kidney & Transplant Institute and a photocopy of the Death Certificate of accused Datu Andal Ampatuan Sr., was submitted by JSINSP Lloyd Gonzaga, Warden, Quezon City Jail-Annex, Camp Bagong Diwa, Bicutan, Taguig City, informing the court that on July 17, 2015, said accused went into cardio respiratory arrest and was pronounced dead by Dr. Jade D. Jamias due to liver failure.

	Akil/Tintingan Kamad Makaalay				
74	Sonny K. Pindi *@ Joven Salazar Piang/Bimbo Salazar Piang*	→	→	05/23/12	05/29/13
75	Datutuhon M. Esmael *@ Datutucon Malaguial Esmail/ Datutulon M. Esmail*	→	→	06/20/12	05/29/13
76	PSupt Abdulwahid U. Pedtucasan	→	→	08/02/12	05/29/13
77	PO1 Michael J. Madsig	→	→	09/06/12	05/29/13
78	Datu Jimmy M. Ampatuan	→	→	09/06/12	05/29/13
79	PSupt Abusama Maguid Al Haj	→	→	10/24/12	09/25/13
80	Samsudin M. Daud *@ David Olivares*	→	→	10/24/12	05/29/13
81	Nasser M. Malaguia *@ Ramon Dadulo*	→	→	10/24/12	05/29/13
82	Datu Zaldy "Puti" U. Ampatuan	→	→	12/12/12	05/29/13
83	PSupt. Bahnarin U. Kamaong	→	→	02/27/13	05/29/13
84	PO1 Sandy D. Sabang	→	→	02/27/13	05/29/13
85	Theng P. Sali *@ Abdullah Hamid Abdulkahar*	→	→	02/27/13	05/29/13
86	Norhato M. Kamino *@ Alfeche Banding*	→	→	03/13/13	05/29/13
87	Abedin Alamada *@ Kumander Bedi*	→	→	04/03/13	05/29/13
88	Jonathan S. Ampatuan	→	→	04/03/13	05/29/13
89	Fahad W. Utto @ *Richard H. Gofel*	→	→	04/03/13	05/29/13
90	Manny Upam Ampatuan	→	→	04/15/13	05/29/13

91	Maot Bangkulat *@ Benjie Dagindingan*	→	→	04/15/13	05/29/13
92	Kudza Masukat Uguia @ *Datu Teng Ibrahim/ Mustapha Ibrahim*	→	→	05/22/13	05/29/13
93	Datu Anwar Ampatuan, Sr	→	→	→	06/26/13
94	Edris Tekay Nanding	→	→	→	06/26/13
95	Datu Akmad "Tato" Ampatuan, Sr.	→	→	→	08/07/13
96	Datu Sajid Islam U. Ampatuan	→	→	→	08/07/13
97	Kasim T. Lingkong *@ Abdulkadir Saludin*	→	→	→	08/07/13
98	Mama Habib	→	→	→	08/07/13
99	Bong Santiago Andal	→	→	→	08/14/13
100	Datu Anwar "Datu Ipi" Ampatuan, Jr.	→	→	→	10/02/13
101	Datu Anwar Sajid "Datu Ulo" Ampatuan	→	→	→	10/02/13
102	Alimudin S. Sanguyod *@ Norudin Garaputay/Malang*	→	→	→	10/23/13
103	Abas G. Anongan *@ Abas G. Andongan, Abas Gani Abutasil*	→	→	→	02/27/14
104	Dexson A. Saptula *@ Mohammad Adam*	→	→	→	03/27/14
105	Talembo "Tammy" Masukat *@ Talembo Kahar Abdulrahman*	→	→	→	04/10/14
106	PInsp. Saudi M. Mokamad	→	→	→	05/07/14
107	PO1 Warden K. Legawan	→	→	→	05/12/14

108	Kominie K. Inggo	→	→	→	05/21/14
109	PO1 Anwar Dimaudtang Masukat	→	→	→	10/23/14
110	Sahid A. Guiamadil *@ Arnel Bacar Abdullah/Iden*	→	→	→	01/07/15
111	Malaguial S. Tanuri *@ Juhari Montok Malaguial*	→	→	→	09/11/15
112	Denga O. Mentol @ Ronnie Ofong	→	→	→	06/06/16
113	PO1 Jonathan Solaiman Engid	→	→	→	03/16/17
114	Tho A. Amino	→	→	→	02/21/18
115	Akad B. Macaton *@ Mohamad Salazar Piang*	→	→	→	10/25/18

Subsequently, the parties entered into Pre-trial conferences on various dates. Thereafter, trial on the merits (evidence-in-chief) ensued for those accused who did not file their bail applications, simultaneous with the hearing on bail for the rest of the accused.

Meantime, at the conclusion of the bail proceedings, this court issued the following which either granted or denied the respective Petitions for Bail of the accused for reasons stated therein, viz: Omnibus Order dated October 13, 2014,[25] Omnibus Order dated October 27, 2014,[26] Joint Order dated November 21, 2014,[27] Omnibus Order dated January 09, 2015,[28] Omnibus Order dated February 23, 2015,[29] Joint

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[25] The respective Petitions for Bail of the following accused members of the 1508th PMG, PRO-ARMM, namely: PO1 Herich Amaba, PO3 Rasid T. Anton, PO2 Hernanie S. Decipulo, Jr. (died on February 6, 2012), PO3 Felix E. Eñate, Jr., PO1 Esprielito G. Lejarso, PO1 Narkouk D. Mascud, SPO1 Eduardo H. Ong, PO2 Saudi Pasutan, PO1 Arnulfo Soriano, PO1 Pia Kamidon, PO3 Abibudin S. Abdulgani, PO2 Hamad Nana, PO1 Esmael M. Guialal, SPO1 Oscar Donato, PO1 Abdullah Baguadatu, PO2 Saudiar Ulah (only in the 57 cases) and P/Insp. Michael Joy Macaraeg, were granted, and they were allowed to post bail in the amount of ₱200,000.00 for each of the 58 Informations for murder.

[26] The respective Petitions for Bail of the following accused police officers, namely: SPO1 Ali M. Solano, SPO2 Samad U. Maguindra, PO3 Gibrael R. Alano, PO3 Felix A. Daquilos, PO2 Kendatu S. Rakim, PO2 Datu Jerry M. Utto, PO1 Marsman E. Nilong, PO1 Abdulmanan L. Saavedra, PO1 Jimmy M. Kadtong, PO1 Abdulbayan U. Mundas, PO1 Badjun I. Panegas, PO1 Abdurahman S. Batarasa, PO1 Marjul T. Julkadi, SPO2 George S. Labayan, SPO1 Alimola L. Guianaton, SPO1 ELizer S. Rendaje, PO3 Ricky D. Balanueco, PO2 Rexson Guiama, PO1 Bensidick (Bersedick) T. Alfonso, PO1 Pendatun A. Dima, PO1 Ebara G. Bebot, PO1 Amir Solaiman, PO1 Tamano Sahibal Hadi, PO1 Michael Macarongon, and PO1 Mahamad (Mohamad) K. Balading, were granted, and they were allowed to post bail in the amount of ₱200,000.00 for each of the 58 Informations for murder.

[27] The Petitions for Baill filed by accused PCINSP Sukarno Adil Dicay on November 09, 2011 and December 16, 2013, for the 57 Informations and 58th Information respectively, were denied.

[28] The respective Motions for Bail filed by accused Datu Akmad "Tato" Ampatuan and Datu Anwar Ampatuan, Sr. were denied, while the Motions for Bail filed by Datu Sajid Islam Ampatuan were granted, and he was allowed to post bail in the amount of ₱200,000.00 for each of the 58 Informations for murder.

[29] The respective applications for Bail filed by Armando O. Ambalgan *a.k.a.* Jamil Bulatukan Kayansang/Bulatukan Omar Kayansang/Kayansag, Misuari Sinsuat Ampatuan, Mohades A. Ampatuan,

Order dated April 21, 2015,[30] Joint Order dated September 15, 2015,[31] Order dated September 22, 2015,[32] Order dated January 20, 2016,[33] Order dated February 11, 2016,[34] and March 30, 2017.[35]

The prosecution thereafter opted not to present additional evidence as against the accused-applicants for bail during the trial on the merits (evidence-in-chief). Instead, it manifested that it is adopting all the pieces of evidence, testimonial and documentary, earlier presented as against all accused as its evidence-in-chief pursuant to the Rules, and will be filing its formal offer of evidence.

EVIDENCE OF THE PROSECUTION

Direct Witnesses

The ***direct witnesses*** of the prosecution, who had allegedly seen or heard the purported crime are the following, namely:

1. Lakmodin Saliao - He was the Personal Assistant (kasambahay) of accused Datu Andal Ampatuan, Sr. He allegedly witnessed various meetings which discussed the plans of the accused against their political opponents.

Salik Salam Bangkulat *a.k.a.* Salik B. Bangkulat, Taya M. Bangkulat *a.k.a.* Taya Karim Bangkulat, Macton A. Bilungan, Mohamad T. Datumanong *a.k.a.* Nicomedes Amad Tolentino, Moactar T. Daud *a.k.a.* Moktar A. Daud, Nasser S. Esmael *a.k.a* Nasrudin G. Esmael, Sonny K. Pindi *a.k.a.* Joven Salazar Piang/Bimbo Salazar Piang, and Salipad/Salipada M. Tampogao *a.k.a* Tato, were denied. However, the bail applications filed by Datutuhon M. Esmael *a.k.a.* Datutulon Malang Esmael/Datutucon Malaguial Esmail were granted, and he was allowed to post bail in the amount of ₱200,000.00 for each of the 58 Informations for murder.

[30] The Bail Petitions filed by Datu Andal Ampatuan, Sr. on June 22, 2011 and June 19, 2013, for the 57 Informations and 58th Information respectively, were denied.

[31] The Bail Petitions filed by Zaldy Uy Ampatuan on December 12, 2012 and June 19, 2013, for the 57 Informations and 58th Information respectively, were denied.

[32] The application for bail filed by PSUPT Bahnarin Kamaong was denied, while that of PO1 Sandy Sabang was granted, and he was allowed to post bail in the amount of ₱200,000.00 for each of the 58 Informations for murder.

[33] The Motions for Bail filed by Datu Anwar U. Ampatuan, Jr. *a.k.a.* "Datu Ipi" and Datu Sajid Anwar (Anwar Sajid) U. Ampatuan *a.k.a.* "Datu Ulo" were denied.

[34] The application for bail filed by Thong Guimano @ "Ibrahim Kamal Tatak" and Abedin Alamada @ "Kumander Bedi" were denied, but the bail application of Naser Talib @ "Morales Sisay Amilol" was granted, and he was allowed to post bail in the amount of ₱200,000.00 for each of the 58 Informations for murder.

[35] The Petition for Bail filed by Datu Andal "Unsay" Ampatuan, Jr. on December 03, 2009 before the Regional Trial Court of Cotabato City, Branch 15, the Bail Application in the 57th case and Bail Petition in the 58th case filed before this court on September 09, 2010 and June 19, 2013, respectively, were all denied.

2. Sukarno Badal - He identified himself as the then Vice Mayor of Sultan Sabarongis Municipality, Maguindanao, who commanded the armed group of the Ampatuan family.

3. Rasul Sangki - He was then the Vice Mayor of Ampatuan Municipality, Maguindanao. He accompanied accused Datu Andal "Unsay" Ampatuan, Jr. in the alleged actual killing of the victims.

4. Norodin Mauyag - He was a farmer who resided in Sitio Malating, Barangay Salman, Ampatuan, Maguindanao.

5. Abdul Satar Maliwawaw - He was a farmer who resided in Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao.

6. Akmad Abubakar Esmael - He was a farmer who resided in Sitio Masalay, Barangay Salman, Ampatuan Maguindanao.

7. Anok Akil - He was a Barangay Kagawad who resided in Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao.

8. Esmael Canapia - He was a farmer who resided in the mountain of Masalay, Barangay Salman, Ampatuan, Maguindanao.

9. Lagudin Haron Alfonso - He was a farmer who resided in Crossing Masalay, Brgy. Salman, Ampatuan, Maguindanao.

10. Thonti Lawani - He resided in Crossing Masalay, Brgy. Salman, Ampatuan, Maguindanao.

11. Corporal Zaldy Raymundo - He was the Detachment Commander of the CAFGU Detachment in Masalay, Ampatuan, belonging to the 38th Infantry Battalion of the Philippine Army.

12. Elo Sisay - He was a CAFGU member who was assigned in November 2009 at the CAFGU Detachment in Masalay, Ampatuan.

13. Esmael Amil Enog – He was then a member of the Civilian Voluntary Organization (CVO) allegedly assigned to shuttle the armed men to Malating.

14. Haical Mangacop – He was then a farmer in Shariff Aguak, who allegedly accompanied Esmael Amil Enog in shuttling the armed men to Malating.

15. P/Chief Insp. Rex Ariel Diongon – He was then the Officer-in-Charge (OIC) Group Director of the 1508th Police Provincial Mobile Group in Maguindanao.

16. Efren Macanas – He was then one of the heavy equipment operators of the local government of Maguindanao who allegedly drove its backhoe.

Testimony of Lakmodin Saliao

When presented on the witness stand**, LAKMODIN SALIAO**[36] testified that he worked as a casual employee at the Provincial Capitol of Maguindanao, and at the same time, a Personal Assistant ("kasambahay") of the Ampatuan family since 1987.

He served as *"kasambahay"* of the family, beginning with Datu Anwar, Sr., the son of Datu Andal, Sr. from 1987 to 1995. From 1995 onwards, he served for Bai Ameera Ampatuan-Mamalapat, the daughter of Datu Andal, Sr. He started serving Datu Andal, Sr. on November 02, 2009; and at the time of his service, he was residing in Bai Ameera's house located near the mansion of her father which is located in Poblacion, Shariff Aguak, Maguindanao.

His duties and responsibilities included receiving and making calls for Datu Andal, Sr., administering medicines to the latter, and serving all his other concerns. For his services, he received ₱2,000.00 to ₱3,000.00 per month, instead of ₱6,000.00 per month as a casual employee of the Provincial Capitol of Maguindanao.

On November 17, 2009, Saliao was early at the mansion together with Datu Andal, Sr., and Kagi Milo Luminda.[37] At 7:30 a.m., they went to a restaurant called "Tweeny" which was owned by Anwar so that Datu Andal, Sr. could have his coffee. Then, they went to the farm of Datu Andal, Sr. in Brgy. Bagong, Shariff Aguak, Maguindanao, which was only 5 to 10 minutes away from the restaurant. He remembered that their group boarded 11 cars.

Upon arrival at the farm of Datu Andal, Sr., Saliao saw the members of the Ampatuan family, whom he was familiar with as they usually talked to him whenever they need to see or talk with Datu Andal, Sr. Among others, he saw the following persons at the farm: ARMM Governor Datu Zaldy Ampatuan (Datu Zaldy), Datu Andal Ampatuan, Jr. (Datu Unsay),[38] Datu Digo Mamalapat, Datu Munir Asim, Datu Sajid Islam Ampatuan, Anwar Uy Ampatuan, Datu Jacob Ampatuan, Datu Bahnarin Ampatuan, Datu Pandak Ampatuan, Datu Sarip Ampatuan, Datu Ulo Ampatuan (Datu Ulo), Datu Moning Asim, Yasser Ampatuan and Jainodin Abutasin.[39]

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[36] Witness Lakmodin Saliao testified on the following dates: September 08, 15 and 29, 2010; June 29, 2011; July 04 and 11, 2012; January 07, 2013; June 27, 2013; July 03, 2013; January 23 and 30, 2014.
[37] TSN, September 08, 2010, p. 80. According to the witness, Kagi Milo Luminda is the "*alalay*" of Datu Andal, Sr. who held the latter's bag, which contained money.
[38] TSN, September 08, 2010, p. 40. Datu Unsay refers to Andal Ampatuan, Jr.
[39] TSN, September 08, 2010, p. 29.

Saliao served food to the group. And at around 5:00 p.m., he and Datu Andal, Sr. went back to the latter's mansion. When evening came, at around 8:30 p.m., Datu Andal, Sr. instructed him to call Bai Ameera for her to prepare food for the meeting to be held at the house of Datu Zaldy.

According to the witness, Datu Andal, Sr. presided over the meeting held at the house of Datu Zaldy. Among others, those who attended included ARMM Governor Datu Zaldy Ampatuan, Datu Sajid Islam Ampatuan, Datu Akmad Tato Ampatuan (Datu Akmad), Datu Andal Ampatuan, Jr., Datu Anwar Ampatuan, Datu Digo Mamalapat, Datu Munir Asim, Akmad Baganian Ampatuan, Datu Ulo Ampatuan, Datu Moning Ampatuan, Datu Jacob Ampatuan, Datu Harris Makapendeng, Yasser Ampatuan, Shariff Ampatuan, Jainodin Abutasin, Ameera Ampatuan, Shaidi Ampatuan Abutasin, Noria Ampatuan, Reshal Santiago Ampatuan, Shara Umpa Ampatuan, Bai Rakma Amolugto, Alex Tumaois, Nori Unas, Kabili Sumagkang, Samir Mama Uy, Manak Malaguial, Kagi Milo Luminda, Aling Saton, Dinodin Abutasin and Tamano Mamalapat.[40]

Saliao claimed that he was just in front of Datu Andal, Sr. during the meeting; and that there were times that their bodies were touching. As he was near Datu Andal, Sr., he heard the group converse in Maguindanaon as follows:

Datu Andal, Sr.: *"Kaya nga tayo nandito lahat para pag usapan kung papaano natin pigilan si Toto Mangudadatu sa pagpa-file ng certificate of candidacy sa Maguindanao.*

Datu Unsay: *"Madali lang yan, Ama. Patayin sila lahat kapag pumunta sila dito."*

Datu Zaldy: *"Kung yan ang mapag-usapan kailangan planuhin mabuti para hindi tayo mabisto."*

Datu Anwar, Sr.: *"Kaya nga tayo nandito para pag-usapan, nakakahiya sa angkan ng Ampatuan na may kumakalaban."*

Datu Akmad: *"Pakinggan natin si Ama. Okay kami lahat na patayin sila."*

Datu Andal, Sr.: *"Yan naman, Datu Unsay, huwag mo na ipagkatiwala ang paghaharang sa kanila o convoy ng mga Mangudadatu doon banda sa tapat sa highway na hinukayan ng backhoe."*

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[40] TSN, September 08, 2010, pp. 34-35.

Datu Unsay: *"Opo, Ama. Ang gawin lamang ng iba imonitor kami at tulungan kami kung kinakailangan."*

Datu Andal, Sr.: *"Kayong mga anak ko, apo ko at iba pang supporter ko, anong masasabi nyo? Okay lang ba kayo na patayin sila lahat?"*

After Datu Andal, Sr. posed the question, his children[41] – Munir Ampatuan Asim, Ameera Ampatuan Mamalapat, Reshal Santiago Ampatuan, Sarah Umpa Ampatuan, Noria Ampatuan Asim, Shaidi Ampatuan Abutasin – stood up. Subsequently, the people laughed. The witness perceived that they were all in agreement with the plan of killing them all.

In the evening of November 22, 2009, after Datu Andal, Sr. arrived from a *Lakas* conference in Manila, he allegedly called a meeting attended by his children, grandchildren, and supporters at his farm in Brgy. Bagong, Shariff Aguak, who arrived at 9:00 p.m. While thereat, the witness saw once again the children, grandchildren, and supporters of Datu Andal, Sr., except for the daughter of Andal Ampatuan, Sr. Then, the witness heard Datu Zaldy saying that: "*kung yan ang final desisyon natin na patayin silang lahat ay pupunta ako ng Maynila para hindi tayo mahalata at magtawagan na lang tayo."* At around 11:30 p.m., they returned to the mansion of Datu Andal, Sr.

In the morning of November 23, 2009, Saliao and Datu Andal, Sr. went early to the farm in Brgy. Bagong, Shariff Aguak together with Kagi Luminda and the driver. There were 11 cars that travelled with them. Among the supporters that he remembered to have joined the trip were Nori Unas[42] and Ustadz Faried Adas.[43]

By 9:00 a.m., Datu Andal, Sr. seated himself in the rest house. The witness stood beside Datu Andal, Sr. waiting for the call of Datu Unsay. And while waiting for the call, Datu Andal, Sr. instructed Saliao to call Datu Unsay to verify the situation in Sitio Malating, Masalay, Maguindanao. After picking the latter's number using the cell phone of Datu Andal, Sr., he put the phone on loudspeaker, and handed the same to Datu Andal, Sr. Over the loudspeaker, he heard Datu Andal, Sr. ask: *"Nandyan na ba si Toto."* Datu Unsay replied, *"Wala pa, Ama."*

At 10:30 a.m., Saliao heard the following:

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[41] TSN, September 08, 2010, p. 41.
[42] TSN, September 08, 2010, p. 80. Nori Unas was the administrative officer of the Maguindanao Capitol.
[43] TSN, September 08, 2010, p. 80. Ustadz Faried Adas was the head of the then DECS-ARMM, and spiritual adviser to Datu Andal, Sr.

Datu Unsay: *"Ama, nandito na sila"* (referring to the convoy of Mangudadatu).

Datu Andal, Sr.: *"Nandyan ba si Toto?"*

Datu Unsay: *"Wala, Ama. Asawa lang nya at ang kapatid nyang babae na si Bai Eden."*

Datu Andal, Sr.: *"Alam mo na ang gagawin mo. Patayin mo na sila lahat, ikabila*[44] *mo lamang ang mga media."*

Datu Unsay: *"Hindi, Ama, lubus lubusin na natin ito. Eh ginagawa rin natin ito, lubos lubusin na natin, patayin silang lahat, makapagsalita pa kung hindi natin ubusin.*

Datu Andal, Sr.: *"Mabuti."*

A few minutes later, Datu Andal, Sr. instructed Saliao to call Ustadz Faried Adas and Akmad Banganian to call Datu Unsay in Sitio Malating. When he reached Ustadz, the latter said*: "Datu, pinapauwi kami ni Datu Unsay dahil kayang kaya niya daw gawin ito."* "*Sige, uwi na kayo,"* replied Datu Andal, Sr. After several minutes, Datu Unsay called through the cell phone. Set to loudspeaker, Saliao heard Datu Unsay saying: *"Ama, ngayon tapos na, ubos na silang patayin."* After this was uttered, he observed that Datu Andal, Sr. was very happy and "all smiles when he came to know that those people are already dead."[45]

Datu Andal, Sr. next ordered Saliao to call Datu Anwar Ampatuan, Sr. for the latter to meet with Datu Unsay and Datu Bahnarin so that they can escape. Through Datu Andal Sr.'s cell phone, he called Datu Anwar, Sr. and was told that *"opo, sabihin mo kay Ama na puntahan namin at sabay na kaming tumakas."*

Thereafter, Saliao no longer made any calls. He observed that Datu Andal, Sr. stayed calm while seated in the rest house after receiving the report that the job has been done by Datu Unsay and that all the people were already dead.

At 5:00 p.m., Saliao and Datu Andal, Sr. heard through the radio news that Datu Unsay was the primary suspect in the killing at Malating, Masalay, Maguindanao. They then went back to the mansion of Datu Andal, Sr. at Poblacion, Shariff Aguak. After serving the needs of Datu Andal, Sr., he went back to the house of Bai Ameera.

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[44] TSN, September 29, 2010, p. 68. *Ikabila* means "not to include."
[45] TSN, September 08, 2010, p. 57.

At this point of Saliao's testimony, the defense stipulated on the identification of Datu Andal "Unsay" Ampatuan, Jr.

On November 24, 2009, Saliao proceeded to the mansion of Datu Andal, Sr. Thereafter, he, Datu Andal, Sr., Kagi Luminda, Ustadz, Akmad Banganian, Nori Unas, and the driver went to the farm. Upon arrival thereat at 8:30 a.m., the witness saw that there were people in the farm; and he observed that they were laughing because they had accomplished their plan. Among these people, he particularly remembered Ustadz Faried Adas, Akmad Banganian, and Nori Unas. Later on, Andal Sr., together with his supporters – Atty. Cynthia Guiani Sayadi and Congressman Digs Dilangalen – talked about the possible surrender of Datu Unsay.

In particular, the witness, who was just at the back of Datu Andal, Sr., heard that the latter was willing to surrender Datu Unsay to Secretary Jesus Dureza (Sec. Dureza) with the latter's promise that he would be surrendered only in the care of then President Gloria Macapagal Arroyo. Atty. Sayadi and Cong. Dilangalen and other supporters allegedly assured Datu Andal, Sr. that they would do their best to help Datu Unsay.

Thereafter, Datu Andal, Sr. ordered Saliao to call Sec. Dureza so that he could talk about the surrender and its conditions. Using the cell phone of Datu Andal, Sr., Saliao called Sec. Dureza. Datu Andal, Sr. and Sec. Dureza conversed for fifteen minutes, during which, Saliao heard that Datu Andal, Sr. agreed to surrender Datu Unsay only in the care of then President Gloria Macapagal Arroyo. The witness heard the conversation for he was just beside Datu Andal, Sr. at that time.

The witness heard Datu Andal, Sr. mentioned the same thing in the morning of November 25, 2009, when they went back to the farm at Brgy. Bagong, Shariff Aguak while talking to Cong. Dilangalen, Atty. Sayadi, Nori Unas, Alex Tomaois, and some of his supporters.

At 2:00 p.m., Sec. Dureza arrived. Their conversation culminated with the agreement that Datu Unsay will be surrendered only under the care of President Gloria Macapagal Arroyo.

On November 26, 2009, while at the farm of Datu Andal, Sr., the latter instructed Saliao to go to the Provincial Capitol to keep all the documents, especially checks, so that people would not see them. At 10:00 a.m., in the Provincial Capitol, he searched for the documents. After finding them, he cleaned the office of Datu Andal, Sr.

Thereafter, the witness saw the convoy of Datu Unsay heading towards the Provincial Capitol. The witness approached Datu Unsay. After a few minutes, Saliao saw Datu Unsay boarding a helicopter with Sec. Dureza and Atty. Cynthia Sayadi. During this time, he was near Datu

Unsay; and that he even took from the latter his child who was crying profusely. Subsequently, he went back to the office of Datu Andal, Sr. and resumed guarding the documents, per instruction of the latter.

On December 04, 2009, at Datu Andal, Sr.'s mansion, Saliao observed that military men closed its gates as instructed by military officials. He informed Datu Andal, Sr. of the military's presence but the latter disregarded it. Thereafter, Atty. Pantojan told him that martial law would be declared.

Datu Andal, Sr. decided to leave the mansion and escape by scaling the fence. Subsequently, he, accompanied by the witness and by more than 10 persons – such as Datu Digo Mamalapat, Datu Jainal Ampatuan, and Kagi Milo Luminda – escaped by scaling the fence. This group, as the witness recalled, proceeded towards the nearby mountains of Datu Hoffer. However, Datu Zaldy called Jainal Ampatuan, the brother of Datu Andal, Sr., who asked for the latter and advised him in Maguindanaon dialect which when translated in English means: "*Father, go back and I will be in-charged (sic) to look for a way so that you will not be apprehended by the military.*" Datu Andal, Sr. said "yes" and went back and reached his mansion at 11:00 a.m.

Back at the mansion, Datu Zaldy, Atty. Sayadi and Atty. Pantojan discussed about what is best for Datu Andal, Sr. who told Saliao to call Dr. Tahir Sulaik, a physician in Maguindanao. As instructed, he called the doctor through his own cell phone and told the latter to go to the mansion and bring with him two ambulances.

During the discussion, the group decided to bring Datu Andal, Sr. to Cotabato City aboard an ambulance and pretend that he was sick. When the ambulance arrived, they boarded Datu Andal, Sr. Saliao himself placed the mask from the oxygen tank to Datu Andal, Sr. to give the impression that the latter was gravely sick. Datu Bensar Ampatuan, Rohana Ampatuan, Wanay Dukay, Dr. Tahir Sulaik, and two (2) nurses of the doctor were also in the ambulance. Atty. Pantojan and Atty. Sayadi were with the convoy, while Datu Zaldy remained in Shariff Aguak.

Upon the instructions of Atty. Sayadi, their group proceeded to Davao Doctors Hospital. En route, Saliao kept on putting the mask on every check point they passed to make Datu Andal, Sr. appear gravely sick.

On December 05, 2009, they arrived and were immediately admitted to Room 314 of the Davao Doctors Hospital. Datu Andal, Sr. ordered Saliao to buy him clothes and other essentials, and upon his return, he saw military men trying to bring Datu Andal, Sr. to Camp Panacan but he, Atty. Pantojan, and Atty. Sayadi refused to surrender

Datu Andal, Sr. until the military men can show a warrant of arrest. Since the latter failed, they told them that they would return.

On the night of December 06, 2009, military men were able to get Datu Andal, Sr. despite resistance. The latter was brought to Camp Panacan, Davao City. However, Saliao stayed in the hospital room because they left the bag containing money. Thereafter, he went to Camp Panacan for Datu Andal, Sr. He stayed inside the room of Datu Andal, Sr. until the latter was brought to Camp Bagong Diwa in Metro Manila.

On February 28, 2010, while inside Camp Panacan, Datu Andal, Sr. instructed Saliao to give money to Ustadz for the latter to hand the same to Datu Ombra Sinsuat in the amount of ₱200 million. Datu Andal, Sr. allegedly recommended Datu Sinsuat to run as governor of Maguindanao.

On March 11, 2010, still at Camp Panacan, Datu Andal, Sr. allegedly instructed Saliao to ask Ustadz to give money to the following persons: Secretary Jesus Dureza, P/Chief Inspector Sukarno Dicay (Dicay or Major Dicay), PO1 Rainer Ebus, and Mike Midtimbang. He then talked to Ustadz and asked him to give ₱10 million to each of the named persons. When asked as to the purpose of the money, Saliao explained as follows:

> *Re: Secretary Jesus Dureza – Lakmodin Saliao testified that Datu Andal, Sr. told a certain Mastur Salindag "to give money to Secretary Dureza for the freedom of Datu Andal, Sr. in the rebellion case." Mastur Salindag was the trusted person of Datu Andal, Sr. regarding the money, and he was also running as Mayor of Buluan.*
>
> *Re: Mike Midtimbang – Lakmodin Saliao heard that the money will be given to Midtimbang "in exchange for taking care of us while in Camp Panacan." Mike Midtimbang was also a trusted person of Datu Andal, Sr. and a Board Member of Maguindanao.*
>
> *Re: P/Chief Inspector Sukarno Dicay[46] – The money was for him "to retract his statement." He was the head of the 1508th Mobile Group.*
>
> *Re: PO1 Rainer Ebus – The money was for him "to retract his statement." The money will be given to Ebus through Amir Ampatuan, cousin of Datu Andal, Sr. Saliao was instructed by the latter to fetch Amir, together with four (4) NBI agents of Davao so that the money will be given to Ebus.*

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[46] Head of the 1508th Mobile Group

In the afternoon of March 19, 2010, the witness received a call for Datu Andal, Sr. while in the latter's room at Camp Panacan from Datu Zaldy. He said in Maguindanaon dialect which if translated in English means: *"Father, I will accept that it's only Datu Unsay who did this because I'm suffering, I cannot take it to be inside the jail." Datu Andal, Sr. replied in this wise: "Don't be in a hurry, we will talk to Atty. Pantojan because that is not easy to do."*

Datu Andal, Sr. then instructed Saliao to call Atty. Fortun to proceed to Camp Panacan. When the latter arrived, Datu Andal, Sr. asked Atty. Fortun "whether it is right for Datu Zaldy to say that Andal Jr. is the one responsible for the Maguindanao massacre." In turn, Atty. Fortun allegedly advised Datu Andal, Sr. "not to admit anything because as lawyers, they will be the one to take care of them." Datu Andal, Sr. was then ordered to call Datu Zaldy. Per instruction, Saliao told Datu Zaldy to not admit anything because the lawyers will take care of everything. "*Yes, I will wait"* was Datu Zaldy's response.

On March 20, 2010, while in Camp Panacan, Saliao was instructed by Datu Andal, Sr. to meet Omar Sayadi, the husband of Atty. Cynthia Guiani Sayadi, and Ustadz. Saliao ought to accept and receive ₱36 million. At 2:00 p.m., Saliao arrived at SM Mall and met with Omar Sayadi. Then, they went to the house of Datu Nanon Ampatuan – son of Saudi Ampatuan, and grandchild of Datu Andal, Sr. – where he received the ₱36 million. After counting the money, the group left.

Ustadz brought Saliao to the office of Atty. Pantojan. In the said office, he was allegedly coached by Atty. Pantojan to concoct false statements to the latter's associate, Atty. Donasco. Saliao was told to say that they will file a case against Major Jimena, Commander Officer of the Navy, who was strict with them in Camp Panacan. He had to allege that Major Jimena asked for money to be used for the landscaping of Camp Panacan, which was false. As far as he knew, Major Jimena's case is still pending; and that his statement, which he signed, is in the possession of Atty. Donasco.

On March 21, 2010, inside Camp Panacan, Datu Andal, Sr. ordered Saliao to meet Chow, a man of Datu Nanon Ampatuan. He then met Chow inside the camp, aboard a Super Grandia vehicle. Chow showed him ₱90 million for Andal, Sr. contained in two (2) big bags of luggage, one (1) big travelling bag, and two (2) medium sized bags. He then brought the bags to the latter and pretended that these contained clothes.

On March 22, 2010, inside Camp Panacan, Datu Andal, Sr. instructed Saliao to call Toy Abutazil, the Director of Land Transportation Office Region 12 and husband of Shaydee Ampatuan Abutazil. On loudspeaker, the witness heard Datu Andal, Sr. utter: *"hurry up in*

changing what were written on the vehicles because they will be taken by the NBI." Toy Abutazil assured Datu Andal, Sr. of his help.

On that day too, the following persons were at Camp Panacan: the witness, Datu Andal, Sr., Rohana Ampatuan, Ara Ampatuan (wife of Datu Andal, Sr.), one (1) nurse, and Datu Benzar Ampatuan. According to Saliao, more than 100 people visited Datu Andal, Sr. per day. These people included the lawyers of Datu Andal, Sr. and his supporters. In particular, Atty. Fortun visited him for about five (5) times, in a span of five (5) months of their stay thereat. Atty. Fortun was with a certain Fiscal Tadeo Sayson during the visits; and every time Datu Andal, Sr., signed a document, the latter gave ₱5,000.00 to Fiscal Sayson. Atty. Pantojan went almost every day in Camp Panacan, and even advised Datu Andal, Sr., not to admit anything.

On April 16, 2010, inside Camp Panacan, Datu Zaldy called his father and told him that his C130 airplane would pass by en route to Manila. This information made Datu Andal, Sr. upset. And on that day, they prepared for Datu Andal, Sr.'s departure to the airport in order to go to Manila at Camp Bagong Diwa.

Saliao went back to the house of Bai Ameera located at Luzviminda Jasmin Street, 29 Maa, Davao City. He then received a call from Bai Ameera informing him of their 6:00 a.m. flight to meet Datu Andal, Sr. in Manila; upon arrival, he was met by Bai Ameera and proceeded to Camp Bagong Diwa. They subsequently stayed at a nearby condominium of Datu Andal, Sr.

On May 18, 2010, while in the house of Bai Ameera in Davao City, the latter called to inform him that she received information involving him with the Mangudadatus. Saliao denied this information and told Bai Ameera that he had been loyal to them. He even recounted that he was punched by the soldiers in order to defend Datu Andal, Sr. Bai Ameera replied in Maguindanaon which when translated in English means: "It is easy to notice if one is just joking because he may be hit with a lightning." To this, Saliao just said "yes." Thereafter, he left and went to his room. Subsequently, Galema, one of the daughters of Datu Andal, Sr. from another wife, relayed to him that Bai Ameera informed her that Datu Andal, Sr. had called to say that he would kill the witness because he "knows so many things."[47]

Saliao got scared of this information. Nonetheless, he kept the news secret while he stayed in Bai Ameera's house. But then, he called Col. Cabangbang, who was then the spokesman of the military at EASTMINCOM. Saliao asked the latter to pick him up because he was in

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[47] TSN, September 15, 2010, p. 66.

trouble. Col. Cabangbang assented and informed him to wait and take care of himself.

Saliao had to tell Bai Ameera that he will watch a movie with one of their men so he could leave the house. He then met Col. Cabangbang at NCC Mall and boarded the vehicle of Col. Cabangbang. They proceeded to the latter's house in Panabo.

On May 19, 2010, Datu Unsay called Col. Cabangbang and asked for Saliao. During their conversation, Datu Unsay asked the witness to go to Manila and to bring the colonel with him. They ought to meet Datu Unsay at Camp Bagong Diwa but since he was not allowed to go there, he will just meet Ustadz at the SM Mall of Asia. Ustadz will take care of the ticket. At the end of their conversation, Datu Unsay ordered Saliao not to mention to the colonel of what they talked about. Saliao then told him that they had to go to Manila and meet with Datu Unsay.

The two went to Manila and were fetched by Ustadz. They proceeded to the SM Mall of Asia. In the mall, he was advised by Ustadz to leave Col. Cabangbang. He was also advised by Ustadz and Atty. Cynthia Sayadi to go home to Davao and meet Atty. Pantojan; and when in Davao, he must pretend to ask money from him and at the side, somebody would kill Atty. Pantojan and the blame would be put to the Mangudadatus.

Even if the instructions were against his will, Saliao followed because he was afraid of the Ampatuans. He thus returned to Davao City, called up Atty. Pantojan, and asked for money. The two were supposed to meet in Gaisano mall. But, bothered by his conscience, he did not proceed. Instead, he called Col. Cabangbang to inform him of what happened, and asked for his help so that he can escape and be referred to the Department of Justice (DOJ). Col. Cabangbang assured the witness of his help; and he then contacted the DOJ.

As proof that he was a constant companion of Datu Andal, Sr. at Camp Panacan Hospital, Lakmodin Saliao mentioned Col. Cabangbang, the logbook in Camp Panacan Hospital, and other supporters whose cell phone numbers were encoded in the cell phone of Datu Andal, Sr. At this juncture, the prosecution through Prosecutor Navera and Atty. Fortun, counsel of accused Datu Unsay, had entered into stipulation on the ability of said witness to identify accused Datu Unsay as the person whom he saw as present during the meetings in Maguindanao.[48]

On **cross-examination,** Saliao testified that he started to work for Datu Anwar Ampatuan in May of 1987; and he worked continuously. He

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[48] TSN, September 15, 2010, pp. 73-76.

then worked for Bai Ameera Ampatuan, and then he started to work for Datu Andal, Sr. on November 02, 2009.

Saliao clarified the lineage of the following persons with respect to Datu Andal, Sr.: Datu Unsay, Anwar Uy Ampatuan, Datu Sajid Islam Ampatuan are his sons; Datu Digo Mamalapat, Datu Muni Asim, and Datu Jacob Ampatuan, are his sons-in-law; Datu Bahnarin Ampatuan, Datu Ulo Ampatuan, and Datu Moning Asim are his grandchildren; Datu Pandak Ampatuan, and Datu Sarip Ampatuan are his brothers; Yasser Ampatuan is his cousin; and Jainodin Abutasin is his supporter.

Saliao claimed that Datu Andal, Sr. trusted him very much and that he always stayed right beside him. He attended meetings and parties with him. He was not tasked to cook the food of Datu Andal, Sr. but he served his meals to him and made sure that the food was not poisoned.

Saliao confirmed that in the morning of November 17, 2009, he was at the mansion of Datu Andal, Sr. He recalled that four (4) of the latter's wives – Ara, Mila, Sarah, and Laila – lived there; while Datu Andal, Sr.'s wife, Ali Bai Sacay Ampatuan, lived with him in Bagong. Saliao maintained his testimony regarding the events that transpired on November 17, 2009, including the incidents of the meeting held at the house of Datu Zaldy later in the evening.

From November 18 to 22, 2009, Saliao took care of the needs of Bai Ameera Ampatuan, whom he clarified as his real boss. Having worked with Bai Ameera, he affirmed the *"kasambahay"* who worked for her, such as Abi Akmad the cook, and Nick Malang.

Saliao also maintained the events that happened on November 22, 2009, including the meeting at the farm, and affirmed the incidents on November 23, 2009. He clarified that after Datu Unsay said over the cell phone: *"Ama, ngayon tapos na ubos na silang patayin,"* Datu Andal, Sr. asked: *"ano pang ginagawa ninyo?"* Likewise, Saliao maintained the events that happened on November 24 and 25, 2009.

When propounded questions of competency, Saliao testified that he gave medicines to Datu Andal, Sr. which were already handed to him by the nurse; that Datu Anwar was already married when he worked for him in 1987, and had six (6) children by the time he left for Bai Ameera. Datu Andal, Sr. first lived in the house at Shariff Aguak called "Best One" before transferring to the mansion in 2000, which has six (6) houses. At the time of the transfer, the witness remembered that Datu Hoffer Ampatuan (son of Datu Andal, Sr.) and Datu Saudi Ampatuan just died.

Saliao never executed an affidavit covering his testimony. He first disclosed these matters before an exclusive interview with ABS-CBN, sometime in July 2010, conducted at the house of Col. Cabangbang. At

that time, Datu Esmael "Toto" Mangudadatu (Datu Esmael Mangudadatu) was already the Governor of Maguindanao.

Saliao affirmed his statements regarding the incidents on November 26, December 04, and December 05, 2009. He specified that the military gave Datu Andal, Sr. permission to go to Davao Doctor's Hospital, and en route, many military escorts accompanied their ambulance. He also maintained his narration regarding the events on May 18 to 19, 2010.

Saliao stated that after learning of the plot to kill then Vice-Mayor Datu Esmael Mangudadatu, he did not report this information to anybody; neither did he do anything to prevent the crime. He also did not run away.

On **re-direct examination,** Saliao reiterated that he lived with Bai Ameera and served her needs, as well the needs of her children. As regards November 23, 2009, the witness said that he made several succeeding calls, one after the other, numbering more than 10, for Datu Andal, Sr. As regards his narration that his hands touched with that of Datu Andal, Sr., Saliao said that every time he gets the phone from the latter, their hands touched. And when their bodies touched, that meant that Datu Andal, Sr.'s back itched, which he scratched.

Saliao also stated that Datu Unsay's wives were Reshal Santiago Ampatuan and Baibon Kaui Ampatuan. Saliao said that he did not report the plot to kill Vice-Mayor Mangudadatu because he knew for a fact that all of the police officers were allies of Ampatuan.

When recalled on June 29, 2011, Saliao identified Datu Andal Ampatuan, Sr. and Datu Sajid Islam Ampatuan in open court. The defense waived its right to cross examine the witness.

On July 04, 2012, Saliao took the witness stand and identified Datu Anwar Ampatuan and Datu Akmad "Tato" Ampatuan in open court.

The witness testified that on November 23, 2009, at 3:00 p.m., he called Datu Anwar, Sr. through Datu Andal Sr.'s cellphone to meet Datu Unsay allegedly for them to escape. According to him, Datu Anwar, Sr. was then at the mountains of Datu Hoffer for the purpose of hiding Datu Unsay from the military as the latter was the prime suspect of the Maguindanao massacre.

On **cross-examination by Datu Unsay's counsel**, Saliao confirmed that he has personal knowledge of the fact that Datu Unsay hid from the military after the massacre on November 23, 2009, as he was the latter's prime suspect.[49]

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[49] TSN, July 11, 2012, pp. 6-8.

The witness also narrated that Datu Anwar, Sr. was previously a councilor, and then mayor of Shariff Aguak Municipality, and that he had no political opponents. He also affirmed the events that transpired on November 17 and 23, 2009. He stated that the meeting on November 17, 2009, at the farm of Datu Andal, Sr. in Brgy. Bagong, Shariff Aguak started around 7:30 a.m. and lasted until 5:00 p.m.; and that in the evening of that day, another meeting was held at the house of Datu Zaldy at around 8:30 p.m. up to 11:00 p.m.

As for November 23, 2009, Saliao clarified that he did not notice whether Datu Sajid Islam Ampatuan was with Datu Anwar and Datu Unsay at the mountains of Datu Hoffer; on the other hand, he mentioned that Datu Akmad was not at the mountains of Datu Hoffer, because the latter was with them.

Saliao maintained that he stayed in Camp Panacan from December 06, 2009 to April 16, 2010. And he affirmed that he had filed a case against Major Jimena, and that he did not retract his statements against Major Jimena even if the statements he made against the latter were not true because there was no opportunity to do so. He also affirmed the events regarding his encounter with Col. Cabangbang.

On **re-direct examination,** Saliao explained that he personally knows that Datu Unsay went into hiding in Datu Hoffer as he himself monitored the situation, regularly called Datu Anwar, and brought food to them.

Saliao remembered that aside from uttering "*pakinggan natin si ama, okay kaming lahat na patayin sila*," Datu Akmad Ampatuan additionally said *"mabuti nga sa mga Mangudadatu na mahilig mag-ambisyon na patayin sila lahat."*[50]

On **January 07, 2013, Saliao gave an additional direct testimony** in connection with the bail application of accused Datu Zaldy Ampatuan. On that occasion, he confirmed what he had testified on September 08, 2010 at the meeting which took place on the night of November 17, 2009 in the house of said accused and what transpired therein. He likewise identified said accused in open court.

In addition, he stated that back at Camp Panacan, per directive of Col. Cabangbang, he had the visitors of Datu Andal, Sr. log their names in a ***Camp Panacan Station Hospital Visitor's Logbook (Exh.***

[50] TSN, July 11, 2012, p. 28.

Septuple "T" with sub-marking)[51] before entering the hospital room of Datu Andal, Sr. Saliao identified this exhibit in open court.

Based on the logbook, he remembered that Atty. Fortun, Atty. Pantojan, Atty. Rey, Atty. Narvasa, Atty. Cynthia G. Sayadi, Omar Sayadi, Nori Unas, and several mayors of Maguindanao visited Datu Andal, Sr. Nori Unas brought the mayors to Datu Andal, Sr. who received money. In turn, they promised that Datu Ombra Sinsuat would win and Datu Esmael Mangudadatu would lose.

Saliao was likewise presented for additional direct testimony on June 27, 2013. In open court, he identified Col. Bahnarin Kamaong and Manny Upam Ampatuan among those supporters present in the meeting on November 17, 2009, held at the mansion of Datu Zaldy.

The witness remembered that Col. Bahnarin was one of the guard escorts of Datu Zaldy, who stayed in the house during the meeting and kept watch over the people. On the other hand, Manny Ampatuan was one of the escorts of Datu Saudi Shamron Ampatuan, the grandson of Datu Andal, Sr.

As regards the meeting on November 22, 2009, held at the mansion of Datu Andal, Sr., Saliao identified accused Sandy Sabang aside from Bahnarin Kamaong and Manny Ampatuan. He stated that Sandy Sabang was keeping watch. Kamaong was giving instructions to the police officers to bring out the firearms coming from the vehicles of Datu Andal, Sr. The witness himself gave instructions to Kamaong to bring out the firearms as instructed by Datu Andal, Sr. As for Manny Ampatuan, he was inside the compound of Datu Andal, Sr. and was then keeping watch over Mayor Saudi Ampatuan.

Saliao continued to narrate that on November 23, 2009, he woke up between 2:00 to 3:00 a.m. He was then executing the specific instruction of Datu Andal, Sr. to bring out the firearms and to put red markings on them. When he came near Datu Andal, Sr., he gave him coffee.

During the **additional cross examination of Saliao on July 03, 2013,** for his testimony given on June 27, 2013, he said that as his *"kababata",* he very well knew Sandy Sabang, even though he did not know the rank of the latter. He recalled seeing Sabang on November 17, 2009, watching guard over Datu Andal, Sr. The last time that he had seen him was on November 23, 2009 between 11:00 a.m. to 12:00 p.m.

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[51] The logbook is hard bound, with the first page indicating that it is the "CPHS Visitor's Logbook." The pages contain the following fields: Name, Address, Purpose, Contact #, ID, Date/Time/Signature. The first entry was recorded on December 06, 2009, and the last was on April 16, 2010.

Saliao also said that he frequently saw Kamaong, about three (3) to four (4) times a month. He knew him not just because of his position as colonel but also because he is the brother of Nori Unas. At around 8:00 a.m. of November 23, 2009, he no longer saw Kamaong.

On January 23, 2014, Lakmodin Saliao was presented for additional direct examination. He testified about seeing Datu Ulo attending the meetings held on November 17 and 22, 2009. Datu Ulo was listening at the meeting as to what Datu Andal, Sr. was saying. The witness knew Datu Ulo because he took care of him when he was younger.

On January 30, 2014, the defense stipulated that Saliao could identify Datu Ulo, as the same person being charged in court whom he allegedly saw attending the November 17 and 22, 2009 meetings.

During his cross examination, the witness cried and uttered that he has been living with the Ampatuans for more than 20 years but he nevertheless testified against them. The Mangudadatus have not been grateful to his testimony. The former and the witness have not been seeing each other.

Saliao clarified that Datu Ulo Ampatuan did not do anything during the said meetings. Datu Ulo, just like him, merely listened. As for Datu Ipi Ampatuan, Saliao said that he also took care of him. The witness stated that Datu Ipi did not attend the November 17, 2009 meeting.

The witness reiterated that during the meetings held on November 24 and 25, 2009, the possible legal defenses of the Ampatuans were discussed. Atty. Sayadi, Nori Unas, Congressman Dilangalen, and Sec. Dureza were present in those meetings.

On **re-direct examination***,* Saliao stated that he pitied Datu Anwar, Sr. as he was the one who raised him; and immediately, on **re-cross examination,** the witness said that he was crying because he had testified against Datu Anwar, Sr.

Testimony of Sukarno Badal

SUKARNO BADAL[52] **testified on February 14 and 20, 2013**. He identified himself as the Vice Mayor of Sultan Sabarongis Municipality, Maguindanao from 2007 to 2009. He was the presiding officer of the Sangguniang Bayan of the said municipality. Moreover, he was the commander of the armed group of the Ampatuan family since 2005. He was also assigned by Datu Andal, Sr. and his family against the Moro Islamic Liberation Front (MILF) and against the persons whose properties

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[52] Witness Sukarno Badal testified on February 14, 20, 21, 26, and 27, 2013; June 20, 26 and 27, 2013; December 11 and 12, 2013; May 21, 2014; June 05, 2014; and November 11, 2014.

Datu Andal, Sr. had claimed. He commanded not less than 300 men; and Datu Andal, Sr. provided them with firepower.

On July 18, 2009, at around 10:00 p.m., Datu Andal, Sr. and Datu Unsay instructed the witness to go to Century Park Hotel, Manila. From his house in Tacurong City, he took a plane from Cotabato City going to Manila.

On July 19, 2009, at around 5:00 p.m., the witness waited for the arrival of Datu Andal, Sr. and Datu Unsay. After about two (2) hours, the two (2) arrived together with more than a hundred people. Then, they all ate their dinner at the dining room.

After dinner, they started the meeting. Datu Andal, Sr. presided over the meeting, which was attended by the members of the Ampatuan family, their allies, advisers, lawyers, commanders, and supporters. The topic of the meeting was about the security matters for the meeting at Camp Aguinaldo on July 20, 2009.

On July 20, 2009, the witness was at Camp Aguinaldo. Datu Andal, Sr., the commanders, political allies, supporters and many others were also there.

All in all, they numbered more than 200 people who had boarded more than 50 vehicles. But only the members of the Ampatuan and the Mangudadatu families went inside the office of the Department of National Defense (DND) in Camp Aguinaldo. As for the witness, he claimed that he was downstairs at the said office, because his role was for security matters. The meeting, which was about the candidacy of the Mangudadatu family for governorship which the Ampatuan family would like to prevent, lasted for three (3) hours.

After the meeting, the group of the Ampatuans went back to Century Park Hotel. While ordering their meals in the restaurant at the hotel lobby, Datu Andal, Sr. spoke and said: *"imatayan si Toto Mangudadatu, matagasan ang ulo. Patayin si Toto Mangudadatu dahil masyadong matigas ang kanyang ulo."*[53]

At 8:00 p.m., at one of the function rooms of Century Park Hotel, the Ampatuan family, their supporters, advisers, attorneys, commanders, and political allies conducted a meeting, presided by Datu Andal, Sr.

The witness particularly remembered that among others, the following members of the Ampatuan family attended the meeting: "Datu Andal Ampatuan, Sr., Datu Andal Ampatuan, Jr., Datu Zaldy, Sajid, Datu Anwar, Tato, Datu Kanor, Datu Nords, Datu Ulo, Datu Ipi, Datu Pandag,

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[53] TSN, February 14, 2013, p. 28.

and Samsudin Ampatuan."[54] He also saw the following political advisers, allies, and lawyers of the Ampatuans: Norie Unas, Atty. Sayadi, Kagi Ali Midtimba and Mama Uy. Finally, the witness recounted seeing the following commanders on that occasion: Commander Kagi Nasser Adam, Commander Kempar, Commander Boy, Commander Cuatro, Commander Katorse, and many others.

Datu Andal, Sr. started the discussion by saying that Toto Mangudadatu must be killed because he cannot be prevented from running for governor. Then, several persons spoke:

Atty. Sayadi: *"Sabi niya, tama ka, Kaka, pero dapat malinis ang pagkakagawa kasi kung nagkataon makulong tayo lahat."*

Datu Zaldy: *"Todo suporta ako dyan, sabi niya, Ama, dapat malinis ang pagkagawa. Dahil kung hindi malinis, madudungisan ang pangalan ko at makukulong tayong lahat."*

Datu Unsay: *"Ama, kung sinumang magtangkang umagaw sa kapangyarihan natin ay papatayin natin silang lahat, lalong lalo na ang mga Mangudadatu na iyan."*

Jack Ampatuan: *"Bapa, umpisahan ko na, madali lang 'yan."*

Col. Kamaong: *"Pagdating sa punto na iyan, sabi niya, Datu, ako na bahala pati ng mga tauhan ko."*

Nori Unas: *"Kaka, sa tingin ko tama na ito. Ang importante hindi sisingaw ang lahat ng pinag-usapan natin dito."*

Datu Andal, Sr.: "Uway, meto tanu den, ipatawag ko na lang kayo uli."

After Datu Andal, Sr. spoke, the meeting was adjourned.

The witness said that in the afternoon of July 21, 2009, he together with Datu Andal, Sr., Datu Unsay, and many others were at the airport going to Davao. Their flight, however, was delayed because they had to load some 200 firearms, which he earlier saw at the Century Park Hotel. These firearms included M14s, armalites, M203s, and bushmasters.

On July 24, 2009, at around 7:00 a.m., Datu Unsay called the witness, asking for the latter to come to his house at No. 33, Shariff Aguak. Badal arrived before 10:00 a.m. and saw the security personnel of Datu Unsay such as Abusama Guiadem.

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[54] TSN, February 14, 2013, p. 33.

When the witness and Datu Unsay talked over coffee, the latter said that he called because they are going to implement what they had talked about in Manila – the killing of Datu Esmael Mangudadatu.

Datu Unsay called Kagi Sabun and instructed the latter to bring the firearms and to give these to the witness. Subsequently, ten (10) M14 rifles were given to the witness.

On November 16, 2009, at around 8:00 a.m., while the witness was about to preside a session of the Sangguniang Bayan in the municipal hall of Sultan Sabarongis, Datu Andal, Sr. called him in his phone, and asked him to come to his house in Bagong. The session was set aside and Badal proceeded to the house in Bagong.

At 10:00 a.m., the witness arrived at the house of Datu Andal, Sr. He observed that there were a lot of people – there were those armed and most are policemen. He also saw that the mayor of Sultan Sabarongis, Datu Allandatu Angas, came ahead.

Moments later, they had a meeting at the *purok* in front of the mansion of Datu Andal, Sr. in Bagong. Attending the meeting were the members of the Ampatuan family, their political allies, advisers, lawyers, commanders, supporters, and many more.

Badal remembered seeing the following members of the Ampatuan family in the meeting: "Datu Andal Ampatuan, Sr., Datu Zaldy, Tato, Kagi Akmad, Datu Puti, Bahnarin, Datu Ulo, Datu Ipi, Datu Pandag, Datu Siyam, and many others."[55] The political allies he saw were: "Mayor Mama Uy, Mayor Kagi Ali Midtimba, Mayor Allandatu Angas, Ramdatu Angas, Roger Mamalo, and many others." Among the political advisers he saw were Atty. Cynthia Sayadi and Nori Unas. The police officers present therein were: Colonel Kamaong, P/Inspector Saudi Mukamad (Insp. Mukamad) and Major Dicay. And as for the commanders, Cmdr. Billy, Cmdr. Kempar, Cmdr. Boy, Cmdr. Sanggutin, Cmdr. Naser Adam, Cmdr. Cuatro, Cmdr. Katorse, and many others, attended the meeting. To the recollection of the witness, those attending the meeting were about 400, including the private army.

Datu Andal, Sr. presided over the meeting, which was about the filing of Datu Esmael Mangudadatu's candidacy for the governorship of Maguindanao. The first thing that was discussed was about the killing of the Mangudadatus and the three (3) location options of Toto Mangudadatu in filing his candidacy: Manila, Cotabato, and Shariff Aguak.

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[55] TSN, February 14, 2013, p. 55.

Datu Andal, Sr. tasked Datu Zaldy and Akad alias "Maestro" to kill Mangudadatu and prevent his filing of Certificate of Candidacy (COC) in Manila. Datu Zaldy, who was seating beside Datu Andal, Sr., said "*Oo, Ama.*"

Then Datu Andal, Sr. assigned Atty. Cynthia Sayadi and Nori Unas to find ways on how Toto Mangudadatu may be killed and how to prevent him from filing his candidacy, in whatever way, in Cotabato City. Atty. Cynthia Sayadi responded: "*opo, Kaka, lahat ng connection ko ay gagamitin ko.*"

As regards Shariff Aguak, Datu Andal, Sr. stated: *"dito sa Shariff Aguak, andito naman kami, marami rin kami dito, pugad ko na ito."*

After Datu Andal, Sr. spoke, the following discussion transpired:

Datu Anwar, Sr.:	*"Patayin natin yung mga Mangudadatu, pati yung mga sasakyan nila ililibing na natin yan."*
Kagi Akmad Ampatuan:	*"Pwede, sabi niya, anong ginagawa ng backhoe natin."*
Allandatu Angas:	*"Bapa, ako maghahatid lang ako ng tao dito, kung mangyari man yan dito naman yung kapatid ko at anak ko, nasa likod lang ako."*
Kamaong:	*"Pagdating ng oras na yan, kami na ang bahala, pati ang mga tao ko."*
Datu Zaldy:	*"Todo suporta ako diyan, kahit lahat ng baril ko gagamitin ko. Kahit lahat ng baril ko gagamitin ninyo. Kailangan malinis ang pagkakatrabaho kasi kapag nagkataon makukulong tayong lahat. Alalahanin natin ang sabi ni Ate Cyn."*
Nori Unas:	*"I think this is enough, we just talk again when Junior arrives."* (Junior refers to Datu Unsay, and during that time, the latter was allegedly in the U.S.A.)
Datu Andal, Sr.:	*"That is all, I will just call all you when Junior arrives."*

After Datu Andal, Sr. spoke, the meeting was adjourned.

On November 21, 2009, at around 10:00 a.m., Sukarno Badal was at his house in Sultan Sabarongis, waiting for the call of Datu Unsay, who was expected to arrive on even date. While waiting for the latter, the witness and his 20 men were preparing for ammunitions, firearms, and "*malong*." Moments later, Datu Unsay called and asked for a meeting in his house at No. 33, Shariff Aguak.

The witness arrived at the house of Datu Unsay by 1:30 p.m. Present therein were the members of the Ampatuan family, sympathizers, commanders, and the police. After being given coffee, the meeting started with Datu Unsay presiding.

The meeting pertained to the installation of checkpoints along the road from Isulan going to Shariff Aguak, and the road from Cotabato going to Shariff Aguak. Major Dicay, Insp. Mukamad, Abusama Guiadem, and many others discussed the checkpoints.

According to the witness, there was a need to install checkpoints, in order to prevent the Mangudadatus from filing the COC and in order to kill all the Mangudadatus. The witness said that as regards the conduct of checkpoints, the police would flag down the Mangudadatus who would pass by the road, while the CVOs would kill them. Specifically, he said: *"binigyan kami ng mga assignment kasi kung magdaan yung Mangudadatu, patayin. Pulis ang magpara, CVO ang magbaril."*

The witness explained that there must be police officers as counterpart for the CVOs since the gun ban was being enforced. Hence, the police officers carried the gun because CVOs could not bear firearms. When asked as to who made that arrangement, Badal said that the orders for the police came from Major Dicay, while that of the CVOs were from Datu Unsay.

Badal recalled that the following were the major locations wherein the checkpoints were to be established: Crossing Saniag, Malating, Sitio Bente Kwatro in Datu Unsay Municipality, and Salbo in Saudi Ampatuan Municipality.

According to the witness, the checkpoint in Crossing Saniag was manned by a lot of commanders, including Datu Unsay himself. As for the checkpoint in Malating, Major Dicay and Insp. Mukamad headed the operations, together with their CVO counterparts, Datu Kanor and his men.

Brgy. Bente Kwatro checkpoint was assigned to the witness, Commander Nasser Kamsa, and Commander Datu Kamad Ampatuan, and to their police counterpart, Insp. Maliga. In Salbo, Commander Sangguten Musa and Commander Katorse manned the checkpoint.

Datu Unsay and Major Dicay assigned the witness at the checkpoint in Brgy. Bente Kwatro. He had 20 men under his command in that checkpoint; Datu Kamad had 25 people; Nasser Kamsa had another 25; while Insp. Maliga had more than 10 persons.

In sum, it was Datu Unsay who presided over the meeting. He even said: *"ngayon e-implement na niya ang kautusan ng pamilya Ampatuan na patayin ang mga Mangudadatu"; "ang sinumang magtangkang lumaban sa politica sa kanila ay papatayin nila lalo na yung mga Mangudadatu lang na yan".*[56]

The witness responded by saying: "*Datu, if we're going to do that, were going to be in jail".* Datu Unsay answered: *"ikaw Vice, hindi mo alam pamilya namin ang lumagay sayo sa pagka-Vice-Mayor, ako ang incoming Governor ng Maguindanao".* The witness replied: *"kasi malaking bagay yan, maraming masyado mamamatay na tao diyan, hindi gaya ng i-salvage mo paisa-isa lang, diyan sa amin sa Maguindanao mag-file ka ng candidacy, Barangay Kapitan lang halos lahat ng tao ng barangay kasama mas lalo na kung Governor and pinag-usapan."*

After the checkpoints were discussed, the witness, Datu Kamad, Nasser Kamsa, Insp. Maliga, who were all assigned to the checkpoint in Bente Kwatro, had a meeting. They agreed that for every two (2) police officers, they were to give five (5) of their men, five (5) per commander. Hence, in their checkpoint, they had 17 persons.

After that meeting, the witness proceeded to the Bente Kwatro checkpoint. Badal supervised its operations; and they stayed there from November 21, 2009 until the morning of November 23, 2009.

The checkpoint in Bente Kwatro is located at Sitio Bente Kwatro, Brgy. Iganagampong, Datu Unsay Municipality, Maguindanao. He was assigned there because it was reported that the Mangudadatus who were to file the candidacy would pass by Midsayap, Cotabato; and that this route was the second or alternative way to go to Shariff Aguak, with the other route being that from Isulan Road to Shariff Aguak.

On <u>November 23, 2009</u>, while at Sitio Bente Kwatro detachment, the witness received a radio message from Datu Unsay, whose call sign was "Nazareth." He was being summoned to go to the latter's house at No. 33, Shariff Aguak. Upon arrival thereat, he no longer saw Datu Unsay. Instead, the latter's caretaker told him to proceed to Crossing Saniag.

At Crossing Saniag, he saw a lot of people, armed men, police, and commanders, who were fully armed. Then, he saw Datu Unsay, who told

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[56] TSN, February 14, 2013, pp. 70-71.

him that the men of the witness' Mayor, Ramdatu Angas, were already there.

While the witness and Datu Unsay were talking, the latter received a call on his I-Com radio, relaying that the convoy of the Mangudadatus was on their way. The message also included the number of vehicles, as well as their plate numbers. Thereafter, Datu Unsay called Abusama Guiadem to get his mask from the vehicle, who subsequently handed the same to him. Then, the convoy of the Mangudadatus passed by, and headed towards Shariff Aguak.

After the convoy passed by, Datu Unsay gave an order to block the road so that no one can pass. Two (2) *Sanggukos* were used to block the road.

The witness identified the *Sanggukos* through ***photographs (Exhs. "Nona J," "Nona J-1," "Nona J-2," "Nona J-16," and "Nona J-31."*** He described a S*angguko* as a camouflage-colored big truck with high powered firearms installed, two 0.50 caliber firearms, and four 0.30 caliber firearms.

When the road was already blocked, they proceeded to the checkpoint of Major Dicay in Malating, so as to follow the convoy. In that trip together with Datu Unsay, they were numerous, comprising of about 50 vehicles.

Upon arriving at the checkpoint in Malating, the witness saw that the vehicles of the convoy of Mangudadatu were already stopped, with the passengers already lying prostrate on the ground.

In that scenario, Badal saw Datu Kanor Ampatuan holding Bai Eden Mangudadatu, as well as Major Dicay holding Bai Gigi Mangudadatu.

According to the witness, Datu Kanor Ampatuan was a commander, and also a vice-mayor. Bai Eden Mangudadatu and Bai Gigi Mangudadatu were the sister and wife, respectively, of one of the private complainants, Datu Esmael "Toto" Mangudadatu, who was supposed to file his COC for Governor of Maguindanao.

He then saw Datu Unsay taking the bag of Bai Gigi Mangudadatu and looking for the COC. When he found it, he gave the bag to PO1 Abusama Guiadem. Subsequently, Datu Unsay approached the people who were lying prostrate on the ground, and then he slapped one of the women.

Next, these people were asked to go back to the vehicles, with armed men of Datu Unsay assigned in each vehicle. Thereafter, they all went to Crossing Masalay, which was the way towards the mountain.

There were more than 50 vehicles when they left Malating. The sequence of the convoy vehicles was that there was: (1) a lead car; (2) Datu Unsay; (3) Abusama Guiadem; (4) the witness; (5) Datu Kanor Ampatuan; (6) the Mangudadatu Convoy; and (7) the rest of the vehicles of the followers of Ampatuan.

Upon reaching the mountain of Masalay (called in their locality as *"bundok ng Masalay"),* Datu Unsay stopped and alighted followed by his companions.

Thereafter, Bai Eden Mangudadatu and Bai Gigi Mangudadatu were successively brought in front of Datu Unsay by Datu Kanor Ampatuan and PO1 Inged (PO1 Engid), respectively. Then, the co-passengers of these women were also brought in front of Datu Unsay. At that time that these passengers were taken, there were other men with Datu Unsay. According to the witness, they were: *"Datu Kanor, Datu Nords, Datu Akmad, Datu Bahnarin, Datu Ulo, Datu Ipi, Datu Pandag at marami pang iba, mga Commanders."*[57]

After the first set of passengers were herded in front of Datu Unsay, this happened according to the witness: "*Nagtinginan sila Datu Kanor, Inged at si Datu Unsay, hindi ko lang alam kung ano ang tingin ni Datu Unsay nakatalikod siya sa akin, sabay tulak, tinulak nila si Bai Gigi at saka si Bai Eden sabay putok na yan".*[58] All the passengers were killed.

Those who fired the shot included "Datu Unsay, Datu Kanor, Kage Akmad, Datu Nords, Bahnarin, Datu Ipi, Datu Peru, Datu Pandag Ampatuan, and many more." Datu Unsay used an M203 first, then he changed his firearm. Datu Kanor used a Baby-K3; while Bahnarin, Datu Ulo, Datu Ipi, Datu Pandag, and Datu Unsay used a Baby M60.

Another set of passengers were dragged away from the second vehicle towards Datu Unsay. The armed men whom he assigned to board each vehicle were the ones pulling the passengers. The witness described the situation in this wise: "*parang hindi magkamayaw nakita na nila yung nauna sa kanila namatay na, hinihila nila tapos ganun pa rin, pinatindig sa harap ni Unsay binaril nanaman uli".*[59] Like the first batch of passengers, the second batch of passengers were all gunned down and killed.

The witness recalled that they were shot in this manner: *"pinaputukan, contest sila nakatindig, lahat sila nagbaril sila ng mga taong walang nagawang kasalanan walang kalaban-laban".*[60]

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[57] TSN, February 14, 2013, pp. 87.
[58] Id.
[59] Id. at 88.
[60] Id. at 90.

Next, the third batch of passengers were pulled and dragged in front of Datu Unsay. One of his men who happened to identify his "suki" or regular driver, as one of the passengers, asked Datu Unsay to stop the shooting; but the latter shot said man. Thereafter, the third batch of the passengers were shot by the same armed men.

The fourth batch of passengers met a similar fate. As they were being pulled towards Datu Unsay, the passengers shouted; and as they were being killed, they were crying. The passengers of the fifth batch were also dragged and killed in the same manner.

But, for the sixth and seventh batches, a different situation unfolded.

The sixth set of passengers locked their vehicle. Datu Unsay tried to open it. Then, Datu Unsay received a call from his father, Datu Andal, Sr. through an I-Com. Allegedly, the two had this conversation:

Datu Andal, Sr.: Kumusta na Junior?

Datu Unsay: Media lang ang natira, Ama.

Datu Andal, Sr.: Pa-media, media ka pa, ubusin mo na yan.

When the passengers refused to alight from their vehicle, they were shot right then and there, inside their van. The passengers from another van, the seventh vehicle, were also killed where they were, because they refused to alight from their vehicle. The Ampatuans and a lot of commanders fired at these passengers from the sixth and seventh vehicles.

Then, Datu Andal, Sr., called his son again through an I-Com. He said: "*Tinanong niya kung anong media ang sinasabi, sabi naman ni Datu Unsay Ampatun, Jr. "yung media, mass media", nagsabi naman si Datu Andal Ampatuan, Sr., "makukulong tayong lahat".*[61]

Subsequent to this conversation, Datu Unsay turned around, called upon the people and said: "*mga talawit, maglapit lang kayo dito lahat, kay patay na silang lahat, tingnan ninyo ang mga taong ambisyoso, eto tingnan niyo sila patay na lahat".*[62] According to the witness, "*talawit"* means coward. Datu Unsay supposedly addressed the above statement to the other companions of the Ampatuans, who were standing at the back as they were not able to come near the side of the mountain, considering that the people in that area were numerous that time, numbering about 500 to 600. And as for the witness, he was just two (2) meters behind Datu Unsay at that moment when the passengers were killed.

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[61] Id. at 94.
[62] Id. at 95.

After the passengers were gunned down, Datu Unsay called the witness and ordered the latter to "finish" them. According to the witness, "finishing" refers to the act of shooting those people who survived or were not hit seriously to ensure their deaths.

The witness then called Abusama Guiadem and tasked the latter to do the "finishing." Guiadem complied, bringing with him other men to accomplish the job. They inspected whether the victims were still alive. They killed those who were still breathing.

15 minutes after, Datu Unsay received a call. Although they did not know where the call came from, they heard the message that the soldiers were coming. Hence, they prepared to leave the site.

Using his I-Com, Datu Unsay called Bong Andal, who was the alleged operator of the backhoe. The former asked the latter of his whereabouts. After a few minutes, Datu Unsay and his companions left the site. And on their way, after about 30 to 40 meters from the place of killing, they met a backhoe. The witness saw Bong Andal driving the backhoe. Then, Datu Unsay stopped to talk to Bong Andal. Datu Unsay instructed the latter in this wise: *"Sinabi niya na dalian ang pagtago dun sa mga namatay at saka pati sasakyan nila itago na, linisin talaga x x x."*

The witness identified the backhoe through ***photographs (Exhs. "Nona J to Nona J-9," and "Nona J-11."*** He described that the backhoe is colored orange, and pointed to the color of a yellow paper.

400 meters away from the site, they made another stop for Datu Unsay had to answer a call of nature. Also, the latter called Bong Andal again. Then, the group went downwards and proceeded to Datu Hoffer Municipality.

The witness stated that they were so many in Datu Hoffer Municipality, including the people from the checkpoint in Isulan to Shariff Aguak. They were about 400. Datu Kanor and his group, however, were left at the crime site to provide security to the backhoe as it had to bury the victims.

At Datu Hoffer Municipality, their ammunitions were changed, especially for those people who had used their firearms. The witness recalled that Datu Unsay had to change his t-shirt for it was full of blood. Datu Unsay also instructed the people to hide their own vehicles.

After that, they went to Brgy. Limpongo. Together with him were "Datu Unsay, Bahnarin, Kagi Akmad Ampatuan, Norodin Ampatuan, Datu Pandag Ampatuan, Ramdatu Angas, Jokner Angas, and many others."

Some of them, including Datu Unsay, boarded a motorcycle to go to Brgy. Limpongo, which was more or less four (4) kilometers away from Datu Hoffer Municipality. When the roads were no longer accessible to the motorcycle, Tammy Talembo was able to find a horse for Datu Unsay but he fell down from the horse.

Nonetheless, the group reached the mountains of Limpongo. They hid in that place for three (3) hours. Thereafter, they proceeded downwards to Brgy. Limpongo. Then, the people who are supposed to fetch Datu Unsay arrived. Datu Unsay boarded a vehicle and left. As for the witness, he was left in Brgy. Limpongo.

At this juncture, the defense and the prosecution entered into a stipulation that when asked, the witness could identify Datu Andal, Sr., Datu Unsay, and Datu Zaldy as the same accused in these cases who were present on July 20, 2009 in the meeting at the Century Park Hotel; as well as on November 16, 2009 at the mansion of Datu Andal, Sr.

The parties also entered into a stipulation that when asked, the witness could identify Datu Unsay as present on November 21, 2009, at the house called "33" in Poblacion, Shariff Aguak, who is the accused in these cases and present in the courtroom; and present at the killing site on November 23, 2009.

Further, the defense and the prosecution entered into a stipulation that the witness could identify Datu Sajid Islam Ampatuan, Datu Anwar Ampatuan, Sr., and Datu Akmad "Tato" Ampatuan as those whom he testified as present during the meeting on July 20, 2009 at Century Park Hotel. They also stipulated that the witness could identify Datu Anwar Ampatuan, Sr. and Datu Akmad "Tato" Ampatuan as among those who attended the meeting on November 16, 2009 at the mansion of Datu Andal, Sr.

The witness identified in open court Moktar Daud and Nasrudin Esmael as among those he allegedly saw during the meeting on July 20, 2009 at the Century Park Hotel.

As regards the meeting on November 16, 2009, at the mansion of Datu Andal, Sr., the witness identified Major Dicay. The latter was also identified by the witness in connection with his testimony regarding the meeting on November 21, 2009, at the house of Datu Unsay, as well as regarding the alleged incident on November 23, 2009.

Anent the events in Sitio Malating, he identified Quago Akil as one of the CVOs headed by Datu Kanor, who were at the checkpoint with Major Dicay.

Then, as regards the men who allegedly fired shots at the mountains of Sitio Masalay, the witness identified Moktar Daud, Nasrudin Esmael, and Misuari Ampatuan. The witness identified the following persons, who were allegedly present at the crime site: Mohades Ampatuan, Tato Tampogao, Nicomedes Amad Tolentino, Bimbo Salazar Piang, Samaon Andatuan, Tommy Abas, Nasrudin Esmael, Macton Bilungan, Salik Bangkulat, Taya Bangkulat, and Edris Kasan. Sukarno Badal also identified the members of his own security who came with him at the alleged crime site: PO2 Tany Dalgan and PO1 Ahmad Badal.

For purposes of his testimony, Sukarno Badal executed ***"Sinumpaang Salaysay" (Exh. "(13) J" and "(13) K").*** Aside from those matters he stated in the direct testimony, he also made several statements in his sworn statement.

The witness claimed that he became a vice mayor of Sultan Sabarongis with the help and influence of Datu Unsay, Datu Andal, Sr., and Datu Zaldy. Because of his loyalty, he was given high powered firearms, money allotment from the internal revenue allotment (IRA) which was considered as "SOP," and a vehicle. He was a right-hand man of his bosses, and almost all their plans were known to him.

On November 23, 2009, Datu Unsay summoned him to the house of the former at No. 33, Shariff Aguak so that the witness can fix his political problem with former vice mayor of Sultan Sabarongis, Roger Mamalo. The witness did not see Datu Unsay in the accused' house, and instead he was told to proceed to Sitio Masalay, Salman, Ampatuan. In that place, he saw Roger Mamalo and Datu Unsay. The latter said that Roger Mamalo must not run for elections, else Mamalo would die. Roger Mamalo left, leaving the witness and the accused together.

Sukarno Badal also mentioned the hiding places of the persons who allegedly participated in the incident.

When **cross-examined on February 21, 2013**, he maintained that as a *"kanang kamay"* and the commander of the armed group of the Ampatuan family, he fought and killed the members of the MILF headed by Umbra Kato.

The witness claimed that he surrendered to the government on November 07, 2010, when he was fetched by elements of the 33rd Infantry Battalion in his hideout in Lambayong, Sultan Kudarat, a province which is adjacent to Maguindanao. During his surrender, he gave up his machine gun, a sniper rifle, and two (2) M16 rifles.

Three (3) days later, he met with then Secretary of Justice Leila de Lima in the army camp where he was detained. And about that time, he came to know that he was a diabetic per the diagnosis of a doctor in the

military hospital. 11 months later, he was admitted to the Witness Protection Program.

As regards his affidavits, the witness conceded to the discrepancy on the date of the meeting at Century Park Hotel. It was also highlighted during his cross examination that his affidavits did not contain the following testimonies: (1) he was the commander of the private army of the Ampatuans who killed the enemies of the latter; (2) Datu Andal, Sr., in a loud voice, promoted to kill Toto Mangudadatu; (3) the PAL flight on July 24, 2009 was delayed because firearms had to be loaded; (4) Allandatu Angas, Ramdatu Angas, and Roger Mamalo attended the meeting in the mansion of Andal, Sr. in Bagong on November 16, 2009; (5) there are three (3) options in filing a COC; (6) Datu Andal, Sr. and Datu Unsay had a conversation about the killing of mass media personnel; (7) the witness was instructed by Datu Unsay to do the finishing; (8) Datu Unsay and Bong Andal discussed about the backhoe operations; (9) he saw firearms at Century Park Hotel; (10) there were 20 of his men with him during the meeting on November 16 and 21, 2009.

The witness clarified that the person he named in his affidavit as Kagi Akmad Ampatuan is actually Akmad Baganian Ampatuan, and not Akmad Tato Ampatuan. As regards the persons he identified in open court, the witness said that he did not know their names, but he knew their faces.

With respect to the meetings supposedly conducted on July 20, November 16, and November 21, 2009, the witness said that he had none of his men with him on July 20, 2009. But as for the two (2) latter meetings, he had 20 men with him who acted as his security aide.

Sukarno Badal maintained that the call sign of Datu Unsay was "Nazareth," notwithstanding that the name is of Christian origin.

As regards his testimony on the checkpoints, the witness said that a few checkpoints had been established even before November 21, 2009. But additional checkpoints were added because of the upcoming elections in Maguindanao. The witness claimed that the conduct of checkpoints was a regular occurrence in the Muslim areas. And when Datu Esmael Mangudadatu was about to file his COC, additional checkpoints were established closer to each other.

Sukarno Badal admitted that he carried a 0.45 caliber firearm. This firearm is no longer in his possession, for it was taken by the men of Datu Andal, Sr. The witness maintained that he never shot any of the victims. He also said that because he did not fire a gun, he was not among those who had to change ammunitions in Datu Hoffer Municipality. On the subject of guns, Badal mentioned that a Baby K3 is around 2.5 feet; and a full sized K3 is around 3.5 feet.

He remembered that there were so many people in the crime scene – there were more or less 400. The same set of persons, aboard more or less 50 vehicles went to Datu Hoffer Municipality, except the group of Datu Kanor.

On re-direct examination on February 27, 2013, the witness posited that there were omissions in his affidavit given that he was only able to read it once, for, at that time, he was in a hurry. He was in a hurry because there was already an exchange of fire between his group and the men of Datu Andal, Sr. He also clarified his statement about the regularity of killing people during MILF encounters. He said whenever they fight the MILF upon the orders of Datu Andal, Sr., it was normal that both sides have casualties.

On re-cross examination, the witness affirmed that since he surrendered on November 07, 2010, he has not executed any other affidavit correcting his former sworn statement.

Badal gave an additional direct testimony on June 20, 2013. In open court, he identified those armed men, police officers, and commanders whom he saw in Crossing Saniag on November 23, 2009. They were Abedin Alamada and Abdullah Abdulkahar, whom the witness referred in his testimony as Theng Sali.

He remembered seeing Abedin Alamada giving instructions to his men and waiting for the convoy to arrive. According to the witness, Abedin Alamada was one of the top commanders of Datu Unsay. As for Theng Sali, the witness saw him standing with armalite on hand, looking from the direction of Isulan to Shariff Aguak.

The witness identified the following commanders who went to Malating: Abedin Alamada, Theng Sali, and Kudza Masukat.

He recalled seeing Abedin Alamada being instructed by Datu Unsay in Malating. Specifically, the latter ordered the former to take the camera from the cameraman of UNTV. Abedin Alamada complied: he grabbed the camera and pushed the cameraman of UNTV away. Then, Abedin Alamada went to other side, still holding the camera.

As for Theng Sali, the witness said that he saw the accused pointing his firearm to the people lying prostrate on the ground; and that he was one of those who asked the passengers to lie down on the ground.

The witness identified both Abedin Alamada and Theng Sali as those men who fired and killed the passengers of the convoy, hurled in front of Datu Unsay, at the mountains of Masalay. To his recollection, Abedin Alamada used an M60 machine gun, while Theng Sali utilized an armalite.

The witness also said that the same accused fired at the two (2) vehicles carrying the last two (2) batches of passengers, because the latter refused to alight. The witness identified Abedin Alamada and Theng Sali as those accused who hid with them in Brgy. Limpongo.

Anent the events prior to November 23, 2009, the witness identified Abedin Alamada as one of the commanders who attended the meeting at Century Park Hotel on July 20, 2009. According to Badal, Alamada was known as Datu Unsay's commander.

The witness also identified accused Bahnarin Kamaong as that person who, during the meeting on November 16, 2009, at the mansion of Datu Andal, Sr., uttered that he and his men will take care of matters for Datu Andal, Sr. The witness claimed that the accused was a colonel in the police force, and a trusted man of Datu Zaldy.

The witness said that Abedin Alamada and Theng Sali attended the meeting at the house of Datu Unsay at No. 33, Shariff Aguak on November 21, 2009.

For his additional direct testimony, Sukarno Badal was subjected to cross examination on June 26 and 27, 2013. He said that from the moment that he surrendered, until the time he executed his sworn statement, he carefully thought about the contents of his affidavit.

He also affirmed that he only saw Abedin Alamada during the meeting on July 20, 2009 at Century Park Hotel; but that he did not have any document to support his narration. However, he did not mention the name of Abedin Alamada – despite knowing him – as one of those commanders attending the meeting at the said hotel.

The same is true in case of his identification of Abedin Alamada in Crossing Saniag. The witness did not mention seeing the accused in both his affidavit and earlier testimonies.

In his affidavit and earlier testimonies, the witness also failed to mention about the presence of Abedin Alamada in Malating. He also did not mention the name of Abedin Alamada in connection with the killing of the passengers, and in relation to their hideout in Brgy. Limpongo.

Badal affirmed that he knew Abedin Alamada for more than three (3) years, as both of them were public officials. The former even visited the latter once, when said accused was detained in Marbel, South Cotabato. He never signed any logbook. He maintained that he never offered money to Alamada for him to testify just like him. The witness also visited the accused twice, in the office of the Criminal Investigation and Detection Group (CIDG), General Santos City.

The witness explained that he went into hiding because he knew that he would be included in the case.

He also said that the Ampatuan family trusted him when he was able to wage war against the civilians so that the former may grab the lands of these people; the civilians were made to appear as criminals and members of the Abu Sayaff.

He did all the acts asked by the Ampatuan family, including the killing, because he wanted to be given benefits, like a budget in the IRA, and weapons.

During the meeting at the Century Park Hotel, only the bosses, the group of Ampatuans, entered the meeting room, while the security remained outside.

He was stationed at the checkpoint in Camp Bente Kwatro from November 19 to 23, 2009. He was the boss at that checkpoint, and he had men under him, as well as a counterpart in the police forces. That camp is about three (3) to four (4) kilometers from the house of Datu Zaldy, while the house of Datu Unsay was 700 meters away from the former.

Sukarno Badal testified that he does not know PO1 Sandy Sabang.

On re-direct examination, Badal explained that he failed to mention the name of Abedin Alamada during his earlier testimonies but he also alluded to identifying others whose names he could not recall then. Abedin Alamada was also known then as Kagi Bedi. Hence, what was written in his affidavit was "Kagi Bedi."

In Marbel, Cotabato, he visited Abedin Alamada in his detention center because the accused refused to admit his identity. But when the witness was seen by the accused, the latter admitted that he was indeed, Abedin Alamada and also Kagi Bedi. The two of them talked. The accused sought help from him because the UNTV camera was with him.

In the CIDG Office, General Santos City, the witness visited the accused once more. Abedin Alamada told him that he was willing to cooperate and return the UNTV camera; but, in turn, he was asking support for his 31 children.

Because it will be costly, the witness refused the responsibility to support all the children of the accused.

On re-cross examination, he testified that he has known the name Kagi Bedi for the last three (3) years, but that during his earlier testimonies in open court, he referred to the accused as Abedin Alamada.

He also did not make prior mention of his visits to the detained Abedin Alamada. He did not ask for permission, nor informed the prosecutors of these visits despite being under witness protection program (WPP).

Sukarno Badal was presented in court for additional direct testimony on December 11, 2013. He testified that Datu Ulo attended the meeting on July 20, 2009 at Century Park Hotel. He said that Datu Ulo is the son of Anwar and Sahara Ampatuan, with the latter being the present mayor of Shariff Aguak. His brother is Datu Ipi, who likewise attended that meeting.

Likewise, Datu Ulo and Datu Ipi attended the meeting on November 21, 2009 conducted at the house of Datu Unsay at No. 33, Shariff Aguak. More than 10 of their men accompanied each of them.

The witness also saw the brothers on November 23, 2009, ready to fire at the victims in Sitio Masalay. Badal categorically said that he saw them shooting at the victims, for he was near them. He recalled that the brothers had a contest as to who had the most number of kills. Those who joined the contest were Bahnarin, Datu Kanor, Kudza Masukat, Datu Pandag, Datu Moning, and many others. In open court, the witness identified Datu Ulo and Datu Ipi.

For this direct testimony, Badal was subjected to cross examination on December 12, 2013. He said that his functions as a vice mayor of Sultan Sabarongis included presiding officer duties, as well as all other tasks that Datu Andal, Sr. asked him to do.

He presides the meeting four (4) times a month, every Monday. They start at 8:00 a.m., but sometimes, if Datu Andal, Sr. had asked him to do something, they start at 10:00 a.m. As a vice mayor, he receives a salary of more than ₱30,000.00. He has two (2) wives, with eight (8) and two (2) children from them, respectively.

When he went into hiding, life had been hard for him. He had enemies coming from the victims' families, from the people deprived of their lands, and from the government. He also had limited access to food. His wife left and stayed at her relatives' place. Then, his children stopped going to school, and had to be separated from one another. Both of his wives stopped working.

As regards his affidavit, the witness maintained that the meeting on July 20, 2009, both at the Office of the DND and at the Century Park Hotel, were not mentioned in his sworn statement. The affidavit also contained no narration about Datu Ulo and Datu Ipi attending a meeting on November 16, 2009. The witness clarified that the two (2) accused were not present during the meeting on November 16, 2009.

The witness illustrated that his checkpoint at Sitio Bente Kwatro, Brgy. Mata, Datu Unsay Municipality was more than two (2) kilometers from the Ampatuan Municipality. By locational order, Datu Unsay Municipality comes first, and after one kilometer is Shariff Aguak; around three (3) kilometers thereafter is Ampatuan Municipality.

Badal was subjected to redirect examination on December 12, 2013. He disclaimed that Datu Ulo and Datu Ipi attended the meeting on November 16, 2009.

He decided to hide because he knew that he would be included in the cases. And after five (5) months of hiding, he tried to find a connection with Secretary Leila de Lima in order that he may tell the truth about the alleged massacre.

On re-cross examination on December 12, 2013, he said that he was not able to correct November 16, 2009 as the purported date that Datu Ulo and Datu Ipi allegedly attended the meeting.

Sukarno Badal was recalled to the stand to present additional direct testimony on May 21, 2014. He said that since they were young, he already knew accused Tammy Talembo or Talembo Masukat. According to the witness, the accused was one of the commanders of the CVOs in these cases; and a CVO commander waits for directives from bosses like Datu Unsay, which directives he will then instruct to his personnel.

Badal pointed at the accused in open court and described him as fat. The accused identified himself as Talembo Abdulrakman. The witness asserted that Talembo Abdulrakman, Talembo Masukat, Talembo Abotasil, and Talembo Ampatuan all refer to the same person.

According to the witness, Talembo Masukat attended the meeting on July 20, 2009 at Century Park Hotel. On the date of the alleged incident, November 23, 2009, Talembo Masukat was in Crossing Saniag, fully armed, and waiting for the Mangudadatu convoy.

When the convoy arrived at about 9:30 a.m., the road in Crossing Saniag was closed with the use of *Sangguko*. Then, the group, to which the witness belonged, proceeded to Crossing Malating. At that time, the witness and Talembo Masukat were just beside each other. Talembo Masukat was also with them at the time when the passengers of the convoy were asked to alight from the vehicles; when they proceeded to the mountain of Masalay; when the victims were allegedly being killed; and at the time they went to Datu Hoffer Municipality. The witness even stated that Talembo Masukat was one of those who joined the contest of who had the most number of victims killed from the Mangudadatu side.

Apart from Talembo Masukat, the witness identified accused Insp. Mukamad in open court. Badal claimed that the accused was one of those discussing the establishment of checkpoints and had actually been stationed in Malating.

According to the witness, the accused arrived at Crossing Saniag 10 minutes after the former's arrival. Insp. Mukamad was then accompanied by PO1 Warden Legawan. At this point of his testimony, Sukarno Badal identified accused PO1 Warden Legawan in open court.

The witness further narrated that Insp. Mukamad boarded the vehicle of Datu Unsay when they were to proceed from Crossing Saniag to Crossing Malating. PO1 Warden Legawan also followed aboard his vehicle.

Upon arrival at Crossing Malating, Insp. Mukamad joined Datu Unsay in pointing their guns at the victims. The accused had these people lie prostrate to the ground. Then, when Datu Unsay and the rest of the convoy went up the mountain of Masalay, Insp. Mukamad still joined the group and boarded the vehicle of Datu Unsay.

At the mountain of Masalay, Insp. Mukamad allegedly joined in the shooting of the victims. The witness, however, did not notice the whereabouts of PO1 Warden Legawan given the number of vehicles at that time.

As regards Talembo Masukat, the witness claimed that the boss of the accused was Akmad "Tato" Ampatuan.

On cross-examination, the witness said that he has no association with the police officers in the Regional Police Mobile Group and Police Provincial Mobile Group of Maguindanao. But he knew the police officers because he frequently saw them at the house of Datu Andal asking for money. However, he did not know their ranks, but only that they were police officers.

On November 21, 2009, he left his house after 12:00 p.m. and went to the house of Datu Unsay at Shariff Aguak to attend a meeting at 2:00 p.m. According to him, that meeting was attended by "Insp. Mukamad, Major Dicay, Commander Kagi Nasser, Commander Katorse, Commander Cuatro, Commander Umpag, Commander Boy, Tammy Talembo," and many others.

The meeting was limited only to the discussion on the checkpoints to be installed along the national highway of Maguindanao. Thereafter, the police officers were already deployed, as in the case of Insp. Mukamad

who was deployed to Sitio Malating. The witness claimed that he was not close with the accused Insp. Mukamad. He just happened to see him.

The witness was stationed at Brgy. Bente Kwatro. He did not know where the stations of the 1507th and 1508th PMGs were located. But in Malating, he knew that Insp. Mukamad and Major Dicay were there. Malating is about eight (8) kilometers away from his station at Brgy. Bente Kwatro.

The witness clarified that on November 23, 2009, he arrived before 8:00 a.m. at Crossing Saniag aboard a blue top down. Upon arrival, he already saw Datu Unsay with his group. The witness stayed where Datu Unsay was seated. An hour later, the convoy of the Mangudadatus arrived, which they followed after.

At that moment, the convoy was halted by the police officers located about one (1) kilometer from Crossing Saniag. Then, their group also stopped. He saw this event, notwithstanding that the national highway is zigzag as the area was an open terrain.

On continuation of his cross-examination on June 05, 2014, Badal affirmed that he saw Insp. Mukamad on November 16, 2009 at the house of Datu Unsay. The witness said that he had known the accused in 2009, because at that time, Insp. Mukamad was a trusted person who brought in the quota for police officers.

Anent accused Tammy Talembo, the witness maintained that he knew the accused for they grew together since they were young, and that their residents were next to each other. However, the witness did not know the names of the accused' parents and siblings, as well as the exact residence of Tammy Talembo.

Badal mentioned that Tammy Talembo attended not only the meeting on July 20, 2009 at the Century Park Hotel; but also the meeting at the house of Datu Unsay at No. 33, Shariff Aguak; and that during the actual implementation on November 23, 2009, Tammy Talembo was present. However, despite knowing Tammy Talembo, he failed to mention his name with respect to the meetings during his initial testimonies before this court; and that he only referred to the accused when he narrated about the incident of the accused looking for a vehicle for Datu Unsay after the alleged killing on November 23, 2009.

The witness affirmed that Talembo Abdulrakman was a councilor of the Sangguniang Bayan of Mamasapano. In running for that position, the accused never used the name Tammy Masukat, Talembo Abotasil, or Talembo Ampatuan.

The witness said that he used to go after the members of the MILF, for this group was an enemy of the Ampatuan family but he nevertheless knew that Talembo Abdulrakman was a member of the MILF.

As regards the meeting on November 21, 2009 at the house of Datu Unsay at No. 33, Shariff Aguak, the witness maintained that there were many people present, and that he did not see accused PO1 Warden Legawan.

On re-direct examination on June 05, 2014, Badal stated that he failed to mention the name of Talembo Masukat during his testimony on February 14, 2013 because there were a lot of commanders present during the meeting at the Century Park Hotel.

On re-cross examination of Sukarno Badal on June 05, 2014, he maintained that he did not see PO1 Warden Legawan during the meeting at the Century Park Hotel.

On November 11, 2014, Badal identified accused Bong Andal in open court as the one operating the backhoe he saw in the mountain of Masalay.

When cross examined, Badal claimed that he was called a commander for he led the private army of the Ampatuan family. Under his command were 50 men, but during operations, he utilized 300 men.

The Ampatuan family has numerous commanders, which included "Cmdr. Norodin Ampatuan, Cmdr. Datu Kanor Ampatuan, Cmdr. Bedi, Cmdr. Naser Adam, Cmdr. Kempar, Cmdr. Katorse, Cmdr. Kuatro, Cmdr. Abi," and many others.

Badal said that Bong Andal was not one of the commanders. Rather, he was assigned by the provincial government to the machineries and equipment. The accused did not handle guns.

The witness affirmed that Bong Andal was not present during the meeting on July 20, 2009 at the DND. He maintained that Atty. Cynthia Sayadi, Mayor Jack Ampatuan, and Benzar Ampatuan attended the meeting on July 20, 2009 at the Century Park Hotel.

Badal said that there were a lot of other people who attended the said meeting. However, he could not remember their names for there were around 10,000 members of the Ampatuans' private army.

The witness clarified that on July 21, 2009, when the flight was delayed due to the loading of firearms, those who were there were: "Governor Datu Andal Ampatuan, Datu Unsay Ampatuan, Datu Anwar, Mayor of Shariff Aguak Datu Sham, Mayor Datu Saudi of Saudi

Municipality, Mayor Jack, Mama Uy," and many others. He maintained that Bong Andal was not there. Likewise, Bong Andal was not present during the distribution of firearms at the house of Datu Unsay on July 24, 2009.

Badal affirmed the conduct of the meeting on November 16, 2009 in a *purok* at the mansion of Datu Andal, Sr. The meeting at the *purok* may be heard by everyone because it was in an open-air area. The police who were there did not object to the plan. The witness did not report or cause the plan to be entered in a police blotter out of fear that he would be killed. Even if he had previously waged a war against the MILF, he was still afraid because during the plan, the provincial director of the police officers, Major Dicay, was present. Even if the witness knew the secretary of National Defense, he was afraid to leak the plan because at that time, those involved were like presidents, and could do anything they desired.

Anent the three (3) options in filing the COC, the witness clarified that the first option in Manila to be headed by a certain "Akad" or "Maestro" was actually Ulama Akad, a trusted person of Datu Zaldy. Atty. Sayadi and Nori Unas handled the second option.

The witness affirmed that the plan to use a backhoe was already discussed during the meeting on November 16, 2009; but it was never particularized who would drive the backhoe. Bong Andal was not present in that meeting. Those who were present included: "Datu Kanor Ampatuan, Norodin Ampatuan, Sajid Ampatuan, Anwar Ampatuan, Rebecca Ampatuan, Bai Midtimbang Ampatuan, Benzar Ampatuan," and many others.

Badal reiterated that aside from those he mentioned, "Commander Abedin Alamada, Naser Adam, Commander Kempar, Commander Boy, Commander Kuatro, Commander Katorse, Commander Norodin Ampatuan," and many others attended the meeting on November 21, 2009 at the house of Datu Unsay at No. 33, Shariff Aguak. Bong Andal was not there during the meeting.

According to the witness, there were checkpoints that were established even if there was no authorization from the COMELEC. And at that time, the additional checkpoints that were established were in Crossing Saniag, Crossing Malating, Sitio Bente Kwatro, Brgy. Iganagampong Datu Unsay, and Salbo Saudi Ampatuan.

Datu Unsay, Commander Kempar, Commander Boy, Commander Bedi, Commander Kuatro, and many others manned the checkpoint at Crossing Saniag. Bong Andal was not present there. Malating was manned by Major Dicay, Insp. Mukamad, and Datu Kanor Ampatuan.

Bong Andal was not one of the men of Datu Kanor Ampatuan. The witness affirmed that Bong Andal was not in any of the checkpoints.

The witness only saw Bong Andal after the alleged massacre. The latter was purportedly ordered by Datu Unsay to be in Masalay; and when Sukarno Badal left the site, he saw Datu Kanor Ampatuan and his men guarding Bong Andal. The former were armed, while Bong Andal was not.

On redirect examination*,* Badal explained that those who acted like presidents were Datu Andal, Sr. and Datu Zaldy. According to the witness, *"kahit isang text lang, pagdating sa kay Presidente Gloria Arroyo, makarating sila sa Shariff Aguak".*[63]

The witness said that when he saw Bong Andal, he was three (3) meters away from him, but more than one (1) meter in height as the backhoe was elevated compared to the police car that he was riding. Hence, he did not see any firearm from the accused, and only saw the right side of his body up to the waist area.

On re-cross examination*,* the witness clarified that the police car he rode was driving very slowly, and that the backhoe had no coverings on its side when he saw Bong Andal. And at that moment when he saw the accused, the alleged massacre already transpired.

Testimony of Rasul Sangki

When presented on the witness stand on January 13, 2010, RASUL SANGKI [64] testified that he was the vice-mayor of the Ampatuan Municipality since 2007.

In the afternoon of November 19, 2009, while he was in Manila, the witness said that Datu Unsay called him through his cellphone. Through that call, Datu Unsay told him that the latter would deploy his people in the Ampatuan Municipality, for the reason that the Mangudadatus would be passing by the area. He agreed with the instruction.

Upon arrival from Manila on November 20, 2009, he went in the afternoon to Crossing Saniag, per his prior phone conversation with Datu Unsay. He did this for fear that Datu Unsay will get mad at him and his family if he did not obey him.

While in a meeting, Datu Unsay informed him of his plans. Specifically, Datu Unsay told him that "when the Mangudadatus pass by, we will ambush them."[65] Datu Unsay specified that "we will let first the Mangudadatus to enter the vicinity of Malating, and thereafter, we will

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[63] TSN, November 11, 2014, p. 42.
[64] Witness Rasul Sangki testified on January 13, 2010.
[65] TSN, January 13, 2010, p. 25.

ambush them."[66] As for those who were in attendance in that meeting, the witness said that he does not know their names or identities.

On November 23, 2009, at 8:00 a.m., he was at the municipal building of the Ampatuan Municipality for a Sangguniang Bayan meeting but when he arrived thereat, there were no members yet. The meeting did not push through because Cagui Abulais, his uncle, arrived and told him to go to Crossing Saniag and meet Datu Unsay. He thus went to Crossing Saniag aboard a police car Hilux, together with Mohammad, two (2) Sangguniang Bayan members, one (1) driver and three (3) auxiliary members.

At 8:30 a.m., they arrived at Crossing Saniag. Rasul Sangki saw Datu Unsay, Jun Pendatun, Paizal Ampatuan, and Datu Unsay's armed men. He saw firearms like M60, M16, M14, Baby M203, AK407, Bazooka, and K3.

Rasul Sangki recalled that at Crossing Saniag, there were over 50 men of Datu Unsay. He exchanged stories with them and after that, food arrived. In Crossing Saniag, he saw the following vehicles in the vicinity: one (1) *Sangguko,* two (2) black Hilux vehicles, two (2) police cars, and one (1) Hummer vehicle.

Although the witness did not see the plate number of the *Sangguko* which he described to be a big truck colored camou-green fatigue with two (2) 50 caliber and two (2) 30 caliber firearms,[67] to his knowledge, Datu Unsay owned the *Sangguko*, which he saw several times already.

The witness said that after eating, he saw Jun Pendatun leaving the place. After the latter left, he saw that Datu Unsay's nephew, Datu Sham Saudi Ampatuan, arriving at the scene. In Maguindanaon, Datu Unsay conversed with Sham and told him to stay with Ama (Datu Andal, Sr.),[68] while Datu Unsay would just wait for Ama's call.

Thereafter, the witness heard that Major Dicay called through the radio I-Com.[69] From the radio conversation, he heard, as he was just two (2) arms' length away, that the Mangudadatus had already passed the Tacurong round ball (rotunda). Later on, Major Dicay radioed that the Mangudadatus were at the Isulan round ball.

After this radio conversation, Datu Unsay told his people to stay alert; and *"to let the convoy in, and then that was the time that the*

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[66] TSN, January 13, 2010, p. 26.
[67] The court noted a hole in the *Sangguko* picture, which was portrayed by the witness as a 50 caliber firearm.
[68] According to the witness, Ama refers to Datu Andal Amapatuan, Sr. TSN, January 13, 2010, p. 44.
[69] TSN, January 13, 2010. During cross examination, the witness clarified that an I-Com is a Motorolla radio, which is portable and with a thin antenna of about eight (8) or six (6) inches long.

Sangguko will block their path."[70] The witness felt scared as he feared that there might be an exchange of fire.

The witness saw Datu Unsay giving instructions to his people on how to block the convoy with the use of the *Sangguko*. At that time, Rasul Sangki learned that a certain Biton, who was a member of the Philippine National Police (PNP), was there. He narrated that, as ordered by Datu Unsay, Biton would lead the men in Crossing Saniag. During this time, he recalled that Datu Unsay was wearing a white shirt and a pair of *maong* pants and was holding a radio.

Moments later, Major Dicay radioed again and informed that the vehicle in front of the convoy was a black Pajero vehicle, and at the end of the convoy was a car of the DZRH media.

After a while, the convoy of the Mangudadatus passed Crossing Saniag. After which, Datu Unsay called Major Dicay to close Malating because the convoy was already there. Moments later, Rasul Sangki heard the message that the convoy was already blocked. Thereafter, he heard Datu Unsay telling Major Dicay to look for the file of Toto Mangudadatu. Datu Unsay specifically said: "*kunin yan, isarado na yan."*[71]

Thereafter, Rasul Sangki, Datu Unsay, and their group followed for two (2) kilometers to Malating. The witness used his police car, while Datu Unsay and his men used two (2) black Hilux, two (2) police cars, and one (1) Hummer.

Upon arrival at Malating, the witness saw Major Dicay pointing a gun at the people from the convoy of Mangudadatu, who were lying prostrate on the ground. He also saw Major Dicay with some policemen.

When Datu Unsay alighted from the car, Datu Unsay approached the people on the ground and tried to look at their faces as if he was trying to look for someone. Datu Unsay's armed men followed him. They hit the people lying prostrate on the ground and then they looked for cell phones and video cameras from the people on the ground. Major Dicay left and stood at the side.

From among those people lying prostrate on the ground, Rasul Sangki recognized Jimmy Pal-Ak. The latter introduced himself, but one of the men of Datu Unsay hit his back. The witness personally knew Pal-ak as a member of the media who was a regular visitor in his place and who even served as an emcee during his anniversaries.

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[70] TSN, January 13, 2010, p. 45.
[71] TSN, January 13, 2010, p. 49.

Next, Rasul Sangki saw Datu Unsay with Datu Kanor, the former's uncle. He knew Datu Kanor because the latter was one of the trusted people of Datu Andal, Sr.

The two approached the L-300 of the convoy, and then they brought out two (2) women, who were then brought inside the black Revo of Datu Kanor.

Later on in the testimony, the witness identified these women through ***photographs (Exhs. "C" and "C-1.").*** Their names were stated as Bai Eden Mangudadatu and Bai Genalin Mangudadatu.

When the men of Datu Unsay finished looking for cell phones and video cameras, they brought the people lying on the ground back to the L-300 van. While this was happening, Rasul Sangki observed that some of these people were being hit and dragged by Datu Unsay's men, with guns pointed at them. The people were pleading for mercy.

He did not see Datu Unsay during this time, but Rasul Sangki heard two (2) gunshots. Datu Kanor, on the other hand, was inside his Revo; while the witness stayed inside his police car Hilux, which was situated between the Revo and the Hummer.

At that point, Datu Unsay approached him while he was inside his Hilux vehicle. Datu Unsay told the witness to board his vehicle and to join him. Rasul Sangki followed and went inside Datu Unsay's vehicle. Inside the vehicle, he saw cameras belonging to the media, one of which was a UNTV-labeled camera.

Inside the vehicle of Datu Unsay, the witness heard the latter over the I-Com radio saying in Maguindanaon which when translated means: *"Ama, they are already here,"* which was replied by *"You know what to do."* Datu Unsay called again through the I-Com and asked for the convoy to proceed to Masalay. During the trip, Rasul Sangki asked Datu Unsay if they could talk, but the latter replied: *"Wag ka magsalita, pagod na ako."*[72]

Thereafter, their group – the men of Datu Unsay and the people from the convoy – arrived at the mountain. The witness claimed that the location of the mountain was Sitio Masalay, Brgy. Salman.

After reaching Sitio Masalay, the convoy in front stopped; then Datu Unsay alighted from his car. After Datu Unsay alighted, the witness saw that the people from the Mangudadatu convoy were standing in front of Datu Unsay.

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[72] TSN, January 13, 2010, p. 59.

Rasul Sangki alighted from the car. Then, he heard Datu Unsay saying *"walang sasali";* and then Datu Unsay looked at the witness.[73]

Thereafter, Rasul Sangki saw Jimmy Pal-ak being pushed. After seeing that, the witness went at the back of the Hilux and from there, he saw two (2) women coming from the Revo being brought to join Jimmy Pal-ak and the people from the convoy.

The witness heard Jimmy Pal-ak say, "Datu, si Jimmy 'to." Then, one of the men of Datu Unsay hit him. Datu Unsay, at that time was beside Pal-ak. He did not see though the reaction of Datu Unsay because at that time, he was at the back of the Hilux.

When the two (2) women arrived to where Pal-ak was, the witness heard gun shots. And according to the witness, people were gunned down together with the two (2) women, including Jimmy Pal-ak. The witness said that Datu Unsay himself shot Jimmy Pal-ak and the two (2) women using a Baby M203. While Datu Kanor fired at the remaining members of the convoy using a K3. The rest of the armed men had AK47, M60, K3, and M16.

Before they were shot, the people were pleading and the women were screaming. Then, the persons who were shot fell. But despite this, they were brought to Datu Unsay who again fired shots at those people who were already dead. Datu Kanor also repeatedly fired shots at the people who were already gunned down.

Aside from Datu Unsay and Kanor, the witness also saw Badal Uka,[74] Datu Mama Ampatuan,[75] Datu Peru, and Datu Ban[76] firing at the victims. They used Baby M16, AK47, M16, and Baby M203, respectively. The rest of the armed group did the "finishing." They again shot the dead bodies to assure that nobody will survive. [77]

He also noticed that there were women still alive inside the tinted L-300 van. He, however, did not see what these women were doing because Datu Unsay called him.

After Datu Unsay fired shots at the bodies, the latter called the witness and instructed him to go back to Sitio Malating and tell the people there that "they did not see and did not hear anything."[78] And as the witness was leaving the place, he saw a backhoe proceeding to the place of the incident.

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[73] TSN, January 13, 2010, p. 61.
[74] The witness knew him as the vice mayor of Sultan Sabarongis.
[75] The witness knew him as the brother of Datu Kanor.
[76] The witness knew that his full name is Datu Bahnarin Ampatuan and that he is the nephew of Datu Unsay; also the brother-in-law of the witness, being his sister's husband.
[77] TSN, January 13, 2010, p. 66.
[78] TSN, January 13, 2010, p. 68.

The backhoe, which was yellow, had markings which read "Province of Maguindanao, Datu Andal Ampatuan, Sr."[79] He also saw the backhoe's driver whom he described as having a fair skin, round face, and tall body, but cannot identify him.

In open court, Rasul Sangki made a ***sketch (Exh. D)*** of the location of Crossing Saniag, Malating, and Masalay.

He identified (by putting marks and shapes) the following milestones: (Second Page) (1) in Crossing Saniag, in a hut where he met Datu Unsay in the afternoon of November 20, 2009; (2) the parking spot of the Sangguko on even date; (3) the parking spots of Datu Unsay's vehicles and his own vehicle on November 23, 2009; (4) where Mangudadatu's convoy stopped along the highway; (5) where Major Dicay pointed a firearm to the people lying prostrate on the ground; (6) the location of the armed men when the Mangudadatu convoy stopped; (7) the location of Datu Unsay's vehicles as they appeared in Malating after the convoy was stopped; (8) the location of the houses along Malating; (9) the road towards the mountains of Masalay; (First Page) (10) where Datu Unsay and his companions shot the people from the convoy; (11) where he saw the backhoe (see "Baku"); (12) location of the vehicles of the convoy and Datu Unsay's group (see "FX DGRH", "Revo", "Hilux", "Convoy Mangudadatu", "Pajero Type") at the time that the people were shot; and (13) the location of Datu Unsay, Datu Kanor and the witness at the time the people were shot.

For purposes of his testimony, Rasul Sangki executed a ***Sworn Statement (Exh. "B-2").*** Aside from those matters he stated in the direct testimony, he also made several statements in his sworn statement.

Rasul Sangki stated that as early as November 19, 2009, a checkpoint was already established by the armed men of Major Dicay, which was manned by one regular PNP Biton. There were about 20 to 30 armed men of Major Dicay manning the checkpoint, aside from the armed men of Datu Unsay.

On November 20, 2009, at 3:30 p.m., during the meeting, Datu Unsay asked the witness whether his men were ready. Then, the former instructed him to secure the detachment fronting the municipal hall of Ampatuan, Maguindanao, which was actually a regular PNP checkpoint that has long been established.

The witness recalled that from November 19 to 23, 2009, Datu Unsay and his men were frequenting the area of the witness. Their vehicles were passing by back and forth.

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[79] Id.

Moreover, Rasul Sangki mentioned that on November 23, 2009, Major Dicay radioed to Datu Unsay that the convoy of Mangudadatu was not armed; and that most of the passengers were women.

The witness also mentioned that from Sitio Masalay, he went back to Malating, which has a distance of more or less three (3) kilometers. And on the way, he heard gunshots and saw a backhoe coming. He recalled that when he left, he saw some vans, a kind of Pajero, a Tamaraw FX, a car, and many others. When he reached Malating, he saw several people evacuating; but he calmed the people down and asked them to return to their homes. In Malating, he also saw some blocking forces along the highway leading to Sitio Masalay, a number of police patrol cars, and armed men scattered along the shoulder of the highway.

On cross-examination on January 13, 2010, the witness said that he is related to the Mangudadatus: the Mangudadatu brothers are siblings with his aunt's husband, Governor Teng Sukarno Mangudadatu of Sultan Kudarat.

The witness confirmed the execution of his affidavit, its contents, as well as his direct testimony given in open court.

Rasul Sangki explained that after Tacurong, the next municipality is Elpidio Quirino, followed by Isulan, then Esperanza, then Datu Abdullah Sangki, and finally, Ampatuan Municipality. Hence, from Tacurong City to Ampatuan Municipality, a vehicle running at a speed of 60 to 70 kilometers per hour will take 15 or 17 minutes from Tacurong to Ampatuan; and from Isulan Round Ball to Crossing Saniag, 10 minutes. Hence, as an estimate, Tacurong to Ampatuan Municipality is 10 kilometers apart; and Isulan round ball to Ampatuan Municipality is about seven (7) kilometers apart.

When asked about the armed men along the side of the road, at that time when Unsay asked him to join him in the vehicle, the witness said that they were "auxiliary." Rasul Sangki did not state that they were CVOs or members of the regular PNP. But those men accompanying Major Dicay at the Malating checkpoint are police officers because they had name strips saying PNP. He even remembered reading one name plate as "Inquid."

According to Rasul Sangki, the distance between the intersection of the highway entering Sitio Masalay and where the incident took place is about three (3) kilometers away, made of rough road going up and down.

He never told anyone about the plans of Datu Unsay to ambush persons, which were relayed to him on November 20, 2009. He did nothing to prevent the incident on November 23, 2009, despite being one

of the leaders in his municipality. He also did not report anything to the authorities while the massacre transpired. And even if some members of the Ampatuans were jailed at that time, he still did not report his knowledge of the incident to the authorities.

On re-direct examination, Rasul Sangki explained that he was afraid and that was why he did not report the incident to the authorities. Specifically, he does not trust the law and he fears that they may get involved, especially that *"PNP at military, sa kanila po yun."*[80]

Testimony of Norodin Mauyag

When presented on the witness stand on September 29, 2010, NORODIN MAUYAG[81] testified that he worked as a farmer and as a construction worker. He and his family resided at Sitio Malating, Barangay Salman, Ampatuan, Maguindanao since 2004. Sitio Malating covered two (2) hectares of land and housed many families. Coming from General Santos to Cotabato, their house was situated along the left side of the highway.

On November 20, 2009, at around 11:00 a.m., the witness was in his residence preparing to go to the mosque. He only had to walk to go to the mosque since it was just 100 meters from his house. He was accompanied by his father and six (6) of his neighbors.

On their way, the witness observed that there were three (3) police cars, the hoods of which have label "Police Parang", occupied by police officers. These were parked along the national highway in front of the *madrasa,* which is a school, near the mosque, and facing Sultan Kudarat. One (1) of the vehicles was a camouflage multicab, and the rest were pick-ups.

He also saw that there were about 30 police officers scattered around the vehicles. Some of them stood in front of the house of Kabilan Malagianon, a person from Sitio Malating. They carried long firearms, such as armalite, M14, M203, and M16. They wore bullets across their body. They were also in different uniforms (CVO, auxiliary unit, CAFGU).

At around 12:00 p.m., they reached the mosque and prayed for 30 minutes. The witness then returned to his abode. While walking, he noticed that the two (2) police vehicles were gone and only the camouflage multicab with the label "Police Parang" remained.

He also had the chance to observe the *purok,* a small house, where there were 20 armed men said to be the men of Datu Kanor Ampatuan

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[80] TSN, January 13, 2010, p. 162.
[81] Witness Norodin Mauyag testified on September 29, 2010, October 06, 2010, September 07 and 29, 2011, December 03, 2014, January 08 and 14, 2015.

based on what he heard from the conversation of his neighbors who accompanied him, Guiapal and Makmoud.

Subsequently, Datu Kanor Ampatuan with armed men arrived aboard a red pick-up which came from the Cotabato way. The witness could identify Datu Kanor Ampatuan for he once sold *palay* to him, and that he had a reputation to be *siga* or tough in their place. Whenever Datu Kanor and his many escorts pass by, the people would usually make way for him, according to the witness.

Within five (5) meters, the witness saw Datu Kanor Ampatuan approaching his men and telling them that: *"be prepared, we position ourselves because when the men of Mangudadatu pass, we will shoot them; those who have many children in Malating should leave first and those who refuse should also leave."* [82]

Subsequently, the witness went home. He informed his household that Datu Kanor Ampatuan would shoot the Mangudadatus as they pass. They were frightened. His mother suggested that they relocate to his house in the mountains situated 1,000 meters away.

By afternoon, Norodin Mauyag was still in Sitio Malating, going around the neighborhood, and observing what was happening. He noticed that there were 60 armed men in the area who carried long firearms such as M14s, armalites, M16s, M203s, and many machine guns. By nighttime, he slept in his house in Sitio Malating.

On November 21, 2009, the witness remained in Sitio Malating. He observed that the number of armed men swelled such that he could not count them anymore.[83]

By 10:00 a.m., Mauyag saw the arrival of Datu Kanor Ampatuan in a pick-up, which came from the direction of Maganay (*sic*), Shariff Aguak. The latter distributed food, rice, and dried fish to the armed men who in turn gave them some dried fish.

Thereafter, Datu Kanor Ampatuan called the residents of Sitio Malating and announced that those who have houses and many children must leave their residences because when the Mangudadatu would pass by, they would shoot them even if they were with soldiers. The witness heard all of this for he was three (3) meters away from Datu Kanor Ampatuan.

Consequently, Norodin Mauyag went home, and told his wife that they would go to the mountains with the children. He proceeded to their

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[82] TSN, September 29, 2010, p. 189.
[83] TSN (Vol. 4), dated 29 September 2010, p. 192.

house in the mountains and stayed for a while. Later, the witness returned to Sitio Malating to safe keep their belongings.

On November 22, 2009, at around 8:00 a.m., a police officer went to the witness' house, and inquired if he had a rooster to sell. Subsequently, when the former returned, he was accompanied by an officer wearing a uniform labeled as "Dicay." He identified accused Major Dicay in person and through a ***photograph (Exh. "B-14-A" or "K")***.

Mauyag roamed around the neighborhood of Sitio Malating in the afternoon. He observed that the armed men with Datu Kanor were increasing. The latter was going around the area and checking his armed men with guns and bullets around their bodies.

The witness recalled that these armed men wore the uniforms of CAFGU, Auxiliary Unit, CVO and police. The uniforms were camouflage, blue, and black with "CVO" printed on it. In open court, the witness identified two pieces of ***uniform (Exh. "Quintuple W")*** as a similar camouflage uniform (colored brown, green, blue, gray, flesh) which was worn by those armed persons he saw in the afternoon of November 22, 2009.

On November 23, 2009, at around 8:00 a.m., the witness was three (3) meters away from the *purok*, and about six (6) meters from the national highway. Together with him were his neighbors Guiapal, Anzari, and Makmoud. He observed that a checkpoint was put near the *purok*, at the middle of the road. Specifically, the checkpoint had filled sacks and a signboard, in two (2) arms length, that reads "checkpoint, full stop."

The witness saw that at the checkpoint, there were numerous policemen. As for armed men who carried long firearms and bullets around their bodies, there were around 100 of them. The armed men were stopping trucks and vehicles coming from Sultan Kudarat. They were asking people on board to alight, checking them and frisking them one by one.

Mauyag was three (3) meters away from Datu Kanor Ampatuan when he sighted the latter calling through his I-Com radio and talking to somebody. He also heard Datu Kanor telling the person from the other line that: *"maghanda kayo, parating na yung hinihintay natin."*[84] Datu Kanor also uttered: *"yes, Datu, yes Datu."*[85]

Thereafter, Mauyag saw Datu Kanor calling his armed men to prepare and to dress up in auxiliary uniform as they will merge themselves with the C.O. In their locality, C.O. means the one who stops and frisks people. The witness further heard that Datu Kanor, who was then with

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[84] TSN, October 06, 2010, p. 37.
[85] TSN, October 06, 2010, p. 43.

Major Dicay, ordered the men to prepare because the people who would arrive were women.

Then, Mauyag saw Datu Kanor and Major Dicay took their designated places. Thereafter, trucks[86] coming from Sultan Kudarat arrived. Datu Kanor Ampatuan and Major Dicay proceeded to stop the trucks with the use of their hands – Datu Kanor even uttered "*para*." [87] In open court, the witness demonstrated how both Datu Kanor and Major Dicay, who were both armed, halted the trucks: he raised his hand to stop the car, and then signalled the vehicle to move aside.

A total of about eight (8) trucks stopped. These were four (4) colored white, black, red, blue and one (1) with a marking of UNTV.

When the trucks stopped, Datu Kanor approached and asked them where they were going. Thereafter, he called his people and told them that these were the people they were waiting for. The armed men immediately approached the trucks, some of them were running, and they struck, kicked, and pointed firearms at the trucks.

Then, the armed men of Datu Kanor took the cell phones, shoulder bags, and cameras from the people on board the trucks that they stopped and asked the people to alight from the vehicles. They herded the passengers in front of the canteen of a certain Kerem (the wife of Kagawad Noh Akil, a witness in these cases) located along the road near the checkpoint.

More than 50 passengers were herded in front of Kerem's canteen. He recognized them through ***photographs (Exhs. "Quintuple X-2", "Quintuple X-4", "Quintuple X-5", and "Quintuple X-6").*** These people look scared because the men of Datu Kanor, CAFGU, CVO members, and police officers, were pointing firearms at them.

The witness next saw Datu Kanor Ampatuan using his I-Com for about five (5) minutes. Subsequently, 10 vehicles of Datu Unsay coming from Sultan Kudarat arrived. The witness knew Datu Unsay as Datu Andal Ampatuan, Jr., who is the son of Datu Andal Ampatuan, Sr., a leader and mayor of his town, whom he saw several times at the Shariff Aguak market. Subsequently, the parties stipulated that the witness could identify the accused Datu Unsay.

Datu Unsay was in a black vehicle, followed by police cars. And at the end of the convoy was a Hummer where the 50-caliber firearm was located. Said vehicles stopped at the checkpoint.

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[86] Truck means vehicle according to the Maguindanaon translator, Atty. Rolando T. Abo; TSN October 06, 2010, p. 69.
[87] TSN (Vol. 5), dated October 06, 2010, p. 48.

Datu Unsay alighted from his vehicle and went to the herd. He pointed his gun at them and shouted, *"dapa."*[88] The people obeyed. Then, Datu Unsay asked his men to check whether these persons still had their cell phones with them. Three (3) armed men approached the people and bodily frisked them. Thereafter, one of those who frisked said, *"No more, Datu."*[89]

Then, Datu Unsay asked the people to stand up. He then shouted in Maguindanaon which when translated in tagalog means, *"tayo, mga matitigas ang ulo nyo."*[90] The people stood up and cried. They were crying, shouting and asking *"bakit nyo kami ginaganito."*[91]

Datu Unsay further asked who among the crowd was a Mangudadatu. He then went at the middle and grabbed a fair-complexioned lady, who was also tall and beautiful. The lady wore pants and a *hijab*, which was not covering her face. He identified the lady through the ***photograph of Bai Genalin Mangudadatu (Exh. "Quintuple X-1").***

In demonstrating this scene, Datu Unsay appeared to have pulled the lady's right hand with his left hand while his right hand held the trigger of a firearm. The lady then said to Datu Unsay: *"Datu, we are not going to fight because we are women."* Datu Unsay slapped the lady. He said: *"you are stubborn, you are not coming along, I will shoot you, I will kill you now."*[92] The lady cried.

Moments later, Datu Unsay shot the lady between her legs. Then, he pulled her and boarded her in a vehicle. While this happened, the armed men simultaneously hit the herded people with the butt of their firearms, punched, kicked, knocked their head, and slapped them. The people cried, and there were girls who asked not to involve them because they were media members. The hitting lasted for three (3) minutes. All this time, the witness was just seven (7) meters away from the herded people.[93]

Subsequently, the witness saw Datu Kanor getting a lady from the herded people and bringing her to his vehicle, a red pick-up. The lady wore pants, but the witness cannot remember her upper garment. He identified the lady through a ***photograph of Ella Balayman (Exh. "Quintuple X-3").***

The witness saw that the people from the herd were boarded in the vehicles. The witness noticed that from the herd, three (3) men were

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[88] TSN, October 06, 2010, p. 78.
[89] TSN, October 06, 2010, p. 84.
[90] TSN, October 06, 2010, pp. 84 and 86.
[91] TSN, October 06, 2010, p. 88.
[92] TSN, October 06, 2010, p. 96.
[93] TSN (Vol. 5), dated October 06, 2010, p. 112.

brought to another pick-up. He identified one of these captured men through a ***photograph (Exh. "Quintuple X-4").*** The men of Datu Unsay and Datu Kanor kicked the men using their tropical shoes with pointed sole, and one of them pointed his caliber 45 to the captured men.

After the passengers were made to board the vehicles, Mauyag saw Datu Unsay using an I-Com for about 10 minutes; after which, he gave instruction to his men to remove the checkpoint. The men removed the checkpoint and the signage. The herded people in front of Kerem's canteen were boarded to their vehicles. All of them left and headed towards the direction of Shariff Aguak.

Mauyag also left the scene, ate, and rested for a while. He then went out to go to the mountains in order to fetch his family members. By that time, he heard loud and successive gunshots coming from the mountains which lasted for 20 minutes. He also saw his neighbor, Rasul, who uttered: *"may nagbabarilan na doon sa bundok."*[94] The witness hurried to the mountains, and upon arrival to their house, his wife told him that *"nagkakabarilan na dyan sa bundok."*[95]

Thereafter, Mauyag went back to Sitio Malating, and in the *purok*, he met Sarida, the wife of Rasul. She told him that they saw a backhoe heading towards the mountain. He and Nhot, the nephew of witness Noh Akil, went to a hilly portion and checked the backhoe. Standing 1,000 meters away, he saw the backhoe in the elevated portion heading towards the mountain.

In open court, Norodin Mauyag made a ***sketch (Exh. "Nona H")*** of the landmarks of his testimony in Sitio Malating. *Specifically, his sketch contained the location of the following: (1) witness' house, (2) mosque, (3) madrasa, (4) the police cars and (5) the armed men he saw on November 20, 2009, (6) purok, (7) witness' house in the mountain, (8) the witness' situs in Sitio Malating near the checkpoint on November 23, 2009, (9) Malating checkpoint, (10) armed men at the Malating checkpoint on November 23, 2009, (11) the position of Datu Kanor near the checkpoint on November 23, 2009, (12) the position of Major Dicay near the checkpoint on November 23, 2009, (13) the trucks that stopped on November 23, 2009, (14) the canteen of Kerem, (15) the herded people in front of Kerem's canteen, (16) the trucks after Datu Kanor Ampatuan had them transferred, (17) where the vehicles of Datu Unsay stopped, (18) the Hummer, (19) backhoe, and (20) the witness' location when he saw the backhoe.*

The witness mentioned that it was only on November 23, 2009, at about 8:00 a.m., that he saw the checkpoint already set-up. He was never part of those who set-up the checkpoint for he is a civilian.

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[94] TSN (Vol. 5), dated October 06, 2010, p. 125.
[95] TSN (Vol. 5), dated October 06, 2010, p. 125.

At the time that he saw Datu Unsay on November 23, 2009, the latter was not wearing eyeglasses or shades; but he had a cowboy like hat. On even date, when he was near the checkpoint with numerous armed men, he did not leave his place. But after the group of Datu Unsay left the checkpoint in Sitio Malating, there were no more armed men or police officers left at the area.

Norodin Mauyag was recalled on September 07, 2011. As regards the armed men who he saw in Sitio Malating, he identified Taya Bangkulat, Salik Bangkulat, and Major Dicay. He sighted the first two while they were taking a bath. He saw them on November 22 to 23, 2009. They were then armed and wore CAFGU uniforms. Their guns were an armalite and M14, while their companions carried M203s. As for Major Dicay, he saw the latter when the officer bought his chicken. He also remembered the accused conducting a C.O. on November 23, 2009. At that time, Major Dicay was wearing a police uniform and was carrying a firearm.

On December 03, 2014, Mauyag was recalled. He testified seeing armed men on November 20, 2009 at Crossing Malating, such as Abedin Alamada and Bimbo Salazar Piang. The witness likewise saw said men on November 23, 2009 together with Datu Ulo Ampatuan.

Specifically, he sighted Abedin Alamada, together with Datu Unsay, who was beating the women on November 23, 2009. He saw Bimbo Salazar Piang standing at the highway looking at the women being beaten. As for Datu Ulo Ampatuan, he was seen by the witness in the morning together with Datu Unsay, beating the women who were ambushed in Sitio Malating. He remembered that Datu Ulo Ampatuan utilized a long firearm to beat the women at that time.

On cross examination on January 08 and 14, 2015, the witness testified among others, that on November 23, 2009, he saw Datu Ulo Ampatuan together with Datu Unsay. They passed by for a while and went to Crossing Saniag early in the morning, at about 7:00 a.m. They came almost simultaneously because their vehicles arrived at the same time. On the other hand, Datu Kanor Ampatuan was already posted there for several days. Datu Ulo Ampatuan and Datu Unsay stayed for about seven (7) minutes, and during that period, Datu Unsay gave orders to Datu Kanor Ampatuan. The latter was ordered to strengthen his forces while waiting for the convoy.

Testimony of Abdul Satar Maliwawaw

When presented on the witness stand on August 31, 2011, ABDUL SATAR MALIWAWAW[96] testified that he was a farmer who tilled his farm in Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao. He then brings the harvest to Shariff Aguak on harvest day, which was every Monday.

On November 21, 2009, along the crossing of Barangay Salman, Maliwawaw saw armed men conducting checkpoint operations. They were also cooking under a tree. On November 23, 2009, Monday, at 7:00 a.m., he was at the side of the highway of Sitio Masalay called "Crossing Sitio Masalay" as he had to deliver his harvest to the Shariff Aguak Market. While thereat, he observed that there were many armed men and vehicles that passed. He also saw Datu Unsay giving instructions for the armed men to "get ready because the convoy of Mangudadatu will pass."[97]

He saw that some of the men, who were carrying firearms such as M14, M16, and M60 wearing fatigues, camouflage uniforms, and police uniforms at the highway, were standing by the road and were conducting checkpoint operations. During this time, he saw Datu Unsay already standing beside his car, which was beside the highway. Aside from the latter's car, he also saw other vehicles, like pick up and police cars.

Subsequently, the witness went home, and arrived thereat at 8 a.m. It took him 30 minutes of walking to reach his house at Sitio Masalay as he had to go up and down the hilly portion. While taking care of his children, Maliwawaw noticed that many vehicles with armed men passed by the highway at very high speed even if the road was rough. These vehicles were headed towards the mountain, up land to Sitio Masalay, Brgy. Salman. For him, there was a warlike situation because of the many vehicles that passed with armed men on board.

Thereafter, the witness saw a backhoe heading towards the *"dun sa putukan."*[98] The shots he heard which got him scared lasted for more than an hour. When the witness' wife who came from the marketplace arrived at at 11 a.m., they evacuated. Many others from the upland joined them, such as Jainal and Ustadz Anok.

When asked to identify the armed men, the witness pointed to PO1 Herich Amaba and Misuari Ampatuan. He also identified Datu Unsay in open court.

At the scheduled cross examination on September 01, 2011, the witness was not cross examined because the defense refused to do

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[96] Witness Abdul Satar Maliwawaw testified on August 31, 2011.
[97] TSN, August 31, 2011, p. 109.
[98] TSN, August 31, 2011, p. 119. The witness described the *putukan* by mimicking its sounds.

so on the ground that Maliwawaw was not included as a witness in the Pre-Trial Order.[99]

Testimony of Akmad Abubakar Esmael

AKMAD ABUBAKAR ESMAEL[100] was presented on October 20, 2010. He testified that he was a farmer who resided for more than three (3) years in Sitio Masalay, Barangay Salman, Ampatuan Maguindanao which is near the highway of Isulan to Cotabato City. When asked where exactly in Sitio Masalay did the killing transpire, the witness answered, "near my house."[101]

He also testified that on November 23, 2009, at around 10:00 a.m., he gathered his harvested corn to be brought to the mill owned by a certain Jainal Jamaloden. The cornmill is near the place where he worked, which was near his house.

At this juncture, the witness prepared a ***sketch (Exh. "Nona I")***, in open court, on the location of the following: his house, his farm lot, the cornmill, the Isulan – Cotabato highway, the alleged site where the killing took place, and his exact location at the time of killing.

According to the witness, the distance of the site of the killing from the highway going up was approximately three (3) kilometers apart; the distance between his house and the site was more or less 200 meters; the distance between his exact location when he witnessed the killing and the killing site was about 20 meters; and the distance between the cornmill and the killing site was also the same estimate of 20 meters.

The witness described that the site was on higher ground compared to his house; and also higher than the junction/crossing where the road leading to the Isulan-Cotabato highway meets the highway road; and in addition, the road towards the site was not cemented, a rough road of about five (5) to six (6) meters wide. There were several houses in the mountains of Sitio Masalay where he lived but these were far from his house.

Esmael recalled that the killing incident started with 30 vehicles arriving at the site consisted of black pick-up, several vans, colored white and colored black, and a new red car. There were armed men on board wearing military uniforms. They carried long firearms, round magazine with tripod, and long magazine. To his surprise, it was the witness' first time to see many armed men and vehicles in the vicinity, and so he stopped.

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[99] TSN, September 01, 2011, p. 20.
[100] Witness Akmad Abubakar Esmael testified on October 20, 2010; July 06 and 13, 2011; August 07, 2013; October 16 and 17, 2013.
[101] TSN, October 20, 2010, p. 29.

The armed men numbered around 100. The color of the uniform they wore was akin to the color of a lizard, the color of the military uniform. At this juncture, the witness identified in open court the ***camouflage uniform, consisting of upper and lower garments (Exh. Quintuple "W")***.

When the vehicles reached the site, they stopped. The witness then marked the sketch where the first vehicle stopped. He observed that after the first vehicle stopped at the site, the rest also stopped. The witness then indicated and marked in the sketch the tailend of the line of vehicles, which was near the house of Jainal. He remembered that among those vehicles that stopped were the UNTV vehicle and a red car, which the witness marked on the sketch.

After those vehicles stopped, Datu Unsay alighted from the aformentioned first vehicle. The witness stated that he could identify Datu Unsay because he was the mayor of Datu Unsay Municipality, and since he saw him before in the market where he sold bananas. At this point, the parties stipulated that the witness could identify the said accused.

The witness claimed that Datu Unsay wore a jacket, a chaleco, an American hat and gloves; he carried a long firearm with a tripod and a round magazine with cloth wrapping colored like that of the ***camouflage uniform, (Exh. "Quintuple W")***.

Thereupon, Esmael heard Datu Unsay shouting to his men: *"huminto na kayo diyan lahat, hanggang dito na lang tayo."*[102] Then he shouted again and said *"pababain na ninyo sila lahat, pababain na ninyo sila lahat."*[103] Subsequently, more than 20 civilian men and women who were unarmed were ordered by Datu Unsay to alight from white and black vans, UNTV van, and red car. After they alighted, they stood beside the vehicles. Then, Datu Unsay shouted *"dapa."*[104] Following this, the people lied prostrate on the ground. The witness identified the location of these people in the sketch and marked the said location near the words "pinatay na mga tao."

When the people were already lying prostrate on the ground, Datu Unsay instructed his men, and then he said *"fire."*[105]At that moment, his armed men fired at the people. Datu Unsay and his armed men shot more than 20 persons.

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[102] TSN, October 20, 2010, p. 62.
[103] TSN, October 20, 2010, p. 63.
[104] TSN, October 20, 2010, p. 65.
[105] TSN, October 20, 2010, p. 67.

The victims cried and asked mercy from Datu Unsay. The witness heard them say *"maawa naman kayo sa amin, Datu," "maawa naman kayo sa amin, Datu, maawa naman kayo sa amin, Datu, huwag nyo po kami papatayin," "maawa naman kayo sa amin, Datu, wala kaming kasalanan".* [106]

At more than 20 meters away, he observed that the people continuously begged, but their pleas fell on deaf ears. From where he stood, he could identify some of the victims. The witness identified three (3) of the alleged victims when their ***photographs (Exhs. "Quintuple X-7" of Rowena Ante, "Quintuple X-8" and "Quintuple X-9")*** were shown in open court. Based on the recollection of the witness, the victim in "Quintuple X-7" was a female whom Datu Unsay and his men shot at, which the witness saw for he was about two and a half (2.5) meters away; the victim in "Quintuple X-8", male, had been shot on his mouth with a use of a long firearm, which the witness saw for he was about two (2) meters away; and the victim in "Quintiple X-9", male, had beed shot on the different parts of his body by two (2) people with the use of long firearms, which the witness saw for he was about five (5) meters away.

After seeing the death of these three (3) persons, the witness saw that Datu Unsay and his men continued to fire shots at the people. Then the people inside the vehicles who have not yet alighted were gathered in front of Datu Unsay. When asked which vehicles were these, the witness referred to a red and white pick-up and a Hummer. The witness marked the situs of the Hummer in the sketch.

After seeing the killings, he got scared. He then removed the yoke around the neck of his carabao and then slowly left the place going towards the house of Jainal. However, when he was about to reach the house of Jainal, Datu Unsay shouted: *"yung matandang yan na may kalabaw, pabalikin ninyo dito."* [107] The witness identified his location and that of Datu Unsay at that moment when the latter saw him.

Esmael heard that Datu Unsay called for him to stop. Then, he was asked by a soldier who was near him at that time why did he stop. He said: "*Yung tumatawag na yon, narinig ko matandang may tamaraw. Sabi nya nakita mo na si Datu Unsay na yan na pumapatay ng tao, babalik ka pa dun. Patayin kaya kita".*[108] He then replied: *"Sabi ko bakit nyo ako papatayin, wala ako kasalanan sa inyo".*[109] One of the men said, *"patayin na natin yan, baka magsumbong pa yan".* Then the witness pleaded not to be killed.

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[106] TSN, October 20, 2010, p. 67-69.
[107] TSN, October 20, 2010, p. 80.
[108] TSN, October 20, 2010, p. 82.
[109] TSN, October 20, 2010, p. 82.

Eventually, the other soldier, Datu Not, told him to flee. He knew Datu Not as the one in-charge of the checkpoint at Labo-labo and a CAFGU member. He then fled towards the place passing the house of Jainal and hid behind tall grasses ("*kugon*"). The witness identified in the sketch where he hid. He did this as he had to keep an eye on his family residing nearby. He chose that place for him to be safe and so that he could hide his carabao. Thus, he stayed on the same place for around four (4) hours. From his hiding place which was merely 200 meters away from the killing site, he observed that they still continued to fire at the people.

Esmael said that on that day, he saw more than 50 people were killed by the shooting incident that lasted for more than one (1) hour. According to him, when the people were all dead, Datu Unsay and his men stayed for around 20 minutes then they boarded their vehicles. Datu Unsay boarded a black pick-up. His men boarded the black, red, white pick-up, a Hummer vehicle that has a firearm on top of it, and several police cars with sirens and labelling of "police" on them. The witness labelled these cars in his sketch.

More than 30 vehicles left the scene while four (4) vans, a UNTV vehicle, and one (1) red car were left at the scene with more than 20 armed men. These armed men gathered and stacked together the dead bodies, each being carried by four (4) men, to where Datu Unsay used to stand. The witness identified in the sketch the location of the stacked bodies.

At about 12 p.m., as signaled by the mosque prayer, the witness saw a backhoe coming up not far from the house of Jainal. It went towards the location where the dead bodies were piled and dug a very deep hole that could fit vehicles. While digging, the backhoe was surrounded by armed men. When shown, the witness identified in open court the backhoe's ***photograph (Exh. "Nona J-1").***

Thereafter, the backhoe dropped the dead bodies in the pit as well as the vehicles – UNTV vehicle, red car, and van, after crushing them. However, the backhoe broke down, preventing it from further pushing the bodies and vehicles. Thereafter, its driver/operator alighted. The driver went around the backhoe, while holding a cellphone. He described that the driver was fat with a mole on his face.

At the conclusion of his direct testimony, the witness identified in open court accused Datu Unsay and Major Dicay.

On October 20, 2010, Esmael was subjected to cross examination. He narrated that he did not see witness Rasul Sangki in the killing site. Neither did he see a firearm on top of the Hummer. He

also did not see Michael Macaraeg. He, however, saw the backhoe and was able to approach it.

As for his narration, the witness affirmed that he was then walking his carabao when he saw more than 30 vehicles passing by the rough road towards the uphill portion of Sitio Masalay. He maintained seeing Major Dicay at that time on the upland portion of Sitio Masalay aboard a police car which was one of the vehicles which arrived at around 10:00 a.m. at the killing site.

The witness said that the men accompanying Datu Unsay and Major Dicay all wore the same uniform; but he manifested that he was not competent to state whether they were policemen or not.

Esmael then explained that the "X" marks in the sketch represent the people who came from the vans, and who were then asked to alight, and later on fired upon by armed men. When asked as regards the orientation of the armed men, the witness detailed that there were armed men on the side of the road who were on guard, and also on the other side. The witness distinguished that all the soldiers or men of Datu Unsay were in uniform, while the victims were in civilian wear, while he himself wore civilian tattered clothes.

The witness maintained that after Datu Unsay ordered the firing at the victims, the armed men followed with rapid and continuous gunshots. And despite these, the witness was able to hear the victims pleading to Datu Unsay for their lives.

After the first shot was fired, the witness moved away slowly. He and his carabao got scared, and the both of them ran away; and then hid behind the cogon grass which was taller than him (he is 5'6" tall) and had no concrete barrier or wooden barricade.

The witness confirmed that there was a narrow road after the killing site, but that can only accommodate one person and a carabao; and thus, the only way back is to go downwards the rough road back to the Isulan – Cotabato highway.

As for their family, they started to evacuate at 4:00 p.m. of November 23, 2009; and at which point, he saw a helicopter hovering around.

Esmael did not report the incident before the police. He only went to the DOJ.

On re-direct examination, he stated that he thought it was safer to hide behind the tall grass than go back to his house or hide at Jainal

Jamaloden's house. He got as close as two (2) meters away from the backhoe operator that was why he saw the latter's mole.

On re-cross examination, the witness said that he heard the backhoe driver talking over the radio, saying: *"bilisan ninyo, dalhin ninyo ang krudo dahil baka mahuli yung backhoe natin, may ebidensya."* [110] When he was at this spot, it was about 3:00 p.m., as signaled by the call of prayer ("Allah U Akbar, Allah U Akbar") at the mosque, which was located one (1) kilometer away from the site. Aside from him, Jainal and his children were in that area. As for the men who were left there, the witness recalled that only the backhoe operator, a man holding an M16, and another one holding an M14, remained.

On July 06, 2011, Esmael was presented for additional direct examination. The witness testified that he saw Moactar Daud as one of the armed men who fired at the victims on November 23, 2009. He identified Daud as the one who brought a small and chubby woman, as well as a pregnant woman, to the place where they would be killed. The woman asked help from the witness. She pleaded *"Baba tulungan mo ako, Baba."* But Daud poked his rifle against the witness and told him that if he did not go away, Daud would kill him.

On cross examination, the witness testified that he tilled the farm previously owned by his parents, which was located in the lowland; in contrast, the place where the incident happened was in the mountain; and as for the corn mill of Jainal, such was located in the mountain, and was much higher than the farm that he tilled.

As regards the incident, Esmael maintained that he saw the accused at the killing site, as well as the victims, who were just two and a half (2.5) to five (5) meters away from him. Out of fear of being killed, he did not help the victims despite hearing their pleas. He also removed the yoke of his carabao, its cart, and the two (2) sacks of corn with it, at the site.

The witness affirmed that the bursting of loud gunfire continued for more than an hour. He and his carabao got so scared, causing the latter to fidget and let out a loud cry. He also maintained that the place of the incident was in a much higher plane, because it was on a mountain.

The witness said that Datu Unsay carried a huge firearm, around 44 inches long. When the victims lied faced down, Datu Unsay fired his gun, hitting them on their heads, backs, and sides of their bodies.

When he was about to leave the place, he heard the familiar voice of Datu Unsay, calling him. He also saw him waving at him. He was able

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[110] TSN, October 20, 2010, p. 177.

to leave the place only when the soldiers nearby asked him why he stopped when it was Datu Unsay who was killing people. He confirmed that Datu Unsay did not attempt to kill him. He also did not kill those soldiers, as well as Jainal and his children who had witnessed the incident.

The witness affirmed that he did not report this matter to the barangay authorities, police, or NBI. He testified because of his religious principles. He did not know any of the victims' relatives.

In the afternoon of November 23, 2009, he and his family left Sitio Masalay and left their farmland and transferred to an evacuation site.

Esmael testified on additional direct examination on August 07, 2013. He identified the following accused as the persons he saw with Datu Unsay and Major Dicay on November 23, 2009, viz: Abedin Alamada, Manny Upam Ampatuan, and Quago Akil.

The witness saw accused Abedin Alamada with those persons who killed the victims in the mountains of Masalay, Brgy. Salman, Ampatuan, Maguindanao. The latter was holding a long firearm and dressed in garments like a uniform of a soldier. And at that time, he was giving orders to the armed men in this wise: *"bilisan ninyo, bilisan ninyo, ibaba na ninyo sila."*

The armed men followed Alamada and acted with haste. They brought down the people from the vehicles. Alamada dragged the victims, which prevented the witness from seeing their faces but heard them shouting and crying. Then, he recalled that the people from the vehicles were pulled and brought in front of Datu Unsay. Thereafter, Alamada went in front of Datu Unsay.

The witness saw accused Manny Ampatuan, together with another man, at the mountain area, by the road near the house of Jainal. Manny Ampatuan positioned himself at the roadside. He was then holding a long firearm, pointed upwards, with feet or bipod.

Esmael saw accused Quago Akil on November 23, 2009 standing behind an old man, Abedin Alamada. The accused was also holding his firearm, pointing at a vehicle where there were women inside. His firearm was an armalite. He was then dressed in a uniform like that of a soldier.

On cross examination, the witness stated that the first time he saw Quago Akil was at the alleged killing site. He remembered the latter's face, and the way that he held his rifle – pointed at different directions. The second time the witness saw Quago Akil was on the date that he identified the accused in open court.

Esmael likewise mentioned that he saw Manny Ampatuan, for the first time, at the purported killing site. The second time that he saw the latter was on the date that he identified him in open court.

The witness affirmed that he sighted accused Quago Akil, Manny Ampatuan, and Abedin Alamada together in the mountain road near the house of Jainal Jamaloden: Quago Akil and Abedin Alamada were on one side, while Manny Ampatuan and another man, who was not then present in open court, were on the other side.

The former two (2) were 30 to 40 meters away from Manny Ampatuan; and the witness was only five (5) meters away from them. At the time that Alamada shouted orders for the armed men to quickly bring down the passengers, the witness was merely two (2) to three (3) meters away. Given that the distance between them was not distant, the witness claimed that he could hear the accused.

The witness said that when he testified on October 20, 2010 and July 06, 2011, he never mentioned the name Abedin Alamada. But, by way of stipulation, both parties agreed that Abedin Alamada was not yet on trial at that time.

As regards his distance from Datu Unsay, and Abedin Alamada, the witness stated that: *"nanduon ako sa mais ko nuong mag-utos si Datu Unsay. Nuon naman mag-utos 'yan, nandun ako malapit na sa bahay ni Jainal, papalayo na ako at ililigtas ko na yung sarili ko."*[111]

When asked about his carabao, Esmael said that he had a female carabao, which must be over one (1) year up to two (2) years old.

On October 16, 2013, Esmael identified accused Bong Andal as the driver operator of the backhoe, who appeared fat, with a mole on his face.

On cross-examination on October 17, 2013, he affirmed that on November 23, 2009, when the backhoe was on its way up to the hills of Sitio Masalay, armed men carrying an armalite and an M14 accompanied it. Two (2) or three (3) people rode in the backhoe carrying firearms. Armed men also guarded the backhoe when it was digging a hole in the ground and even when it broke down.

Testimony of Anok Akil

ANOK AKIL[112] (NOH AKIL) was presented on the witness stand on December 01, 2010. He also executed ***a sworn statement***

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[111] TSN, August 07, 2013, pp. 81-82.
[112] Witness Anok Akil testified on December 01, 02 and 15, 2010; October 05, 2011; and March 06, 2013.

(Exh. "B-4"). He testified that he is a Barangay Kagawad and a resident of Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao.

On November 20, 2009, while the witness was in his residence fronting both the national highway and the small road going to Sitio Masalay, he saw several armed men arriving before noon who were in green camouflage uniforms and carrying M14, armalite, M16, garlands, and .45 pistols. From November 20, 2009 until November 23, 2009, the armed men could be sighted in front of his house. During those days, they built a detachment, slept in the premises, and cooked food.

The witness asked the armed men about what they were doing. One of them replied that they received an order to wait for people coming from Buluan, specifically the Mangudadatus who would file a COC.

On November 23, 2009, at around 7:00 a.m., Anok Akil saw the arrival of three (3) black pick-ups. Aboard these vehicles were armed men, wearing military uniforms and carrying military paraphernalia from which around 20 disembarked. He recognized one of them as Datu Unsay, for the latter was the mayor of Datu Unsay Municipality, and a known person in Maguindanao. The latter looked short, a little bit stout, with fair complexion; wore a white camiseta and black pants, with a gun tucked in his sides, and was carrying an I-Com radio.

Both parties stipulated that the witness would be able to identify accused Datu Unsay.

After Datu Unsay alighted from his vehicle, he called on the armed men to be on alert because the people they were waiting for will be passing. He also told them that he will be going to Malating and would be with Major Dicay, whom he knew as the head of the police in Maguindanao. The witness heard all of these since he was just two (2) meters away from Datu Unsay.

When he inquired again from one of the men of Datu Unsay, the latter confirmed that they were indeed waiting for somebody – Mangudadatu – to pass. Moved by fear, the witness then had his family ride a tricycle going to Poblacion, Ampatuan, but he remained in his residence with his wife.

At 10:00 a.m., while the witness was near one of the armed men, he heard a call from the I-Com radio in which the person from the other end said, *"andyan na, andyan na."*[113] At this point, he himself left his house in Sitio Masalay, and proceeded towards the MNLF camp with his wife and neighbors. Around 20 of them evacuated to the camp, which was 350 to 400 meters away from his house.

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[113] TSN, December 01, 2010, p. 146.

Upon reaching the MNLF camp, he noticed that several vehicles, including police cars, a van and a Hummer, passed by. He observed that there were uniformed armed men aboard the pick-up going up towards the road to Sitio Masalay.

After 30 minutes, Akil heard successive gunshots which lasted for about 20 to 30 minutes. Subsequently, he went to a small house near the highway and arrived therein at 11:00 a.m. He, together with his wife and neighbors hid there, and at the same time, monitored the surrounding area. While therein, he saw in the highway a yellow prime mover carrying a backhoe on its flatbed. The backhoe was colored yellow as well, with an inscription "Province of Maguindanao." He identified the prime mover and the backhoe through ***pictures (Exhs. "Nona J-5" to "Nona J-13".)***

Moments later, the witness went back to his house in Sitio Masalay. Upon arrival, he saw that the backhoe drove down from the prime mover's flatbed. He noticed that the driver of the backhoe was dark, not tall, and sported long hair. He saw the prime mover's driver, as well, and described him as a bit thin and a bit tall. Then, he sighted the backhoe going up to Sitio Masalay. He also saw a black Hummer driving down that road, carrying five (5) passengers.

On November 24, 2009, at around 5:00 p.m., at the barangay hall, the witness saw a fellow barangay kagawad from Sitio Malating named Kerol Blah. The latter told him that he was summoned by Governor Datu Andal Ampatuan, Sr. to Shariff Aguak.

Akil obliged even if he did not know why he was summoned. He then proceeded to the highway where a "Hi-Lak" police car was waiting for them. The vehicle, which had four (4) armed men as passengers, proceeded to Datu Andal, Sr.'s house.

At the house of Datu Andal, Sr., the witness saw Major Dicay and P/Chief Insp. Rex Ariel Diongon. Their nameplates read "Dicay" and "Diongon." The witness knew them during his travel back and forth from Sitio Masalay and Sitio Malating.

Major Dicay held the hands and talked to Anok Akil and Kerol Blah. He told them that somebody would arrive and interview them, and that they were advised to tell that they arrived in Sitio Masalay and Sito Malating at around 11:30 a.m. of November 23, 2009. Since he feared these policemen, the witness agreed. At this juncture, the witness identified P/Chief Insp. Rex Ariel Diongon and Major Dicay in open court.

Still in the house of Datu Andal, Sr., the witness sighted Atty. Cynthia Guiani, Nori Unas, and Sajid Ampatuan. From what he knew,

Atty. Cynthia Guiani was the lawyer of ARMM Governor Datu Zaldy, Nori Unas was the right hand of Datu Andal, Sr., and Sajid Ampatuan was the OIC Provincial Governor of Maguindanao Province. These three (3) were having a meeting inside a room and heard them discussing about how to save the backhoe since he was only one (1) meter away from them.

They also discussed about the witnesses; and at this point, the fat man in front of Atty. Guiani pointed to him and Kerol Blah, who stood at the back. Atty. Guiani uttered that such matter would be addressed the following day since it was already late. At that point, Sajid Ampatuan stood up and told the witness to just come back. The former then handed the latter ₱2,000.00 to buy fish. When they left, Major Dicay gave the instruction for them to be brought back to the barangay hall.[114] They accordingly returned at around 7:00 p.m. aboard the "Hi-Lak" police car.

In the course of his examination, the witness identified the backhoe through ***photographs (Exhs. "Nona J-1", "Nona J-5", "Nona J-6", "Nona J-7", "Nona J-8", "Nona J-9", "Nona J-10", and "Nona J-11.")*** which depicts the markings "Acquired under the administration of Datu Andal S. Ampatuan, Sr., Governor, and Sangguniang Panlalawigan Members, Province of Maguindanao," "PC 300," and "Komatsu" written on the backhoe. He also identified the prime mover (truck) through ***photographs (Exhs. "Nona J-12" and "Nona J-13.")*** showing the marking "Province of Maguindanao."

On cross-examination on December 02, 2010, Akil maintained his narration during his direct examination. He, however, clarified that the armed men he saw wore two kinds of uniforms: army and police uniforms. As for the men aboard the pick-up vehicles, some wore police uniform, while some donned army uniform. He, however, did not notice whether they had name plates.

Despite the presence of armed men, he did not leave his house immediately because his neighbors were there also. He heard the 30-minute gunshots coming from the top of the mountains.

In the morning of November 23, 2009, when Datu Unsay gave instructions to the armed men stationed in front of the house of the witness, the former only stayed for a while – for about three (3) minutes. Then, when the latter had his children ride a tricycle to Poblacion, the distance covered two (2) kilometers.

As barangay kagawad for almost eight (8) years, he knew Esmael Abubakar and Norodin Mauyag. But he did not know any of the armed

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[114] TSN, December 01, 2010, p. 165. The prosecution made a proffer of testimony that the day after the prosecution announced Anok Akil's name as prosecution witness, Ampatuan's armed men burned down his house.

men, whom he saw by his residence. All he knew was that when he asked, they said that they were men of Ampatuan.

The witness did not report the presence of armed men to any officials for he feared for his life. Neither did he ask his children to report the incident.

Akil maintained that he was able to identify the caliber of the firearms because he has a brother who was an army soldier, and a nephew who belonged to the CAFGU.

He heard the gunshots, which lasted between 20 to 30 minutes, while he stayed in the MNLF camp. The MNLF members did not check the gunfire for all of them left that camp already.

The witness said that on November 23, 2009, it was his first time to see an I-Com radio, prime mover, and a backhoe.

At present, *kapitana* Salha Sangki Biruar financed his coming to Manila.

When further cross examined on December 15, 2010*,* the witness affirmed that his ***sworn statement (Exh. "B-4")*** contained several inconsistencies. Some parts of his testimony were not included in the sworn statement i.e. that he previously saw P/ Chief Insp. Rex Ariel Diongon and Major Dicay giving instructions to the armed men; that he conversed with both of them; that Datu Andal, Sr., summoned him to Shariff Aguak; that he asked one of the armed men of their purpose in setting up a detachment; and that the armed men were waiting for the Mangudadatus in particular.

He also enumerated five (5) of his neighbors who also evacuated to the MNLF camp. At one point, the witness hid in one of the houses in order to monitor the incident, and to keep himself away out of fear.

Despite being a barangay kagawad, he did not report the assembly of armed men in front of his house. But based on his verification, some of them were CVOs, while some were military men. The witness perceived them as people of the Ampatuans.

On November 20, 2009, it was the witness' first time to hear the names Dicay and Diongon when he was at the house of Datu Andal. Sr. In that place, they were the only policemen he saw in the premises. But he did not see these two (2) in front of his house on November 23, 2009.

When he saw Major Dicay and P/Chief Insp. Rex Ariel Diongon, he only knew their names based on their name plates. He recalled that those

two (2) were the only ones in uniforms with name plates on the left side of the chest.

He maintained that on November 23, 2009, he sent all of his five (5) children to Poblacion, located 700 meters from his house. In his estimate, the MNLF camp where he heard the gunshots was about two (2) kilometers from where the gunshots came; and the barangay hall had a distance from the latter of more than two (2) kilometers.

The witness explained that in ***Annex "A" and Annex "B" of his sworn statement (Exh. "B-4"),*** he did not recognize the unencircled photo of a couple in Annex "A"; while the other unencircled photo in Annex "A" is that of Datu Zaldy. As for the unencircled photo in Annex "B" he claimed that the photo represents the picture of Bakal Badawi.

On December 15, 2010, Anok Akil testified on re-direct examination. He clarified that some parts of his oral testimony were not in his affidavit because the latter was only based on the questions asked of him.

On March 06, 2013, the parties stipulated that the witness could identify accused Sajid Ampatuan as the same person (1) who he saw at the house of Datu Andal, Sr. on November 24, 2009, having a discussion with Atty. Cynthia Sayadi and Nori Unas; and (2) who he remembered as the person who gave him ₱2,000.00 to buy fish.

In connection with the direct testimony of Anok Akil on December 01, 2010 against Sajid Ampatuan, **he answered cross examination questions on March 06, 2013**. He affirmed the statements he gave during his oral testimony, as well as those in his affidavit. The witness clarified that before November 23, 2009, he already knew Sajid Ampatuan.

On re-direct examination*,* Anok Akil explained that he did not mention the name of Sajid Ampatuan in his sworn statement as he was a big person ("*malaking tao*").

Testimony of Esmael Canapia, state witness

State witness, ESMAEL CANAPIA,[115] testified on August 23, 2012, that he was a resident of Ampatuan Municipality, Maguindanao since birth. He worked as a Special CAFGU member since 2001, and as a farmer in the mountain of Masalay for about three (3) months before November 2009. The army did not give them firearms but Rasul Sangki issued to him one (1) M16 firearm. His responsibilities included

[115] Witness Esmael Canapia testified on August 23 and 29, 2012; October 03, 04 and 17, 2012; January 24, 2013; March 27, 2014; and April 03, 2014.

checkpoint operations, guarding roads for VIPs, and when summoned by soldiers, he also participated in fights against government enemies.

On November 22, 2009, Canapia was in his hut at the mountain of Masalay, together with his wife and uncle Takpan Dilon (one of the accused in these cases) who he identified in open court. As he prepared to leave for Ampatuan Municipality, to get rice from the warehouse of Bai Risa Mabang, he asked permission from his uncle, and left his firearm with the latter because he was afraid that he might be ambushed, or the gun might be taken from him.

On board his motor, he travelled with his wife down to Ampatuan Municipality. They passed by the road going to Crossing Masalay where they sighted police officers and CVOs in uniform and with firearms at a checkpoint along the national highway going to Ampatuan Municipality. The checkpoint had three (3) police vehicles, with one (1) of these being a long vehicle, and had one (1) Hummer with a 50-caliber firearm on top of it. More than 50 police officers and CVOs were stationed in that checkpoint. They were asking all vehicles coming from Isulan to stop.

After passing by the checkpoint in Crossing Masalay, the witness saw two (2) other checkpoints on even date; one in front of the office of Datu Iya Sangki, and another in Ampatuan national highway. In the latter checkpoint, which was being manned by Bakal, its chief of police, Canapia even witnessed how the men checked the passengers riding a Town Ace vehicle, which was in front of him. In open court, the witness identified said person who stated his name as SPO2 Badawi Bakal.

He also saw at that checkpoint the personal escort of "Bakal," called "Orin", Jo Dimalinga, who was a CVO and more than 10 men in said station whose names he did not know. In open court, he subsequently identified them, who in turn gave their names as follows: Edres Kasan, PO2 Datu Jerry Utto, PO1 Mohammad Balading, PO1 Badjun Panegas, PO1 Michael Macarongon, PO3 Ricky Balanueco, Samad Maguindra, PO1 Amir Solaiman, Gibrael Alano, and PO1 Abdulbayan Mundas.

On November 23, 2009, at around 9:00 a.m., Canapia was in the warehouse of Bai Risa Mabang in Poblacion, Ampatuan, carrying rice and corn. When his wife arrived, they proceeded to their house at the mountain of Masalay. Passing by the same national highway, the witness once again sighted the checkpoint manned by Bakal. While thereat, he saw many vehicles parked at the side of the national highway going towards the direction of Masalay and Crossing Masalay, because they closed the highway at the said checkpoint. The witness also observed that in going to Shariff Agauak, there was no vehicle that can pass the road. Nonetheless, the witness was able to pass the road because Jo Dimalinga (corrected as "Jo Dimalinda") let him pass the side of the road, passable only to motorcycles.

En route, civilians stopped the witness and his wife. He was told not to proceed because many were killed by Datu Unsay at the mountain of Masalay. Subsequently, the witness left his wife at Phoenix Gas Station in Ampatuan, so he can get his uncle Takpan Dilon in Masalay.

On his way to his uncle, Canapia passed by Crossing Masalay. He noticed that the police officers and CVOs were on full alert status or on "trigger", and that the checkpoint had been established with a very small opening that no one can pass. He also saw two *Sanggukos* and three police cars. The police cars were parked on the left side of the road going to Isulan. One (1) of the *Sanggukos* had six (6) men inside, and each of them held a machine gun, and had one (1) operator on top of the vehicle holding a machine gun. This *Sangguko* was situated on the right side of the road heading towards Isulan; while the other *Sangguko* was on the road going towards the mountain of Masalay.

As he proceeded towards the mountain of Masalay, he saw about seven (7) vehicles near the house of Jainal. These included two (2) black vehicles, police cars, a gold vehicle, and a Hummer.

When the vehicles stopped, he was just three (3) meters away. Subsequently, Datu Unsay (whom he identified in open court), alighted from the police car. He knew the latter because he is well-known in their place, and also in Shariff Aguak. After Datu Unsay alighted, the rest of the people, numbering more than 30, stepped out of their vehicles and were on full alert. He remembered that one of those men was Mohades Ampatuan who alighted from a police car, was armed, and was on full alert. He knew Mohades Ampatuan as the latter used to reside in Ampatuan. The witness identified him in open court.

Aside from Mohades Ampatuan, the witness identified in open court the following persons who he saw from the group of 30 armed men: Nasser Esmael, Tato Tampogao, and Omar Bulatukan.

When Datu Unsay was in front of the witness, and about three (3) meters away, the witness heard the former talking on the radio. Datu Unsay uttered: "*Jerry, Jerry, tawagan mo si Bong para bilisan niya yung paglilibing sa mga tao at mga sasakyan.*"[116] The person at the other end of the line said: "*yes, yes, copy, Datu.*" Then, Datu Unsay radioed back and said: "*huwag na kayo bumaba sa baba, dyan na kayo dumaan sa taas.*" In response, the other person said: "*yes, yes, copy, Datu.*"

The witness observed that Datu Unsay looked up; and when Canapia also looked above, he saw a backhoe which was about 400 meters away from where he stood, dropping a white thing.

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[116] TSN, August 23, 2010, p. 48.

Subsequently, Col. Maguid approached Datu Unsay. Then, they boarded the vehicle. The witness knew Col. Maguid as a police officer, and remembered that when he went to Shariff Aguak, Col. Maguid had a *kanduli* with Datu Unsay.

When Canapia finally reached the house of Jainal, he saw about seven (7) to eight (8) civilians peeping on the backhoe from the house of Jainal. The witness joined them. Then, he proceeded to look for his uncle Takpan Dilon in their hut but did not find him.

Moments later, Datu Kanor Ampatuan, coming from the backhoe, passed the house of Jainal. Datu Kanor Ampatuan was shirtless, wore a camouflage pants, and carried an M203.

Together with Datu Kanor Ampatuan were about 40 armed men in uniform. In open court, he was able to identify some of them: Salik Bangkulat, Makton Bilungan, Not Abdul, Ibrahim Kamal Tatak and Rakim Kenog. They then asked him directions going to Boayan, Datu Hofer but he told them to ask from the houses up.

Subsequently, the witness went to the house of Jainal. Aside from seeing two (2) civilian women attending to their corn, he also saw three (3) persons who bore firearms. They were Mama, Komidi, and Kasan.

The witness went to the backhoe so that he can proceed to his hut. When he was already near the backhoe, he saw Bong Andal, who asked him where the water was. The witness said that he did not know. Then he saw the former approaching the two (2) civilian women.

Then, he saw dead bodies sprawled on the ground. He also sighted vehicles, the windows of which were broken and damaged. He saw a vehicle which was opened, and inside it were dead bodies positioned as if they were embracing each other, the exact number of which he did not know. At the end of the place, the witness saw a CVO who was holding an M14 and wearing a camouflage.

The CVO inquired why the witness was there. Canapia responded and said that he was looking for his uncle. Then, the CVO said that he must leave or else he would kill the witness.

Canapia returned to the house of Jainal, and in that location, he saw the group of Datu Not. The latter is *"bata ni Mama, tatay niya si Papa Awit."* There were four (4) of them in the group, who were all armed. They proceeded to the place where Datu Kanor went.

Finally, when he went to the house of his grandfather, also at the mountain of Masalay, he found Takpan Dilon. The witness asked the

latter of the whereabouts of his gun. And after his uncle retrieved the gun, both of them went down.

In the course of his testimony, Canapia had identified his ***sworn statement (Exh. "(13) E").*** Aside from those matters he stated in the direct testimony, he also made several statements in his sworn statement.

The witness mentioned that he overheard Datu Unsay speaking in his radio, in this wise: *Jerry, sabihin mo kay Bong na bilisan ang paglilibing sa sasakyan para di mapansin pa ng maraming tao. Pagsamasamahin na ang mga sasakyan at bangkay ng tao. Bantayan ninyo at pagkatapos ay diyan na kayo dumaan sa kabila. Huwag na kayo dumaan dito."*

Soldiers arrested him in Crossing Masalay at around noon of November 23, 2009. SPO4 Badawi Bakal fetched him, together with some other persons. Then Bakal let them go back to their homes.

On November 25, 2009, the witness, Takpan Dilon and the other men, were brought to the CIDG in Cotabato for investigation. On that occasion, SPO4 Bakal said: *"huwag kayong magsalita kung ano nakita niyo kundi ay may masamang mangyayari sa amin pati na sa pamilya namin."*

However, Takpon Dilon stated that he saw a backhoe. Subsequently, SPO4 Bakal punched him, and said: *"diba sinabi ko na sa inyo na huwag kayong magsasalita, pati ako ay idadamay niyo pa."* SPO4 Bakal also aimed a gun at the witness and warned the latter that he would be killed and his family, if he talked.

While the witness was in the Custodial Center, a lawyer whom the witness described as big, fat, and dark talked to him and his wife. The lawyer represented himself as his new counsel and told him that he will easily be freed if he would sign a statement, stating that Datu Rasul Sangki was the one responsible for the massacre, and not the Ampatuan family. He did not sign the statement. Then, the lawyer said that the witness and his wife would be given money and a house in Taguig for the family. He identified this lawyer as Atty. Andres Manuel, the counsel for the CVOs of the Ampatuan family.

On cross examination by counsel of accused Labayan, et. al.[117] on August 29, 2012, he testified that he resides in the mountain of Masalay, Ampatuan, Maguindanao; but he also had a house in Poblacion, Ampatuan. As a resident of Sitio Masalay for the last three (3) months, he knew Noh Akil, Elo Sisay, Akmad Abubakar, and Manong Hesus; and not Laguedin Alfonso, and Thonti Lawani. He particularly

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[117] Atty. Laguindab Marohombsar.

remembered that the house of Noh Akil was situated in a corner, the place going inside the mountain of Masalay.

The witness worked as a farmer in the mountains of Sitio Masalay. He tilled a lot belonging to his grandfather, which the latter obtained from the Sangkis.

He also worked as a Special CAFGU Active Auxiliary (SCAA), and their uniform was a camouflage for soldiers. Part of his work included road security and checkpoint operations. Checkpoint operations entailed posting themselves on the road, guarding it, and stopping vehicles for visual search.

The head of the SCAA was Datu Rasul Sangki. The SCAAs report for duty when summoned, as in the case when there was a threat that rebels are going to attack. The witness did not know that Rasul Sangki testified in open court. The latter and Zacaria Sangki had given firearms to CVOs but then the ammunition (one magazine) was provided for by the soldiers. The uniforms, tropical shoes, and salaries were given by Datu Rasul Sangki. He also decides their duties and assignments.

Canapia elaborated that he trained in the SCAA for 45 days in 2001-2002. There were 87 of them. According to him, CVOs are also SCAAs, because they are former CVOs who trained for SCAA. Then there are also police officers, who outnumber the SCAAs. Not all of them – the police officers, SCAAs, and CVOs – are armed.

The witness also said that the checkpoint in Ampatuan national highway, was in the *sentro* of Ampatuan, which was an eyesight away from the checkpoint in Crossing Masalay. Before November 22, 2009, there was no checkpoint in that area, such that it was his first time to see such on November 22, 2009.

The witness maintained that after 20 to 30 minutes of travelling on November 22, 2009, he was already at the Ampatuan checkpoint where he saw SPO4 Bakal. But when he saw the latter on even date, as well as on November 23, 2009, he could not specify the specific times.

On November 23, 2009, he wanted to go back to his hut at the mountain of Masalay so that he may get the gun from his uncle Takpan Dilon. En route his return to the mountain of Masalay, he saw a backhoe. He also saw Bong Andal and one person armed with an M14. However, he did not see any person with a radio near the backhoe.

The witness sighted several vehicles leaving the mountain of Masalay. Of these vehicles, Datu Unsay was aboard a police car, while Mohades Ampatuan was at the back thereof. Col. Maguid was on board the gold car, and when the latter alighted, he approached Datu Unsay.

As testified during his direct examination, the witness saw dead bodies sprawled on the ground. He first saw a group of about three (3) cadavers, in a bowed down position, inside an L-300. Then, he saw other dead bodies in a black vehicle.

The witness wanted to return to the mountain of Masalay to get his gun back, because many were killed thereat. Takpan Dilon himself has a shotgun of his own. They were able to retrieve the witness' gun in the house of his grandfather, hanging from the wall. The house of the latter was within eyesight from the witness' own hut.

After the witness found his uncle Takpan Dilon, they left the mountain and headed towards Crossing Masalay going to Ampatuan. The witness was in civilian clothes. He and his uncle left because many people were killed in the mountain of Masalay. But he did not see the actual killing.

In open court, the witness drew a ***sketch (Exh. "13 F" and Exh. "33"*** of the location of the following landmarks: house of Jainal, backhoe, house of Takpan Dilon, house of the witness, and the house of the witness' grandfather, all in Sitio Masalay.

When they reached Crossing Masalay, the witnessed observed that there were soldiers. He was asked whether he saw vehicles, and he replied that he saw vehicles in the mountain being buried by a backhoe.

Soldiers accosted the witness and Takpan Dilon. At that time, they were riding a motorbike. He was then wearing a camouflage uniform on top and a pair of corporal camouflage shorts. When they were apprehended, the soldiers took his firearm. He did not know the serial number of his firearm because it was tampered. He was not sweating; and neither did he say that they were hunting when Lt. Gempesao apprehended them.

The witness and Takpan Dilon were brought to the CIDG, Cotabato City. He did not give any statements before the CIDG. Later on, he was released after the councilors of Ampatuan Municipality talked with Col. Nerona.

The witness claimed that SPO4 Badawi Bakal brought them to CIDG Cotabato. He maintained that the latter instructed them not to talk so that SPO4 Bakal would not be implicated. The latter punched his uncle; then, aimed his gun at him, warning him that should he speak, SPO4 Bakal might also kill his family.

Of the nine (9) police officers he identified, six (6) of them were stationed in Binibiran. The latter comes after Sitio Malating, which is preceded by Crossing Masalay.

When cross examined by counsel of Moktar Daud, et. al.,[118] the witness confirmed that the following items were absent in his sworn statement: (1) that he asked permission from Takpan Dilon to go down the mountain of Masalay in order to get rice; (2) that in the house of his grandfather, he found his uncle, whom he asked about his firearm; (3) that when he went down to the mountain of Masalay on November 22, 2009, it was specifically between 7:00 a.m. to 8:00 a.m.; and (4) that the order of vehicles he saw leaving the mountain of Masalay was: a black van, a white car, a black car, police car, gold vehicle, a Hummer with a 50-caliber firearm, and a multi-cab.

The witness clarified that he and Takpan Dilon were neighbors in the mountain of Sitio Masalay, but that the latter also had a house in Poblacion, Ampatuan. He also stated that while he did not man any checkpoint, Takpan Dilon mentioned to him something about manning a checkpoint on November 23, 2009.

On cross-examination by counsel of accused Badawi Bakal, [119] **October 04, 2012,** witness testified that he saw the checkpoint at the national highway for the first time on November 22, 2009 as there was no checkpoint before said date.

He claimed that it was Bakal who brought him and Dilon to CIDG Cotabato City, who subsequently, told them not to talk whatever they had witnessed so he (Bakal) would not be implicated.

The witness confirmed that it was Dilon who was punched by Bakal while the latter pointed a .45 at him and told him not to talk because he might kill also his family.

While in Cotabato, the witness did not have a counsel. They were assisted by Atty. Marlon Pagaduan when they were in Manila.

The witness confirmed that the convoy of Datu Unsay, Mohades Ampatuan and Maguid consisted of the following vehicles, viz: black van, white car, black car, police car, gold vehicle, Hummer, and multi cab. It was stipulated that the foregoing types of vehicles were not specifically mentioned in the witness' Sworn Statement.

The witness likewise confirmed that Datu Unsay was onboard the police car while Mohades Ampatuan was at the back thereof, but he

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[118] Atty. Andres Manuel, Jr.
[119] Atty. Abdulkalim Askali.

alighted. Maguid was in the gold car but alighted and approached Datu Unsay.

On January 24, 2013, the witness testified on additional direct wherein he identified accused P/Supt. Abusama Maguid Al Hajj in open court as one of the companions of Datu Unsay, when he saw the latter in Sitio Masalay on November 23, 2009.

On further cross-examination on January 30, 2013, the witness testified that it took him three (3) years since the massacre (November 23, 2009 to June 18, 2012) to execute his affidavit because he was afraid of Bakal (also detained) who was threatening him. Bakal told him that hewas going to kill him (witness) and his family.

When asked what time did he reach the mountain of Masalay, the witness answered in this wise: *"Noong dumating ako sa bundok, pababa na ang araw, tapos noong bumaba na ako sa bundok medyo hapon na."*

The witness was recalled for additional direct examination on March 27, 2014. He identified accused Datu Teng Ibrahim as one of those men he saw with Datu Kanor Ampatuan, near the house of Jainal on November 23, 2009. He recalled that the accused was wearing a uniform of a soldier, bore an M14 fireram and had a black camera, measuring five (5) inches long and one and a half (1 ½) inches thick, hanging around his neck. When the witness saw Datu Teng Ibrahim as the latter walked, the accused threw big money bills at him and then proceeded to follow Datu Kanor Ampatuan.

The witness also identified the backhoe driver as accused Bong Andal. He saw the latter as he got near the backhoe as much as 20 meters. He also witnessed the accused opening a component of the backhoe where black smoke came out. At that time, Bong Andal had "flat top" hair, white shirt, and jeans. He saw the handle of a pistol protruding at the pocket of the jeans.

On cross examination by counsel of accused Kudza Masukat and Bong Andal[120] on April 03, 2014, the witness said that he came near Bong Andal, not intentionally, but only because that was his way towards the hut of his uncle.

As for Datu Teng Ibrahim, he saw the latter pass by him in the mountain of Masalay, near the house of Jainal, headed upwards to Datu Hoffer with Datu Kanor Ampatuan.

On redirect examination, the witness clarified seeing the muzzle of the gun at the right waist of Bong Andal.

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[120] Atty. Laguindab Marohombsar.

Testimony of Lagudin Haron Alfonso

LAGUDIN HARON ALFONSO[121] testified on November 02, 2011. He represented himself as a farmer and MNLF member, who resided at Crossing Masalay, Brgy. Salman, Ampatuan in November 2009. Prior to his current residence, he lived at Iganagampong, Datu Unsay. He had been residing in Crossing Masalay for a month, operating a *sari-sari* store. His house was 15 meters away from Crossing Masalay.

On November 19, 2009, at 6:00 a.m., the witness was in front of his house, tending his store. He saw three (3) police cars and one (1) black pick-up beside the highway in Crossing Masalay. Upon the arrival of these vehicles in Crossing Masalay, those who alighted, police officers and CVOs, set up a detachment.

He recognized the CVOs for they were wearing military uniforms and carrying firearms. He remembered seeing long and short firearms, one (1) with a belt, and one (1) with like a can of sardines. He saw 45s, M23s, M40s, M60s, and armalites. The witness claimed that he could recognize the calibre of firearms because he was trained in the MNLF how to handle and identify guns. He remembered seeing about 50 CVOs in that area.

The witness noticed that some of the men established a checkpoint in the detachment, while the rest went to the other side. He remembered that one of them even borrowed a pail from his mother.

On November 20, 2009, at around 6:00 a.m., the witness sighted police officers and CVOs in Crossing Masalay. These are the same ones he saw the previous day.

On that day, the witness took his cow from his house to the grassland. On his way back home, he heard some CVOs talking with one another, saying that when the convoy of the Mangudadatu arrives, they were to shoot it. The CVOs were situated in a hut or "purok," located about one (1) meter from his house.

The witness prepared to go to Crossing Salbo in order to pray. When he was waiting for a public utility vehicle in Crossing Masalay, he saw a vehicle – a Town Ace – which passed and was stopped by the checkpoint. He rode this Town Ace while commuting, he saw a checkpoint in Ampatuan, Shariff Aguak, Capital and Datu Unsay, being manned by police officers and CVOs.

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[121] Witness Lagudin Alfonso testified on November 02, 2011.

At 3:00 p.m., he went back to Crossing Masalay. He saw the same CVOs, who were still conducting operations in the same checkpoint location.

In the late afternoon, the witness took his grandfather to the MNLF camp. He explained that his grandfather was already old, and that he had to relocate the latter out of fear that there was going to be a shooting of the Mangudadatu convoy.

On November 21, 2009, at around 6:00 a.m., the witness, who was in his residence, observed that the police officers and the CVOs were still there.

On November 23, 2009, the witness was shocked that in front of his house, there were more police officers, CVOs, good looking vehicles and two (2) S*anggukos*. The good-looking vehicles, as well as the police cars, were lined along the highway. As for the *Sanggukos*, one (1) of those was parked in front of his auntie's house; while the other was at the back of Faisal's house.

Upon seeing the presence of more men and those vehicles, the witness became afraid. He then told his mother to pack their things and goods in the *sari-sari* store.

Within 15 meters, the witness claimed that he categorically saw the accused, Datu Unsay, with the police officers and CVOs. He saw the accused pointing towards the mountain.

Thereafter, the witness put their packed things in the motorcycle owned by his Uncle Muni in order to evacuate. They then rode the motorcycle with Thonti Lawani, another witness, to go to the MNLF Camp.

En route to the MNLF Camp, they were able to follow a convoy comprised of numerous vehicles such as police cars, pick-ups, and good looking vehicles. The witness noticed that the passengers of these vehicles were police officers and CVOs. He also saw some women inside a van, which was already shot because the window has a hole on it.

As they were proceeding to the MNLF Camp, a CVO went after them and said not to go to the camp because they may not like what they would see. Out of fear, they settled at the house of his aunt beside the road, where a CVO stood outside. And in that place, the witness heard continuous gunfire from the mountains.

Furthermore, the witness saw the arrival of a big truck, as well as a backhoe. The big truck parked in Crossing Masalay, while the backhoe went down and went up the mountain. Moments later, he saw vehicles coming down from the mountain. These vehicles were the same cars that

went up, such as the police mobile and the good looking vehicles. He observed that as for the other vehicles that arrived, those no longer had passengers, only drivers.

At the MNLF camp, the witness saw some military men who went up the mountain. Sensing fear, he and his family left the camp and went to the barangay hall along the highway in Crossing Masalay. This barangay hall was about 15 meters away from their house in Crossing Masalay, and about 500 meters away from the MNLF Camp. They stayed in that place for about three (3) days, and there he learned that there was a *"patayan"* in Crossing Masalay. At the barangay hall, he did not see Barangay Captain Bai Salha Biruar Sangki.

At this juncture, the witness identified accused Datu Unsay in open court. He also identified accused Misuari Ampatuan. The witness claimed that Misuari told him and his brother, Thonti Lawani, that they should not follow to avoid danger.

On cross examination, witness clarified that his residence was located by the side of the road, near the corner of the highway and Crossing Masalay; and it was 15 meters away from the said crossing. The witness stated that Crossing Masalay is the same as Crossing Salman.

The witness prepared a sketch in open court which was marked as Exhibit "(11) G".[122]

On November 20, 2009, the witness maintained that he worshipped in a mosque in Crossing Salbo, and en route, he saw several checkpoints. Crossing Salbo was about five (5) kilometers from his house. He worshipped in that locality despite that there was a mosque in Sitio Malating, located less than a kilometer away from his residence in Crossing Masalay.

On this date, he heard the CVOs talking about the plan to kill the Mangudadatus. Yet, despite hearing that conversation, the CVOs did not hurt him. He also did not report said matter to the Mangudadatus, the MNLF, or the police authorities. Neither did he report to the provincial capitol about the fact that he saw several armed men and checkpoints.

On November 23, 2009, he clarified that by the time he saw the two (2) *Sanggukos*, he did not take note of the time. But then, the sun was not much high, although shining brightly; and most likely, it was around 9:00 a.m.

He remembered seeing Datu Unsay after he had seen his mother packing their goods for about an hour. He knew the accused because

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[122] Exhibit "(11) G" was not admitted in evidence for failure of the prosecution to submit the same to the court.

Datu Unsay was a public official. The witness recalled that Datu Unsay was wearing a white t-shirt, which had short sleeves. The accused did not wear a jacket. He could not recall whether the accused donned a hat or any head gear, as well as a firearm. He nonetheless confirmed seeing the accused on that day, near his residence.

When the witness evacuated to the barangay hall in Salman, no one asked him questions with respect to what he saw; not even the local officials of the town inquired about what he had seen. He never gave a statement of the events he had seen to any government agency. He also did not know that Thonti Lawani gave a statement to the Buluan Police Station.

On re-direct examination, the witness explained his non-reporting of the incidents was because of his fear that the accused, Datu Unsay, may kill him.

On re-cross examination, the witness said that the threat of him being killed by Datu Unsay was not yet known to him prior to November 23, 2009. Nonetheless, he did not report to the authorities because he did not want to get involved and he was afraid that he might get killed.

Testimony of Thonti Lawani

THONTI LAWANI [123] testified on direct examination on October 12, 2011. The witness was one of the residents of Crossing Masalay, Brgy. Salman, Ampatuan, Maguindanao.

On November 19, 2009, he was at a dryer, which was a place made of cemented road. It was about 10 to 15 meters away from the highway.

As the witness was sweeping the dryer, not less than 50 uniformed armed men arrived aboard several vehicles: Hummer, police car, *Sanggoku*, pick-up, mini Hummer and mini Cruiser. The firearms they carried consisted of armalites and long firearms with handles or grips, which he could identify given his MNLF training. The uniforms they wore looked like that of the police and the soldiers.

Lawani saw the arrival of Datu Unsay. He knew the accused because the latter was a mayor. The witness saw Datu Unsay talking to a lot of the commanders, one of whom he knew as Abidin "Bidi" Alamada. According to the witness, Abidin Alamada was from Shariff Aguak and had a scar on the hand, which looked like a burn injury with white colorations.

Thereafter, the commanders spread themselves out: some remained at the Crossing, while some went to the barangay hall (which

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[123] Witness Thonti Lawani testified on October 12 and 13, 2011.

was two electric posts away from the dryer he cleaned), camp, towards the direction of Isulan; some went to the highway, and some went to the outpost of Manong Jesus. The latter's outpost was the outpost of the CAFGUs. Datu Unsay went towards the direction of Isulan.

The witness observed that the uniformed armed men, who were CVOs and members of the auxiliary police, constructed barriers on the road in order that the vehicles that would pass by would slow down and stop. Those barriers were made of wood, with the word "checkpoint" posted on it. The barriers were there from morning until evening, everyday from November 19 to 23, 2009. According to the witness, these men waited for the convoy of the Mangudadatus on its way to the capitol *("tinatambangan at saka inaabangan nila yung convoy ni Mangudadatu na papunta ng Capitol".)*

In the morning of November 20, 2009, he brought his daughter, Jasmine to the MNLF Camp. His neighbours, such as Lagyudin, Salahudin, Faisal, Saki, and Samsudin also planned to evacuate as they were afraid of what may happen in Crossing Masalay. The MNLF camp was approximately 150 meters from the witness' house. It was located at a hilly portion of Masalay, in front of a quarrying area.

The witness became afraid when his friend, Sukarno Teng, who was a CVO, told him to be cautious as the CVOs were waiting for the convoy of Mangudadatus.

On November 21 to 22, 2009, the witness remained in Crossing Masalay. He saw the police officers and the CVOs still conducting checkpoint operations.

On November 23, 2009, at around 9:00 a.m., the witness was in Crossing Masalay with Faisal, Lagyudin, and Salahudin. They were supposed to evacuate but could not leave. A certain CVO called "Torpik" told them not to proceed so as not to witness what may happen there. He knew "Torpik" for he used to see the latter every time he rode a public utility vehicle.

Since the witness and his neighbours could not leave the premises, they remained standing in that area. Then, about 20 vehicles arrived and went to the hilly part of Masalay, which was far from the MNLF camp.

These vehicles consisted of vans, pick-ups, Hummer, police car, Pajero, multicab, auto or cars, motorcycles and others. The witness even saw a crying lady inside a white van, as well as CVOs with firearms. He also saw Datu Unsay in one of the vehicles.

When these vehicles passed by, the CVOs manning the blockade in Crossing Masalay went towards the upper part of the area.

The witness saw that the group of vehicles pushed further up of Sitio Masalay. Subsequently, he saw a backhoe being brought down from a trailer. The backhoe proceeded to the mountain.

Thereafter, the witness heard gunshots from the mountains. He said *"pumutok ang mga baril doon sa bundok."* The burst of gunfire lasted for not more than an hour. Moments later, the backhoe descended from the direction of Shariff Aguak. It was brought down from the trailer and went towards the mountain.

By 11:00 a.m., the people and the CVOs who went up the mountain went down and boarded the Hummer, *Sanggoku*, mini Cruiser, pick-up, and multi cab before going towards the direction of Shariff Aguak. As for the CVOs who were stationed at the blockade in Crossing Masalay, they left with Datu Unsay *("sumamang umuwi with Datu Unsay.")*

At around 1:00 p.m., the CVOs already went home. At that time, there was news that soldiers from Buluan would arrive.

At this juncture, the witness identified Datu Unsay in open court. He also personally identified "Torpik" as Misuari Ampatuan who told him not to proceed anymore to the mountains.

When cross-examined on October 13, 2011, Lawani stated that he moved to Crossing Masalay in 2008, and prior thereto, he resided in Brgy. Iganagampong, Datu Unsay municipality.

The witness mentioned that he never heard the massacre from mass media; instead, he heard gunshots on November 23, 2009. After that date, he went to the barangay hall of Salman and stayed there for three (3) days. He saw and talked to Barangay Captain Bai Salha Biruar Sangki. However, he did not relay what he witnessed to the latter. He shared his testimony to an NBI agent in that barangay hall, but the agent never asked him to execute an affidavit. Apart from the NBI, he did not report to the police or the army. He denied executing any blotter before the Buluan police station. Yet, the witness reported the incident to the Mangudadatus when he went to General Santos.

The witness clarified that the vehicles he saw on November 23, 2009 did not travel fast because the road had potholes. He also mentioned that he became friends with Sukarno Teng because the latter happened to be a CVO of Ampatuan, Maguindanao.

Testimony of Cpl. Zaldy Raymundo

When presented on the witness stand on August 11, 2011, CORPORAL ZALDY RAYMUNDO,[124] testified that in November 2009, he belonged to the 38th Infantry Battalion of the Philiipine Army, and was the detachment commander in Sitio Masalay, Brgy. Matagabong, Ampatuan municipality.

The witness narrated that on November 19, 2009, while in the said camp, several persons arrived; based on their uniforms, there were more than 20 police officers and 30 CVOs. The police officers wore camouflage uniforms, while the CVOs had uniforms of the Philippine Army.

P/Insp. Saudi Mokamad (also an accused herein) introduced himself to the witness. The witness was able to read in the patch of the uniform the name of said accused. Then the latter asked for permission whether they could cook and could establish a checkpoint. After clearing the matter with his commanding officer, Capt. Jose Sedrome, the witness agreed to their request.

The police officers conducted checkpoint operations at the following locations: Crossing Salman, Sitio Malating, Sitio Masalay, which was near his detachment, and Crossing Saniag. He also saw that police officers and CVOs stayed from November 19 to 23, 2009, in Crossing Saniag, Sitio Binibiran, Sitio Malating and Crossing Salman.

His detachment is: one (1) kilometer away from Crossing Saniag, 800 meters away from that in Sitio Binibiran, 500 meters away from that in Sitio Malating, and 100 meters away from Crossing Salman.

During the checkpoint operations on the aforesaid period, the witness remained inside his Camp Masalay Detachment together with seven (7) CAFGU members and seven (7) police officers. In his detachment, the seven (7) police officers cooked their food inside the premises. As for the CVOs, they were just outside their office, in a nipa hut, and were on standby ("nakatambay").

On November 23, 2009, between 10:00 a.m. to 11:00 a.m., the witness was inside the detachment when he heard an I-Com message of the policeman saying that four (4) vans were held up. Upon hearing this, he immediately texted his commanding officer and asked whether there were four (4) held-up vans. His commanding officer replied, telling them to stay alert and to remain in the camp. It was during this time that he noticed a convoy passing through the detachment, going uphill. He saw a white van and a lite ace in the convoy. Seven (7) vehicles proceeded to the mountains of Salman ("bulubundukin ng Salman").

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[124] Witness Corporal Zaldy Raymundo testified on August 11, 17, and 18, 2011 and July 02, 2014.

After a while, the witness heard numerous shots. Then, he saw the arrival of a prime mover carrying a backhoe, which stopped at Crossing Salman in order to unload the backhoe. Then, the backhoe proceeded uphill, which the witness referred to as "*bulubundukin ng Barangay Salman.*"

At past 12:00 p.m., the witness noticed, while he was at the Masalay Detachment, that the said police officers and the CVOs slowly left the checkpoint premises. These men left using police cars and prime mover that was on stand-by.

Moments later, a CVO went inside the detachment of the witness. The CVO imposed to the witness that the latter had not seen or heard anything. This made the witness scared and nervous.

Then, the 64th infantry batallion arrived. The witness talked to their commanding officer, Major Peter Navarro, and informed him that the vehicles proceeded to the mountains of Salman. He pointed at that direction for that was where he heard the gun shots. In response, the commanding officer organized a platoon, made a clearing, and proceeded to the direction where the gun shots were heard.

The witness and his commanding officer, Capt. Jose Sedrome, with four (4) escorts, followed. Upon reaching their destination, the witness saw three (3) vehicles and one (1) backhoe in the "bulubundukin of Brgy. Salman." Aside from the vehicles, he also noticed the bodies of the people that were slain – around 13 women and eight (8) men.

The witness secured the area together with the 64th infantry battalion. There were about 30 members of the 64th infantry batallion at that time. They secured the area for two (2) nights. Thereafter, the witness was brought back to his own 38th infantry battalion.

The witness identified accused PO3 Felix Daquilos. He remembered seeing said accused inside the camp and was designated as the driver of the pick-up truck of the 1507th battalion.

On cross-examination on August 11, 17, and 18, 2011, the witness admitted that there were discrepancies between his direct testimony and Salaysay. He failed to mention about the following: (1) there were about 20 police officers and 30 CVOs with Insp. Mukamad on November 19, 2009; (2) four (4) vans were held up on November 23, 2009; (3) the text messages he sent and received on November 23, 2009; (4) the CVOs left the detachment using a police vehicle and a prime mover; (5) that he saw vehicles going direct to Cotabato.

Corporal Raymundo claimed that as the detachment commander in the detachment located in Sitio Masalay, it was his responsibility to control the CAFGUs. Likewise, he monitored the people in that area.

The witness maintained that he was just inside the CAFGU Camp Detachment in Sitio Masalay throughout November 19 to 23, 2009. He had six (6) personnel with him. All of them were CAFGU members whom he supervised.

According to the witness, on November 19, 2009, Insp. Mukamad started establishing a checkpoint at Crossing Salman, which was about 100 meters from his detachment.

The witness maintained that he did not verify the identity of Insp. Mukamad. He only knew about the name of the accused when he read the patch in the uniform. But as far as he could recall, Insp. Mukamad ate breakfast at his detachment, together with his men, on November 23, 2009.

The police officers and the CVOs arrived at the same time at the checkpoint. But the CVOs remained in the highway while the police officers went into the detachment. The police officers conducted checkpoint operations. The CVOs whom the witness saw stayed in two (2) houses "kubo" located in front of the witness' detachment, accross the highway. These two (2) houses were 100 meters away from that checkpoint in Crossing Salman. Nonetheless, the police officers and CVOs were mingling when the latter goes to the checkpoint. To his estimate, there were more CVOs than policemen. And based on his assessment, the firearms of the CVOs, like machine guns, were superior than those carried by the police officers.

At the checkpoint in Crossing Salman, the witness sighted a white Toyota Hilux with the markings "1507" and a police car parked near the checkpoint. He also saw a *Sanggoku* with a machine gun on top. And although he did not physically go to the checkpoint, he was able to see that there were policemen from the 1507th regional mobile group at that site.

The witness also saw the detachments in Sitio Bilibiran, Sitio Malating, and Crossing Saniag on his way to Kauran Headquarters, Brgy. Kauran, Ampatuan, Maguindanao on November 20, 2009. He was aboard a motorcycle, and he himself was stopped and checked at these checkpoints. The witness said that Sitio Malating was 500 meters from his detachment; Sitio Bilibiran, 800 meters; and Crossing Saniag, one (1) kilometer. Of those heading the checkpoints, only Insp. Mukamad asked permission for him to conduct checkpoint operations.

According to the witness, in order to set-up a check point, there was no more need to coordinate with local government unit. An advisory, followed by verbal or written instructions, are sufficient to have a checkpoint.

In the mountainous area of Salman, the MNLF Camp can also be found. Nevertheless, in his about three (3) months in the detachment, he never heard a single gunshot from the MNLF Camp.

Raymundo did not report to his commanding officer that he saw police officers and CVOs within 100 meters from the detachment. He did not reduce this sighting in written incident reports or police blotters.

As regards the incidents on November 23, 2009, the witness affirmed while inside the camp, he could observe, however, that the number of CVOs swelled on November 23, 2009. He could also hear the shots coming from firearms on November 23, 2009. He maintained that the shots he heard on November 23, 2009 came from firearms. When asked whether he heard anything about the Mangudadatus in that month of November, he answered in the negative.

In his 13 years of being assigned in Maguindanao, it was the first time that he heard about four (4) vans being held up, and the first time as well for CVOs to line-up the highway. He felt that the situation then was very different considering that the CVOs were lined up beside the highway and they dropped to the ground.

As for the police officers, they maintained their position in the checkpoint in Crossing Salman while the CVOs, who dropped to ground, were seen by the witness accross his detachment until Crossing Salman, beside the highway. And at that time, it was only him, the six (6) CAFGUs and the seven (7) police officers who were left in the detachment.

According to the witness, he heard the gunshots at 11:00 a.m., which were continuous and rapid. While this occurred, the CVOs and the police officers maintained their place along the highway in Crossing Salman. Then, at 1:30 p.m., the reinforcement from the 64th infantry batallion arrived. Subsequently, the police officers and the CVOs left the area.

When a CVO went to the witness' detachment and shouted at him that he did not see or hear anything, he recalled that there were some police officers behind him, while CAFGUs were hiding as they were very scared then because they were being threatened; and more compelling, certains CVOs positioned themselves with their firearms such as M16, M14 and machine guns, all directed towards the witness' detachment.

At this point, the witness specified that when the CVOs dropped to the ground with their firearms directed at his detachment, it was then that the CVOs waited for the convoy. And when the convoy passed, the witness hid himself ("patago-tago") on November 23, 2009. The seven (7) other police officers hid as well.

When the 64th infantry battalion arrived, they consisted of one (1) whole platoon, or about 34 men. They carried M14s, M16s, and machines gun, which firearms may be used to secure the area.

As regards PO3 Felix Daquilos, the witness was able to remember him for the former was always at the detachment. The accused was the driver, as well as the cook for the seven (7) police officers inside the detachment.

In executing the affidavits (three of them), he was respectively helped by the CIDG, Inspector General, and NBI. With his cellphone having been stolen from him in December 2009, the witness conceded that he had no proof that he communicated with his commanding officer about the hold-up of the vans.

The witness said that he prepared several affidavits. The first affidavit dated November 26, 2009, he was helped by the CIDG and that Major Ramos prepared a Supplemental Affidavit after they talked; the second affidavit dated November 30, 2009, by the Inspector General; and the third affidavit dated December 02, 2009, by the NBI. He did not inform the prosecutors that he executed three (3) affidavits in connection with these cases.

Raymundo maintained that he did not know the CAFGUs by the name of Takpan Dilon and Esmael Canapia.

On July 02, 2014, Raymundo testified on additional direct and cross examinations, and identified Insp. Mukamad in open court. He specified that he had been investigated in connection with these murder cases, for which reason he and his men surrendered their firearms. But as of the time he had been testifying, he did not know the results of the ballistics examination.

Testimony of Elo Sisay

ELO SISAY [125] testified on direct examination on November 03, 2011. The witness was a CAFGU member who was assigned in November 2009 at the CAFGU Detachment in Masalay, Ampatuan.

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[125] Elo Sisay testified on November 03 and 09, 2011.

Sisay claimed that he resided in the *poblacion* of Dicalungan, Ampatuan. He rode a Town Ace to and from work, which was four (4) kilometers away from his residence.

On November 22, 2009, at 4:30 p.m., he reported for work at the CAFGU detachment. When he commuted through a Town Ace, he noticed the presence of CVOs at the highway from the barangay hall of Salman up to the detachment.

There were more than 100 CVOs. He knew them to be CVOs by their police fatigue uniforms and firearms. He saw those men carrying M16s, M60s, and M14s. He also noticed firearms with 50 calibres on top of a *Sangguko,* which was an armoured vehicle owned by the Ampatuans. The *Sangguko* was situated in front of a detachment near the house of Manong Hesus, a tuba gatherer.

In front of the CAFGU detachment, the witness observed that some of the CVOs were doing "RS", while the others were conducting "GO." "RS" meant securing the road, while "GO" involved stopping the vehicles and checking the passengers.

When the witness arrived at the detachment, he saw the day guard, Rene Abdula. Then, inside the detachment, he saw Insp. Mukamad, whom he identified by the upper polo of the latter, which was hanging on the wall of the detachment. Insp. Mukamad was watching T.V. He was with three (3) other persons, who were policemen, inside the detachment. The witness also saw the commander of the detachment, Corporal Zaldy Raymundo.

By evening, the witness was inside his hut together with his companions, other CAFGUs – Rene Abdula, Harodin Sailon, Buka Ali, Teng Kadtong, and Danny Kabilangan. He still saw the CVOs in front of the detachment. Insp. Mukamad remained inside the detachment.

On November 23, 2009, at 6:30 a.m., Corporal Zaldy Raymundo permitted the witness to return home. En route, he saw CVOs positioned along the highway. And on his way back to the detachment, the witness noticed that along the highway near the detachment, the number of CVOs increased. To his estimate, there were more than 300 of them.

When he finally reached the CAFGU detachment, he got water from an open well in front of the house of Manong Hesus. As he was getting water, the witness heard somebody (probably an operator of *Sangguko*) say that they were going to ambush somebody – the convoy of Mangudadatu.

At around 10:30 a.m. of that day, he was inside the fenced area of detachment. In front of the detachment, he heard a CVO shouting for

them to hide. Subsequently, he ran towards the back of the detachment. While at the back of the detachment, the witness saw that a convoy passed, and that there was a man in an Urvan who said "*Okey na, nakuha na.*" This man was a tall person wearing a bullet-proof vest – aboard an Urvan shouting and making a thumbs up sign saying "*Okey na, nakuha na.*"

Sisay saw that the vehicles proceeded to Sitio Masalay, Brgy. Salman. He saw more than 10 vehicles, colored white, black, a pajero, and police car. Moments later, he heard numerous and loud gunshots, lasting for more than 30 minutes, which came from Sitio Masalay. The witness had no reaction when he heard these, because he always heard gunshots in that area.

Then, the witness saw some vehicles going down from the mountain, which were headed towards the direction of Cotabato. Their direction did not pass the detachment, but away from it.

After seeing these vehicles, the witness saw that the CVOs were preparing to leave. They rode in a white car, and in other vehicles, and proceeded towards Cotabato. When the CVOs left the place, no one remained in that locality.

As for Insp. Mukamad and his companions, they went to Malating. Their way was opposite the direction of Cotabato, as they were going to Isulan, Sultan Kudarat.

After they left, the police returned, and went towards the direction of Cotabato. He saw around 18 persons.

The witness saw the arrival of a trailer with a backhoe coming from the direction of Shariff Aguak. Thereafter, the backhoe alighted from the trailer and proceeded to Sitio Masalay, Brgy. Salman. As for the trailer, it remained in its place, parked in front of the CAFGU detachment.

At 1:30 p.m., while the witness was at the detachment, the members of the 64th Infantry Battalion arrived. These members went up to Sitio Masalay. As for the witness and his companions in the detachment, they proceeded to site where the alleged killing happened at around 3:30 p.m.

The witness saw dead bodies. He saw 22 dead persons inside a vehicle, while the other cadavers were outside the vehicle. He saw the same vehicles that the people rode. He had seen a Pajero and a van; and near those vehicles was a backhoe.

At this juncture, the witness identified Misuari Ampatuan as one of the CVOs he saw in front of the CAFGU detachment.

When cross-examined on November 03 and 09, 2011, the witness testified that he underwent CAFGU training for three (3) months, conducted by the 57th infantry battalion of the Philippine Army, in Dicalungan, Ampatuan, Maguindanao.

As a member of the CAFGU, the witness claimed that he followed the chain of command. He had responsibilities as a CAFGU and an employee of the Philippine Army. He received his salaries from the Philippine Army. He was duty bound to serve and protect the civilians in his designated detachment.

A long firearm, called garand, had been issued to the witness. He left his firearm at the detachment. Although he had immediate access to his weapon, he needed to secure a command before he could use it. As for his six (6) other companions, including the detachment commander, they also had long firearms to protect the detachment.

The witness described that the detachment was placed on high ground, in an elevated portion akin to a hill, which could have a vantage point of at least 500-meter radius. The area was chosen because it was considered a military crest, or an area to defend oneself; and because people could be seen going up in case of an assault or place of danger.

The witness mentioned that the detachment was merely 100 meters away from Crossing Masalay, and about one (1) kilometer from Malating. He only saw one (1) *Sangguko* in Crossing Masalay on November 22 and 23, 2009. The witness said that having been a CAFGU member for nine (9) years, the presence of CVOs along the highway was not unusual.

The witness prepared a sketch in open court, indicating the following: the location of Isulan, Cotabato, Crossing Masalay, the hill or mountain, the massacre site, the detachment, the irrigation dike, the trench, the barricade, the hut, and the barracks. He also identified his hiding place on November 23, 2009, and the area of the highway where he had seen the CVOs.

As for the *Sangguko*, the witness did not notice whether it had red government plates. But he saw that it had police markings on both right and left sides.

The witness further added that on November 22, 2009, the CVOs established a checkpoint at Sitio Masalay near the detachment. Prior to this date, the witness had reported on and off for work: day-off on November 19, 2009; reported on November 20, 2009; did not report on November 21, 2009.

This checkpoint was set-up until noon of November 23, 2009. The witness did not inquire from the CVOs why they put up a checkpoint. He reiterated that he saw more than 100 armed men in the afternoon of November 22, 2009.

According to the witness, these armed men wore a uniform different from him. But they have the same uniform as the police officers, so much so that an instant glance, the armed men could have been mistaken as police officers. Nonetheless, the witness maintained that the CVOs were under the control of the PNP – the CVOs follow the orders coming from the PNP.

In the morning of November 23, 2009, their number swelled to 300. The witness affirmed that on even date, only CVOs and police officers were in Crossing Masalay at that time. And the witness was sure that the PNP personnel he saw on November 22 and 23, 2009, were wearing fatigue uniform.

The witness stated that when he saw Insp. Mukamad on this date, and the prior day, two (2) of his police officers were inside with the latter in the CAFGU detachment.

The witness clarified that on November 23, 2009, he did not talk to the operator of the *Sangguko*. At most, he overheard the conversation of two (2) persons: that they will ambush the Mangudadatu convoy. As a trained CAFGU personnel who knew the definition of an ambush, he knew guns would be fired at the on-coming convoy if there were army bodyguards. And upon repeating that question on cross examination, the witness maintained that he heard the *Sangguko* operator say: *"pag dumaan ang mga Mangudadatu, papatayin natin sila."* The witness got confused. He did not report this matter to Corporal Zaldy Raymundo. Neither did he report it to Capt. Sedrome, the commanding officer of the 38th infantry battalion, delta company.

On even date, a CVO asked them to hide. And when he did, he was not following any chain of command, for he did not take orders from a CVO. CVOs were auxiliaries of the PNP and were not from the Philippine Army to which CAFGUs belong.

He hid at the back of the barracks. At that time, he did not take out his M1 Garand; and because there were no gunshots, he did not dive unto the trench and use a firearm to protect the detachment. He sought cover not for very long, not 20 minutes. The witness maintained that Corporal Zaldy Raymundo also hid behind the barracks.

While hiding, he still managed to see an Urvan vehicle, with a tall man, giving a thumbs up sign, saying "*Okay na, nakuha na*." While this happened, he remembered that Corporal Zaldy Raymundo was also inside

the detachment. The witness then saw vehicles going to Sitio Masalay, or more than 10 in number, black, white, a Pajero; none of them were colored.

He again saw the white and black vehicles re-tracing its rapid route back to Masalay leading towards Cotabato. He did not see any police vehicle.

He described the 30 minutes of gun fire as continuous. And thereafter, the CVOs left aboard white vehicles. He also saw a weapons carrier when the CVOs left on November 23, 2009, at 1:00 p.m.

The witness proceeded to the alleged massacre site together with Captain Sedrome. The travel from these two (2) places took 15 minutes.

According to the witness, on November 25, 2009, he had been investigated by the CIDG in Camp Fermin Lira, General Santos. In that place, he executed an affidavit consisting of three (3) pages. He obtained one (1) copy of this document, which unfortunately got burned.

On re-direct examination on November 09, 2011, the witness clarified that the CAFGU Detachment was situated on a high ground. Its height difference with the highway was more than two (2) meters. This detachment reported to the army headquarters, the 6th MAG Company located at Kauran. The CAFGU Detachment and the army headquarters were about five (5) kilometres apart.

The witness clarified that he saw the weapon's carrier on both days: in the afternoon of November 22, 2009, and in the morning of November 23, 2009. He remembered that when the weapon's carrier passed in the afternoon of November 22, 2009, it carried food for the CVOs. Then, in the morning of November 23, 2009, the weapon's carrier brought food. Later on, the CVOs used it as its transport vehicle.

On November 23, 2009, when the witness took to hiding, he remembered that he ran together with Insp. Mukamad, while Corporal Zaldy Raymundo ran towards the back. However, he did not notice which portion of the back.

As regards his tour of duty, the witness explained that he reports for seven (7) days, for 24 hours. Then, for the next seven (7) days, he was offduty.

Testimony of Esmael Enog

ESMAEL AMIL ENOG[126] **(deceased) was presented on the witness stand on July 28, 2011.** He testified that he agreed to be a CVO member, patrolling the Shariff Aguak terminal of passenger trucks, from March to November 2009, under the leadership of Alyol (Alijol) Ampatuan (alias Yubi Kutob). For this engagement, he received ₱1,500.00 a month and a sack of rice to be collected from Datu Kanor, allegedly the relative of Alyol Ampatuan. He received from the latter an R18 gun, uniform, and I-Com.

On November 23, 2009, at 6 a.m., while in his station at the Shariff Aguak passenger terminal, Haykel Mangakop told him that there was a call from Alyol Ampatuan from the radio asking him to drive the car going to the house of Datu Kanor. From that house to Malating, the witness was to bring armed men using a 'weapon', which is a big black vehicle with roof, four (4) tires, and has a capacity to carry 20 persons.

The witness picked up an estimate of 20 armed men, who wore CAFGU uniforms and carried firearms like M14 and Armalite, at Datu Kanor's house. He then brought them to Malating, at the side of the road.

Enog testified that on the way to Malating, they passed by a highway were there was a Labolabo detachment. Thereafter, he and Haykel Mangakop went home.

Subsequently, Alyol Ampatuan instructed the witness to return to the house of Datu Kanor and pick up another batch of 16 armed men to be brought to Malating. Like the previous batch, the armed men also wore uniforms and bore firearms like M14 and armalite. While passing by the highway, the witness observed that there were people standing at the side of the road.

After driving the vehicle, the witness returned the truck to the terminal in Shariff Aguak. He also gave back his I-Com and uniform to Alyol Ampatuan. Then, he went home to Labolabo, Shariff Aguak. While he was taking his rest, he heard "*putok*" for about an hour coming from the direction of Masalay, where he brought the armed men.

When asked to identify his passengers, Enog remembered seeing Tato Tampogao, who he recognized as a fellow CVO. He also saw in his truck Mohades Ampatuan and Nicomedes Amad Tolentino, who he came to know as they usually visited the Shariff Aguak passenger pass terminal. The witness sighted Misuari Ampatuan in Malating, who the witness also saw frequently at the terminal.

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[126] Witness Esmael Amil Enog testified on July 28, 2011; August 10 and 18, 2011.

When cross-examined on July 28, August 10, and August 18, 2011, the witness maintained that he resided in Shariff Aguak for the last seven (7) years and had relatives therein. His alleged brother, Rakim Amil, is one of the detained accused in these cases.

The witness joined the CVO sometime in March 2009. The usual uniform of a CVO consists of upper fatigue, pants, and tropical boots. In the second trip that he made to the terminal, the witness mentioned that he removed his fatigue uniform.

He had no I.D. to prove that he was a CVO. He threw it away because CVOs were then being searched by the police. But in the photographs of CVOs presented in open court, the witness had no picture in it.

When patrolling the market, his tour of duty as CVO started at 6:00 a.m., after prayer. His CVO commander, Alyol Ampatuan, did not train him to use the R18 gun, for it was enough that he was in uniform to be a CVO.

The witness clarified the uniforms of officers in this wise: first, the police officers from the PNP and CVOs have the same uniform. The only difference was that the policemen have patches with names in their uniforms, while the CVOs did not have those patches.

He did not have a driver's license to drive the 'Weapon', which had no plate number, no distinguishing marks, but had a dark paint. According to the witness, it was already enough that he was driving an Ampatuan truck for one not to be apprehended. He was told that the truck belonged to Datu Andal, Sr. Also, Alyol Ampatuan told him that the former would take care of everything, since they were the law.

As regards the actual incident, Enog said that he brought the first batch of armed men at past 6:00 a.m., while the second trip was around 7:00 a.m. He clarified that during the first trip, he was accompanied by Haykel Mangacop; but in the second instance, the latter no longer went with him. When he returned the items before he went home to Labolabo, it could not have been beyond 8:00 a.m.

The witness clarified that after the armed men alighted from the vehicle, he did not know where they went or what instructions they received. And before noon time, he heard the gunshots.

With regard to his coming to testify, he said that a certain Jimmy Telendo, who was his uncle, told him to testify in these cases. He said that it was Telendo who told him that Haykal Mangacop would accompany him to Manila. Jimmy Telendo gave him, Haykal Mangacop, and a certain Abdul Sataramin plane tickets to Manila. Haykal Mangacop accompanied

him in his meeting before the prosecutors of the DOJ and did the interpretations for him.

Haykal Mangacop is a farmer, not a CVO. The witness knew him because he sees him in the terminal everyday. As far as he knows, the opponent of the father of Haykal Mangacop in the 2010 mayoralty elections was a certain Hadji Sahara.

Finally, he stated that he did not witness the actual death of the victims. Hence, he did not see any of the CVOs he earlier identified kill those victims.

On re-direct examination on August 18, 2011, the witness clarified that when he made the second trip to shuttle the armed men to Malating, he no longer wore a uniform, but only civilian clothes. **On re-cross examination conducted on even date***,* the witness said that after returning the firearms, radio and uniform to Alyol Ampatuan, he went home wearing civilian clothes.

Testimony of Haical Mangacop

When presented on the witness stand on September 01, 2011, HAICAL MANGACOP[127] testified that he was a farmer who accompanied witness Esmael Amil Enog in transporting armed men to Malating.

In the morning of November 23, 2009, after drinking coffee at the Shariff Aguak terminal, he saw his friend Esmael Amil Enog who is a CVO reporting for Alejul (Alyol) Ampatuan. During their conversation, he heard in the I-Com radio of Enog that the latter was instructed to proceed to the house. He was then asked by Enog to accompany him, and they boarded the vehicle called the 'weapon'. They proceeded to the house of Alejul Ampatuan, the cousin of Datu Unsay.

Upon arrival thereat, they alighted from the vehicle and stayed in the premises. After a while, they boarded again the 'weapon', and headed towards the house of Datu Kanor Ampatuan, a cousin of Datu Unsay. As they approached the house of Datu Kanor, he saw 20 armed CVOs who were wearing police and army uniforms and boarded the 'weapon.'

The witness, and his friend Enog, shuttled the armed men to Malating. In particular, they were brought at the side of the highway ahead of Masalay. On their way to their destination, he noticed three (3) checkpoints. Specifically, he noticed that there were several armed CVOs at the checkpoints at Labolabo irrigation, at the bridge at Labolabo, and finally, at Masalay.

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[127] Witness Haical Mangacop testified on September 01, 07, and 08, 2011.

After the armed men alighted, he and Enog returned to Shariff Aguak. The witness alighted earlier at a crossing because he had to feed his carabao. On the other hand, Enog relayed to him that the latter will go back to Datu Kanor's house and bring the rest of the CVOs to Malating.

In open court, the witness said that he saw the following CVOs: Nasser Esmael, Moactar Daud, Taya Bangkulat, and Salik Bangkulat.

He knew Moactar Daud as it was known to the residents of Shariff Aguak that the accused was Datu Unsay's CVO. He recalled seeing the accused boarding the 'weapon.' The witness knew Nasser Esmael as they were neighbors. He particularly remembered seeing the former in the Masalay checkpoint.

The witness saw the brothers Taya and Salik Bangkulat at the Masalay checkpoint. He personally knew the brothers because they stayed before in the witness' house.

Haical Mangacop was subjected to cross examination on September 07 to 08, 2011. He explained the circumstances of his testimony in this wise: (1) he did not execute an affidavit; and (2) when he testified, he had not seen the pictures of the arrested CVOs, and that he was not coached to say the names of those persons he identified.

Although accused Nasser Esmael was his neighbor, he actually lived far from the former. He did not know Nasser Esmael's parents and siblings. Neither did he know the birthday and age of the accused.

Testimony of P/ Inspector Rex Ariel Diongon, state witness

P/INSPECTOR REX ARIEL DIONGON, a state witness, testified on June 05, 2013. He executed a ***"Karagdagang Salaysay" dated March 12, 2013 (Exh. "(13) N").***

The witness narrated that he joined the PNP on March 22, 2007. In February 2009, accused Major Dicay, who was his classmate in Bacolod City and the then OIC Provincial Director of Maguindanao PNP, designated him as Officer-in-Charge Group Director of the 1508th Police Provincial Mobile Group in Maguindanao. At that time, there were also other PMGs: the 1506th PMG headed by P/Insp. Armando Mariga, and the 1507th PMG headed by accused P/Insp. Saudi Mukamad.

The 1508th PMG of Insp. Rex Ariel Diongon covered the 2nd district of Maguindanao, which included the Municipalities of Shariff Aguak, Ampatuan, Buluan, Andal, Datu Paglas, Paglat, Guindulungan, Sultan Sumagka, Sultan sa Barongis, Talayan, Datu Unsay, Mamasapano, Pendatun, and Datu Abdullah Sangki. In leading the 1508th PMG, his

important duties included maintenance of peace and order, police visibility, and conducting road security for the Ampatuan family. He had 82 personnel but clarified that only 20 of them were in actual duty because the rest escorted the Ampatuan family and their supporters. He himself has also been additionally assigned as a security aide of accused Datu Sajid Islam Ampatuan in March 2009. According to the witness, he escorted the latter for three (3) times.

In June 2009, Major Dicay ordered the witness to rally his troops for an operation in Pandag Municipality, near Buluan, which allegedly involved armed men of the MILF headed by a certain Commander Umbra Kato. The witness followed Major Dicay. When they arrived in Pandag, the witness did not see the presence of any MILF but he was told that Commander Dinga, who headed the CVOs, wanted to shoot the house of Mayor Dodong Mangudadatu; but was prevented by Major Dicay. Thereafter, the witness, Major Dicay, and their men proceeded to the municipal hall of Pandag to receive from the military the confiscated firearms which would be turned over to them. Then, they unloaded the firearms at the Provincial Headquarters. Major Dicay also instructed his men to replace their firearms if there was any defect in them.

At the Provincial Headquarters, Major Dicay and the witness had a drinking session. The former relayed to the latter that Datu Andal, Sr. was angry because Major Dicay did not kill the Mangudadatus using the .50 caliber weapon in the *Sangguko*. It was then that the witness learned that the Ampatuan family intended to kill the Mangudadatus.

In July 2009, Major Dicay ordered the witness to accompany him in Manila. He particularly escorted Datu Sajid Ampatuan when the latter went to the Office of the Department of National Defense in Camp Aguinaldo. At the said office, he saw that only the Ampatuan family and the Mangudadatu family entered the premises. Major Dicay told the witness that the meeting was about the Pandag operation.

Several weeks later, the same camps went to Malacañang and purportedly met about the Pandag operation and the possibility of removing Major Dicay as OIC Provincial Director. The people who met inside the office included Datu Andal, Sr., Datu Unsay, Datu Zaldy, Sajid Ampatuan, Saudi "Sham" Ampatuan, Akmad "Tato" Ampatuan, Datu Esmael Mangudadatu, Khadafy Mangudadatu, Major Dicay, and P/Supt. Bahnarin Kamaong.

On November 17, 2009, the witness went to the Regional Headquarters of the Autonomous Region in Muslim Mindanao. He requested matters regarding his gas allocation from his new OIC Provincial Director, Supt. Abusama Mundas Maguid. The latter gave him an allowance of 50 liters of diesel and ordered him to use it to conduct

checkpoint operations and police visibility during the period to file COC from November 19 to December 02, 2009.

On November 19, 2009, at around 6:00 a.m., Major Dicay, who then became the Deputy Provincial Director, called the witness and allegedly ordered the latter to rally his troops and to proceed to the house of accused Datu Unsay in Poblacion, Shariff Aguak. Upon arrival thereat, the witness allegedly saw Mariga, Insp. Mukamad, Major Dicay, Datu Unsay, Kanor Ampatuan, and Nords Ampatuan. He was seated right beside Datu Unsay and right across Major Dicay.

According to the witness, the meeting in the house of Datu Unsay pertained to the setting up of checkpoints during the filing of COCs. More specifically, the witness testified that: *"binigyan po kami ng order ni Major Dicay, ma'am, na possible sa Malating dumaan si Toto Mangudadatu na mag-fi-file ng Certificate of Candidacy using 'buwaya sa lanao as escort."* [128]

Datu Unsay allegedly inquired how many men were with them. Mariga replied he had 30, Insp. Mukamad said he had 30, and the witness answered that he had 15 men. Thereafter, Datu Unsay drew parallel lines and boxes in a bond paper, which appeared to be a sketch of a road map. Those who attended the meeting pointed at the sketch and allegedly said *"SYA BO DATU SYA BO"* repeatedly. The witness also heard the word "*Sangguko*."

The attendees of the meeting continued to talk in Maguindanaon dialect. The witness allegedly did not participate in the discussion for he did not understand them. At that point, Major Dicay allegedly told Datu Unsay that the witness is a Christian who does not understand Maguindanaon. Datu Unsay then asked the witness: "*inspector, kilala mo ba ang mga kaibigan natin sa kabila? sa buluan?"* The witness said yes. Then, Datu Unsay allegedly asked: "*kaya mo ba silang patayin?"* Out of fear, the witness allegedly answered yes.

Subsequently, an older man approached him, shaked his hands, and said: *"yan ang gusto ko matapang."* Right after, Datu Unsay allegedly said: *"maaring hindi si Toto ang mag file ng COC niya, maaring ibang tao, ang gusto ko kung sino man ang magfile ng COC niya maharang at dalhin sa akin;" "pag pinatay, siguraduhing patay talaga."* Datu Unsay further jokingly uttered: *"kung may makuha kayong mga baril sa inyo na at pagkagusto niyong ibenta, sa akin niyo ibenta wag sa iba;" magkano ba ang M16 ngayon 40 thousand."*

Datu Unsay invited the men to eat; and thereafter, his group proceeded to talk. Subsequently, a man carrying a bag approached Datu Unsay. The latter took money out of the bag and allegedly gave cash to

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[128] TSN, June 05, 2013, p. 106 wherein Diongon explains that "buwaya sa lanao" refers to armed men presently servicing the Mangudadatu family.

Mariga and Major Dicay. Major Dicay asked the witness whether he already received cash. Since the witness did not receive funds, Major Dicay gave him ₱15,000.00 to be used from November 19 to December 02, 2009 to buy viands. Major Dicay explained that the rice will come from Datu Kanor Ampatuan. The witness allegedly saw that Datu Unsay gave Major Dicay additional cash after the latter handed the witness some money.

As the witness and Major Dicay went out, the latter said that there are "*buwaya sa lanao"* who will accompany Datu Esmael Mangudadatu in filing his COC.

The witness and Major Dicay left together with their men. They stopped at Masalay and the witness saw that Major Dicay talked with Insp. Mukamad. Then, the witness and Major Dicay proceeded to Malating.

In Malating, the witness and Major Dicay stopped in front of an abandoned *"madrasa."*[129] Near that place, the witness already saw CVOs in nearby houses. The witness and his men cleaned the *"madrasa,"* which served as their temporary detachment while waiting for what will happen in case Datu Esmael Mangudadatu files his COC accompanied by *"buwaya sa lanao."*

Together with the men of Major Dicay, the witness, and his men from the 1508th PMG conducted checkpoint operations in Malating.

But before setting up said checkpoint, the witness briefed his unit. The testimony of the witness specifically reads: *"Sinabihan ko sila na mag-ready because as per instruction coming from PCI Dicay, buwaya sa lanao would accompany Toto Mangudadatu in filing the COC."* The witness explains that *"buwaya sa lanao"* means the armed men servicing the Mangudadatu family.

After the briefing, the witness and his men prepared for the set up of the checkpoint. In particular, the witness told them to fix their malfunctioned firearms, which the men did. The witness had them fixed their firearms because: *"itong mga buwaya sa lanao ay mga taong carrying high powered firearms, so kapag na-checkpoint namin sila, I told them na we expect resistance and retaliation against these people."*

By afternoon, the policemen from Parang Municipal Police Station (MPS), whom Major Dicay called for augmentation, arrived in Malating. Around afternoon as well, Datu Unsay passed by their checkpoint in Malating, and when the latter returned, he gave an "okay" sign to Major Dicay. Datu Unsay allegedly stopped and talked to Major Dicay.

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[129] TSN, September 29, 2010, p. 117, witness Norodin Mauyag explains that a madrasa is a school where Arabic is taught.

The witness also testified that there were four (4) checkpoints set up by the members of the PNP from November 19 to 23, 2009, *viz:* 1) Crossing Saniag manned by the 5th Company of the 15th RMG; 2) Malating manned by the 1508th PMG; 3) Crossing Masalay manned by the 1507th PMG; and 4) in front of the Municipal Hall of Ampatuan Municipality manned by the Ampatuan MPS headed by SPO4 Badawi Bakal.

On November 20, 2009, the witness noticed that the CVOs kept growing in number. He allegedly saw the vehicle of Datu Kanor which brought additional CVOs. He observed that there were also CVOs posted across the "*madrasa.*" By afternoon, several police officers who were summoned by Major Dicay arrived from different municipal police stations.

On November 21, 2009, the witness observed that people who lived in Malating evacuated. When he did an area survey, only the one with a store, the one who lived near the mosque, and those who lived at the back of the "*madrasa*" stayed. By afternoon, while en route to Kauran, Ampatuan, he saw that there were members of the 15th RMG 5th company who were posted at Crossing Saniag. In the afternoon of November 22, 2009, the Executive Officer of the witness, P/Insp. Michael Joy Macaraeg, arrived.

According to the witness, from November 19 to 22, 2009, the conduct of the checkpoint operations was orderly. All vehicles that passed by them were inspected.

On November 23, 2009, at around 5:00 a.m., the witness and Macaraeg went to the Provincial Headquarters to take a bath, but the former was not able to do so as he had to go back to Malating. On the other hand, Macaraeg went to the office in Camp Datu Akilan, Shariff Aguak.

En route to Malating, he saw the members of the Ampatuan MPS, headed by SPO4 Badawi Bakal, conducting checkpoint operations in front of the Ampatuan Municipal Hall. He recognized PO1 Arnel Ansa. After talking to them, he headed back to Malating. And on the way, he saw in Lambuay detachment one of the *Sanggukos*, and Commander Dinga. After they talked, he left and, on the road, he saw the members of the 1507th PMG headed by Insp. Mukamad in Masalay.

At around 9:00 a.m. of that date, after taking a bath, he went back to their checkpoint area. He no longer saw his men because they were allegedly replaced by the augmented police called by Major Dicay. He saw Datu Kanor, with his men having increased in number. After some time, he noticed that Datu Kanor and his men were shouting "*andyan na, andyan na.*" The witness no longer bothered to check them because they were not gearing up their arms but were instead going to the highway.

The witness saw an approaching white car. He stood in the center of the road and signaled the vehicle with urgency. He inspected the vehicle as was the usual conduct of checkpoint operations. He saw that the car was a UNTV L-300 van. The driver told him that the vehicle was on its way to Shariff Aguak. He allowed the driver to proceed, but as the vehicle was about to leave, Datu Kanor aimed at the cameraman who was sitting at the back of the van.

When the other vehicles arrived, the men of Datu Kanor stopped the cars and had their passengers alight. They herded the people in the abandoned store and then confiscated the passengers' belongings, laptop, cellphone, camera, bag and folders. They then placed these items on a table by the shoulder of the highway. Datu Kanor was talking to the passengers while armed with his weapon on his left shoulder.

The men of Datu Kanor allegedly ordered the drivers of the vehicles to park at the shoulder of the highway. These vehicles were: one (1) red Vios car, one (1) blue Tamaraw FX, one (1) black SUV, one (1) UNTV van, and four (4) Toyota Grandia van. After the cars were parked, Major Dicay took the keys from the drivers.

Later on, numerous vehicles coming from Saniag arrived. After the men from these vehicles alighted, they rushed to get the items confiscated from the passengers. Then, Datu Unsay allegedly alighted. He was then carrying a Baby M203 and wearing a black jacket with white stripes and hood. Datu Unsay allegedly shouted *"Dapa! Dapa!"*

The witness was allegedly instructed by Major Dicay to accompany Datu Unsay. He allegedly saw for himself how the waylaid passengers were maltreated, hurt and mauled by Datu Unsay. He also remembered that while guns were being used to hurt Andres Teodoro, Datu Unsay was allegedly saying: *"ikaw ba ang media dito, ikaw ba, ikaw ba."* Teodoro said: "*wag datu, wag datu, tauhan ako ni RG, may mission ako."* After Datu Unsay allegedly mauled the passengers, his men followed suit – they allegedly also pointed the muzzles of their gun at the sides of the passengers while they lied on the ground.

He left the company of Datu Unsay and joined Major Dicay and Macaraeg. Suddenly, Major Dicay allegedly shouted: *"wag datu, wag kayong magpapaputok"* and at that time, the witness also shouted at the men of Datu Unsay who were holding the 50-caliber mounted in the Hummer, which was aimed at his direction.

The drivers were instructed to go back to their vehicles, while the passengers remained near the abandoned store. The witness returned the keys to the drivers. Meanwhile, he allegedly saw that Datu Unsay fired at some of the vehicles. And, in the green van, Datu Unsay asked one (1) of the passengers if she was the wife of Datu Esmael

Mangudadatu. Thereafter, the witness saw that Datu Unsay and another man carrying out a female passenger. Allegedly, when Datu Unsay discovered that the passenger carried money in her pocket, the other man took it from her. The passenger was then made to board a vehicle.

The drivers of the waylaid vehicles were forced to ride at the back of the black Toyota Hi-Lux owned by Datu Unsay; while the others boarded other vehicles.

While all of these incidents transpired, the policemen allegedly can no longer do anything because the men of the Ampatuan family were in command of the waylaid convoy.

Datu Unsay left with the passengers. The witness and his men, together with Major Dicay and his men, went to the "*purok*."[130] The witness asked Major Dicay as to what would happen to the passengers. Major Dicay answered that the passengers would not be killed because almost all of them are female passengers. Later on, one of the men of Datu Unsay went to them in the "*purok*." He and Major Dicay talked, and then the man left, bringing with him the blue Tamaraw FX left at Malating.

Moments later, Maguid allegedly passed by the checkpoint of the witness and went towards Crossing Saniag. After some time, Maguid returned to the checkpoint where the witness, Major Dicay and Macaraeg were. In Maguid's gold Toyota Hi-lux vehicle was Insp. Mukamad and two (2) police escorts.

Maguid talked to them and said: "bomb threat, false alarm." Maguid also ordered Major Dicay to burn all the evidence left at Malating. In turn, Major Dicay instructed one of the CVOs of Datu Kanor in Malating to do the burning. The latter burned the belongings, such as papers from the folders and camera films, at the side of the abandoned store.

Subsequently, the members of the Philippine Army, headed by Col. Nerona and Major Navarro, arrived at their checkpoint. They talked to Major Dicay. Then Major Dicay relayed to him: "*To, tinatanong ako ng mga sundalo kung may abduction daw na nangyari, sabi ko wala tayong alam.*"

The witness observed that after the soldiers left, Insp. Mukamad and Abad kept on coming back to talk to Major Dicay. He also noticed that the men of Abad and his Executive Officer Insp. Bunagan already withdrew their forces at Crossing Saniag, bringing the signboard in their L300 camouflage patrol car.

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[130] TSN, September 29, 2010, p. 183, Norodin Mauyag specifies that "purok" means a small hut.

Major Dicay left for Masalay. When he returned, he told the witness to prepare two (2) teams in full battle gear and to follow the witness at the Masalay detachment of the CAFGU. The witness and Major Dicay followed Major Navarro. Their group went to the crime scene.

At said place, the witness saw the vehicles that were waylaid at the checkpoint. He also saw the people covered by bullet holes – some of them were on the ground, and some of them remained inside the vehicles. While the witness talked to a certain SPO4 Almirol, his men told him to leave the crime scene because the soldiers were suspicious of them after a certain Lt. Reyes told them: *"akala ko ba walang abduction na nangyari, bakit ang daming patay dito."*

Upon going down and back to Malating, the witness saw that the police who remained there already left the premises. Major Dicay asked the witness if there were victims up there; and the witness confirmed that he found vehicles and dead people at the mountains of Masalay, Ampatuan municipality. Major Dicay then instructed the witness to go to the Lambuay Detachment.

On November 24, 2009, at 2:00 a.m., Major Dicay and Insp. Mukamad arrived. The witness joined them and then they all went to the Provincial Headquarters; the 1507th PMG went to Cotabato; the 1506th PMG remained at the Provincial Headquarters. Later on, several colonels arrived and told them that they are in "restricted" status.

In the afternoon of that day, Major Dicay, the witness, and Macaraeg went to the house of Datu Sajid Ampatuan. Upon arrival thereat, he allegedly saw Maguid, Atty. Cynthia (Sayadi), Atty. Sampulna, and Atty. Pantojan. They talked about how to hide the backhoe. Major Dicay suggested that they may explain that the backhoe was there because of the quarry operation for the road construction at the back of the market in the Ampatuan Municipality.

Then Maguid took out a piece of yellow paper. He allegedly had the lawyers, as well as the witness, Macaraeg and Major Dicay, read the document. It turned out to be a draft affidavit stating that the incident was a bomb threat, false alarm.

On November 25, 2009, the witness and his men went to PC Hill Cotabato. After General Castañeda talked to each one of them, they executed an affidavit, which was based on the draft that Maguid showed earlier.

On November 26, 2009, the witness, Maguid, Major Dicay, Insp. Mukamad and Bakal went to Camp Crame for they were included in the investigation. The witness allegedly executed another affidavit in CIDG Camp Crame, but he claimed that he could not foreclose all the details

because Major Dicay told him what to state and would later on read his statement.

On December 31, 2009, the witness was already staying at the Kiangan Hall, Camp Crame, when Major Dicay asked him to talk to Datu Sajid Ampatuan over the cellphone. The latter allegedly asked the witness to help him, and that he would send a lawyer to talk to them. A certain Atty. Villanueva went there; and returned later on, bringing with him affidavits for the witness and the others to sign. The witness, Ebus, and Masukat refused to sign the affidavits given by Atty. Villanueva even if Major Dicay forced them to do so. The witness remained in Camp Crame, while the others already left.

On January 12, 2010, Major Dicay allegedly called and said that the witness cannot destroy the Ampatuans; the witness said yes. Then Major Dicay asked: "*to, kaya mo bang itakas si Ebus? Kasi di nyo na makikita si PO1 Masukat. To, bumalik na kayo dito sa Maguindanao*, *sabihan mo si Ebus na bibigyan siya ng 5 milyon at ikaw to ay bibigyan ng 10 milyon.*" *"Nandiyan ba si Ebus, to?"* The witness lied and said that Ebus left. The witness allegedly did not want to obey Major Dicay and decided to state his account in his affidavit dated January 12, 2010. At the conclusion of the call, Major Dicay offered the witness money for them to buy tickets.

After several days, Diongon was already under the custody of the Department of Justice. Although some persons were asking him to go back to Maguindanao, he refused to return for fear of his life.

At the conclusion of his testimony, Diongon identified the accused in these cases.[131] By way of stipulation, he identified: Datu Andal, Sr., Datu Andal, Jr., Datu Anwar Ampatuan, Datu Sajid Ampatuan, P/Insp. Michael Macaraeg, SPO4 Badawi Bakal, P/Sr. Insp. Abdulgapor Abad, P/Supt. Abusama Maguid, Major Dicay, PO1 Rainer Ebus, and P/Supt. Bahnarin Kamaong.[132]

Diongon also identified the alleged members of the 1508th PMG. By way of stipulation,[133] he identified SPO1 Eduardo H. Ong, PO3 Felix Eñate, Jr., PO3 Rasid Anton, PO2 Hamad Nana, PO2 Saudi Pasutan, PO1 Herich Amaba, PO1 Esprielito Lejarso and PO1 Narkouk Mascud. By way of identification in open court, he identified PO2 Saudiar Ulah,[134] SPO2 Oscar Donato,[135] and PO1 Pia Kamidon,[136] as well as[137] PO1 Esmael Guialal, PO1 Michael Madsig, PO1 Arnulfo Soriano, and PO3 Abibudin Abdulgani.

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[131] The names and ranks of the accused are based on their details contained in the Informations.
[132] TSN, June 05, 2013, pp. 88-120.
[133] TSN, June 05, 2013, pp. 113-120.
[134] TSN, June 05, 2013, p. 124.
[135] TSN, June 05, 2013, p. 128.
[136] TSN, June 05, 2013, p. 131.
[137] TSN, June 05, 2013, pp. 134-135.

Diongon identified as well the following purported members of the 1507th PMG in open court:[138] PO3 Gibrael Alano, PO1 Amir Solaiman, PO1 Ebara Bebot, PO1 Abdulbayan Mundas, PO1 Marsman Nilong, PO1 Jimmy Kadtong, PO1 Marjul Julkadi, PO3 Ricky Balanueco, SPO2 George Labayan, PO2 Kendatu Rakim, SPO1 Ali Solano, PO3 Felix Daquilos, PO1 Abdurahman Batarasa, SPO1 Elizer Rendaje, PO1 Tamano Hadi, PO1 Datu Jerry Utto, PO1 Pendatun Dima, PO1 Abdulmanan Saavedra, PO1 Michael Macarongon, PO1 Badjun Panegas, PO1 Mohammad Balading, SPO2 Samad Maguindra, and PO2 Rexson Guiama.

On cross examination on June 05 and 19, 2013, Diongon testified that aside from the verbal order of Maguid to conduct checkpoint operations, there is no other evidence to prove that order. He also said that being assigned in Maguindanao since 2008, he knew that Maguindanao was declared as a hot spot area; and during elections, it was a usual occurrence to establish checkpoints.

Diongon clarified that none of the police officers whom he identified appeared to have participated in the meetings or conference made before Diongon's officers. Most of them were just called and organized through the call of Major Dicay. Diongon also testified that none of the ₱15,000.00 given to him was received by any of the police officers.

During the meeting on November 19, 2009 at the house of Datu Unsay, the members of the 1508th PMG were outside the premises. He affirmed that the latter did not know about the discussion, and that none of his men knew about the plan regarding the abduction leading to the killing on November 23, 2009 of the 58 victims.

More specific to Macaraeg, Diongon mentioned that Macaraeg arrived only at about 4:00 p.m. on November 22, 2009, and that was only the second time that he saw Macaraeg reporting for duty. The first time that he saw Macaraeg was in August 2009.

Particular to PO1 Abdullah Baguadatu, an alleged member of the 1508th PMG, Diongon recalled that on November 21, 2009, Baguadatu asked permission from him to go to Cotabato City. He went there to fetch his son so that he may bring him in Paglas as no one would be left to take care of him because his wife will be going abroad.

Then, with respect to SPO2 Oscar Donato, Diongon recalled that Donato was not with him on November 23, 2009. Diongon had issued against him a relieve order on November 23, 2009.

Regarding PO1 Michael Madsig, Diongon recalled that on November 23, 2009, the former asked to leave because he will bring food to his

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[138] TSN, June 05, 2013, pp. 129-130.

house at Camp Datu Akilan, Shariff Aguak. Diongon permitted Madsig when he asked permission to leave the checkpoint in Malating at past 9:00 a.m. or 10:00 a.m.

As regards the 1507th PMG, Diongon clarified that Masalay is not its area of responsibility. The group merely augmented that area. Diongon affirmed that the 1507th PMG was divided into two (2) groups: one in Masalay, and another in Binibiran. The men that he identified in his testimony are those whom he saw in Masalay.

For the 1508th PMG, the witness himself briefed them. He never ordered them to kill anyone. In the conduct of the checkpoint, the 1508th PMG is grouped into three (3) posts, for example: if the first group conducted checkpoint operations, the second group posted as kitchen police.

Pertaining to police officers P/Supt. Abusama Mundas Maguid, SPO4 Badawi Bakal, and P/Chief Insp. Sukarno Dicay, Diongon confirmed that he did not cast any derogatory statements against them in his previous affidavits. But in this last sworn statement, he stated derogatory statements against Maguid.

On re-direct examination on June 19, 2013, the witness clarified that when Maguid passed by their checkpoint in Malating, Maguid talked to the witness, Insp. Macaraeg and Major Dicay and said, "bomb threat, false alarm." Maguid also allegedly ordered the burning of the belongings left by the passengers of the convoy. Major Dicay obeyed and had one of the CVOs burn the items in an area near an abandoned store. These belongings included folders, IDs, camera films, and papers.

Diongon clarified that the first affidavit was drafted by Maguid, and that lawyers of the Ampatuan family like Atty. Cynthia Guiani, Atty. Sampulna, and Atty. Pantojan helped in its preparation. Nori Unas and Sajid Ampatuan helped as well. Out of fear, he allegedly signed the first and second affidavits.

The second affidavit of Diongon was prepared in CIDG Camp Crame. He did not cast any remark against Maguid for he, Maguid, and Major Dicay slept in one (1) room. Maguid asked him that because they were comrades, the witness must say that Maguid had no knowledge about the incident. After the affidavit was finished, Major Dicay read it. The third affidavit of Diongon was also prepared in CIDG Camp Crame. In the fourth affidavit, when Major Dicay was no longer around, his statements focused on the latter.

As for the conduct of the checkpoint operations, Diongon instructed his men from the 1508th PMG to fix their firearms because he expects

resistance and retaliation against the *"buwaya sa lanao."* He said: "*pagka-hinarang namin sila, baka maari lumaban sila sa amin sir."*

Diongon expected that his men would follow his orders. He did not order them to kill anyone. Some members of the 1508th PMG do not even have firearms but Donato and Baguadatu each carried an M16 rifle, while Madsig and Ulah each had an M14 rifle.

P/Insp. Diongon had been subjected to re-cross examination on June 19 and 20, 2013. The witness affirmed that his fear of Major Dicay and Maguid influenced him to sign his first and second affidavits. He also affirmed his narration on the burning of the convoy passengers' belongings. The checkpoint where the witness stayed was in front of the said store where the belongings were being burned.

All in all, the 1508th PMG only had 12 firearms at the time of the abduction, and during the checkpoint operations, there were only 17 members of the 1508th PMG.

Testimony of Efren Macanas

When presented on the witness stand on July 12, 2012, EFREN MACANAS, testified that in November 2009, he was then working at the Maguindanao capitol, Shariff Aguak, assigned at the Engineering Department, as a heavy equipment operator. He started working as such from December 2003 until December 2009.

On November 23, 2009, at past 7:00 a.m., the witness claimed that he proceeded on a motorcycle to report for work at the Petron Gasoline Station in Shariff Aguak. From his house to his work, he passed by Esperanza, Kauran, Crossing Saniag, Malating, Salman, and Ampatuan town.

When the witness passed by Kauran, Ampatuan, he noticed that there was a checkpoint and some uniformed armed CVOs, who he claimed to be the CVOs of the Ampatuans.

The witness also noticed a checkpoint, CVOs, and a *Sangguko* when he passed by Saniag, Ampatuan. When he passed by Salman, he noticed CVOs and armed men. When he passed by Ampatuan Town (*munisipyo ng Ampatuan*), he noticed a checkpoint in front of the municipal hall, armed CVOs in uniform, and a police car.

The witness also claimed that he had operated backhoes, payloaders, bulldozers, and dump trucks. At that time, he drove a PC 300 backhoe, and parked the same at Petron Gasoline Station, owned by Datu Unsay. However, when he reported for work on November 23, 2009, the backhoe was no longer there. When he asked the cashier and the guards

about its whereabouts, they answered that Bong Andal, the detachment head and person-in-charge of the heavy equipment, had taken the backhoe.

Then the witness proceeded to the project site of Datu Zaldy in Limpongo, Datu Hoffer, where ripraps were being constructed, to see the project engineer, Sam. Upon arrival thereat, Bong Andal called him and instructed him to follow him in Salman, Ampatuan. The witness followed, and upon reaching Salman, he saw the backhoe in Crossing Salman. In said place, he also saw a checkpoint and CVOs. Aside from Bong Andal, the witness also saw Pedro Pudolig, the driver of the prime mover.

The witness then parked his motorcycle in Crossing Salman. Then, Bong Andal called the witness and instructed him to bring down the backhoe. Afterwards, the witness drove the backhoe upwards to the location of the tall coconut trees together with Bong Andal and his bodyguard.

Later on in the testimony, the witness identified the backhoe, with markings PC-300, Komatsu Brand, owned by the Province of Maguindanao, through ***photographs (Exhs. "Quintuple V-1" to "Quintuple V-4")***. *As proof that he operated said heavy equipment, he presented his* ***identification cards (Exhs. "(13) A" and "(13) B");*** *and the* ***Equipment Status Report of June 30, 2009 issued by the Engineering Office of the Province of Maguindanao ("Decuple C-2").***

Upon reaching the place of the tall coconut trees, the witness heard gunshots: *"doon po sa bandang unahan po namin, naririnig ko po."* Upon hearing the gunfire, he feared that he might get involved, and that he might be killed, especially that it has been the practice of the Ampatuan family to kill people. He remembered that in 2005 and in 2008, the Ampatuans have killed people, and had them buried with the use of a backhoe.

The witness alleged that in 2005, he was asked to dig a hole in Limpongo, Datu Hoffer by Bong Andal. After digging, 10 vehicles arrived. Subsequently, four (4) people were brought down from the vehicles. They were blindfolded, and their hands were tied at their backs.

According to the witness, the men of the Ampatuans brought the four (4) people near the hole. The Ampatuans present then were: Datu Andal, Sr., Datu Unsay, Datu Zaldy, Anwar, Sajid, Kagi Akmad, Akmad Tato, Rebecca, Datu Yasser, Datu Ding, Mama Uy, and Misuari.

After the blindfolded people were brought near the excavation, they were shot by the Ampatuans – Datu Unsay, Datu Kanor, Anwar, Dinga, and Kagi Akmad. These four (4) persons fell in the excavation.

Subsequently, the Ampatuans allegedly asked the witness to move back the backhoe, which was about 10 to 15 meters away from the hole. Then, the Ampatuans left. The witness proceeded to cover the excavation under the instructions of Bong Andal.

In 2008, while the witness was at his work in Limpongo, Datu Hoffer, Datu Bong instructed him that they were to bury the four (4) people killed by the Ampatuans. The Ampatuans were Datu Unsay, Datu Kanor, Kagi Akmad, Dinga, Anwar, Kanor, Datu Ulo, and Datu Ban.

Per instruction of Datu Bong, the witness brought the backhoe at the nipa hut near the detachment. During that time, Bong Andal and his bodyguards were present. The witness was 10 to 15 meters away when Datu Unsay, Ban, Kanor, Ulo and Dinga killed the victims in 2008. He remembered that the four (4) victims were blindfolded with their hands tied at the back; and that they were killed by firing. The witness himself buried the four (4) persons that the Ampatuans killed: they fell on the excavation then he was instructed to cover the excavation.

Going back to the incidents of November 23, 2009, when the witness heard the gunfire, he told Bong Andal that he was afraid. Bong Andal asked him why, and at that point the witness stopped the backhoe, alighted, and told Bong Andal that he would go home already.

The witness went down in Crossing Salman. And when he passed by that area, he noticed the presence of CVOs at the checkpoint at the detachment in Crossing Salman. The witness then rode a motorcycle going home. By afternoon of that day, while the witness was at his home, the news about the killing flashed, with the cadavers sighted at the side of the backhoe. Upon seeing the backhoe with the bodies of the victims, the witness got scared because that backhoe's Memorandum Receipt (MR) was issued under his name.

On November 30, 2009, the witness gave his statement at the NBI Office, Koronadal City. On record with the court is the ***sworn statement of Efren Macanas given before the office of NBI-Region 12, Koronadal City (Exh. "B-9").***

Aside from those matters he stated in the direct testimony, he also made several statements in his sworn statements.

Efren Macanas stated that he was a backhoe operator, and that the other backhoe operator in the department was Hamid Delahudin. The witness explained that in order to use the backhoe, it had to be carried by a prime mover (truck) owned also by the provincial government of Maguindanao. Pedro Pudolig was assigned to drive the prime mover.

Macanas stated that like other heavy vehicles, he customarily parks the backhoe at the Petron Gasoline Station so that he can easily refuel. He guessed that when he did not find the backhoe on November 23, 2009, Hamid Delahudin was the one who drove it. As of that time, the latter was nowhere to be found.

He narrated that because he was afraid, he went into hiding with his relatives in Koronadal City but on November 28, 2009, he resurfaced to tell the truth.

On May 10, 2010, Macanas executed a ***sworn statement before the Commission on Human Rights (Exh. "(13) B").***

He also particularized that in 2005, the hole he dug was located 20 meters away from a mango tree, and 20 meters away from a creek in Hoffer Municipality, Maguindanao Province. The dispatcher of the heavy equipment, Bong Andal, told him that the hole was for pumping drinking water for cattle. But when he left the area, he saw four (4) blindfolded and tied persons, whom he presumed would be executed.

In January 2008, Efren Macanas was working in the cattle ranch of Datu Andal, Sr., near the graveyard, when he was called by Bong Andal to make a digging. Thereafter, when he was about to leave, he saw at a distance of 100 meters, two (2) persons being shot by Datu Unsay and his company. Subsequently, he was ordered to cover with soil the hole in which the two (2) persons were buried.

After the incident in 2009, he asked the Commission on Human Rights (CHR) to extend him the necessary assistance. He was being hunted down by the men who frequented his house in Isulan, Sultan Kudarat, which he was later forced to destroy.

When cross-examined on July 18, 19, and 25, 2012, Macanas reiterated that he worked as an employee in the Department of Engineering of the Province of Maguindanao. At the time that he was hired in 2003, his job description required him to use the government backhoe for government projects. On November 23, 2009, there was no pending project in Brgy. Kauran, Ampatuan.

In order to take out an equipment, the procedure in their department required him to sign a document evidencing that he had actually used or are about to use the backhoe. The key was already with the witness; while its duplicate copy was in the office. He was not required to surrender the key of the backhoe to their department for safekeeping.

The witness explained that the issuance of the MR under his name meant that he was specifically designated as the operator of the backhoe

Komatsu 300. However, the name of the witness does not appear in the Equipment Status Report dated June 30, 2009. Nonetheless, Macanas asserted that he could operate any of the equipment listed on said report. According to him, at that time, there were six (6) heavy equipment excavators with an assigned operator in the Province of Maguindanao.

The witness failed to present the MR in open court. He explained that a person from the Ombudsman, who went to NBI, took it. Hence, he produced the ***bronze key (Exh. "(13) D")*** purportedly of the PC 300 Komatsu as proof that he operated that backhoe. Macanas said that the Komatsu he was driving had a particular marking that would indicate that it was him who was its assigned operator.

Moreover, the witness said that the issuance of the MR under his name does not prevent other heavy equipment operators to operate his PC 300 backhoe, provided that they are authorized. Yet, he cannot remember the engine number or the chassis number of the backhoe he operated. He also does not have proof who owned the gasoline station.

The witness affirmed that he knew Pedro Pudolig since 2003 as a heavy equipment operator of the Province of Maguindanao, who was employed earlier than him. He asserted that he no longer worked for the capitol. He also does not work as a backhoe operator for a private firm.

Macanas maintained seeing the checkpoints in the following barangays within the jurisdiction of the Ampatuan municipality: Kauran, Saniag, Malating, and Salman.

When the witness parked the backhoe on November 20, 2009, he parked it side by side with the other heavy equipment. On November 23, 2009, he saw that the backhoe was still mounted on the prime mover. It was already their practice that whenever they had work, the backhoe was already mounted on the prime mover.

The witness claimed that he used the backhoe in the drainage project in Shariff Aguak before November 23, 2009. He stated that at that time, there were several drainage projects; and that he worked daily since the start of the project on November 20 to 21, 2009.

Macanas affirmed that on November 23, 2009, he drove the backhoe up to the tall coconut trees at around noon (*umaga, mga magtatanghali na*). The distance of this place to the national highway of Crossing Salman was about one and a half (1.5) kilometers.

Then, he heard some gunfire coming from an area by the front. Thereafter, he informed Bong Andal that he was going home. Since he left the backhoe, the key was always with him. The witness asserted that he did not operate the backhoe as it went down the mountains of Masalay

on that day; rather, Bong Andal drove the backhoe down to the mountains. And when he left, Bong Andal did not hurt him and did not get mad at him for abandoning the backhoe. Neither did Bong ask the witness to remain operating the backhoe. According to the witness, Bong Andal later called him through his cell phone but he turned it off so that Bong would not call him. But that cell phone was no longer with him.

Macanas relayed to the court that he can no longer move freely for fear for his life as he was being hunted by men who frequented his house in Isulan, Sultan Kudarat. Hence, he destroyed his residence, and asked help from the CHR. He also sought the assistance of the Department of Social Welfare and Development (DSWD), through Col. Hambay, for him to go to Manila. The DSWD assisted him financially in order to escape from Mindanao.

On re-direct examination on July 25, 2012, the witness clarified that he did not relay to the NBI his observations on November 23, 2009 because he feared the Ampatuans, whom he perceived as the "law" in that area.

At the time that he saw the backhoe at Crossing Masalay in the morning of November 23, 2009, the key was in his possession. The key that was used then for the backhoe was the duplicate key.

On re-cross examination, the witness admitted that the key that he showed before the court is government property. He also stated that he executed statements before the CHR and the NBI. While he told the NBI that he operated the backhoe on November 23, 2009, he did not disclose that statement to the CHR for fear of the Ampatuans.

Macanas confirmed that he saw the arrest of the Ampatuans like Sajid, Anwar, and Akmad Tato in December 2009 on TV. He was also aware that the backhoe for which he had a duplicate key had been taken under police and court custody. When he decided to hide, the duplicate key remained with him.

On additional direct examination on October 02, 2013*,* the witness affirmed seeing Bong Andal on November 23, 2009. The defense stipulated on his identification of Bong Andal.

On January 22, 2014, Macanas testified on additional direct examination. He maintained his narration that he saw Datu Ulo was one of those who fired in the alleged killing of the victims in 2008. The defense stipulated on his identification of Datu Ulo. No cross-examination followed after this testimony.

Corroborating Witnesses

The prosecution presented witnesses to (1) specifically testify for certain victims; and (2) corroborate the statements of co-witnesses.

The corroborating witnesses presented by the prosecution, who testified as regards certain victims, are:

1. Datu Esmael "Toto" Mangudadatu - He was then the vice-mayor of Buluan, Maguindanao, who intended to run as governor of Maguindanao. His wife, Bai Genalin "Gigi" Mangudadatu, was one of those killed on November 23, 2009.

2. Datu Khadafeh Mangudadatu - He is the older brother of Datu Toto and an assembly member of the province of Maguindanao.

3. Datu Ibrahim "Jong" Mangudadatu - He is the mayor of Buluan Maguindanao, and his siblings are Datu Toto and Datu Khadafeh Mangudadatu.

4. SPO2 Cixon J. Kasan – He was then the acting chief of police of Buluan Municipal Station, who replaced Major Sukarno Dicay.

5. Eliseo Collado – He owns E.I. Collado Funeral Parlor and Southern Funeral Homes, which received the cadavers of the victims.

6. Jonito Puton – He was an assistant embalmer at Southern Funeral Homes, who embalmed the cadaver of Atty. Cynthia Oquendo-Ayon.

7. Atty. Arnold Oclarit – He was a private practitioner at Lagao, General Santos City.

8. Atty. Tomas Falgui II – He acted as counsel for the Ampatuan Family in their election cases.

9. Atty. Gemma Oquendo - She is the daughter and sister respectively, of the victims Catalino Oquendo, Jr. and Atty. Cynthia Oquendo-Ayon.

10. Nasser Sansaluna – He was a resident of Libutan, Maganoy, Maguindanao, who testified about a previous shooting incident allegedly involving Datu Zaldy Ampatuan.

11. Joseph Jubelag – He was a journalist from General Santos, who testified about seeing Reynaldo "Bebot" Momay joining the convoy from Buluan.

12. Judy Agor – She claimed to be a neighbor, and married to the nephew of the victim, Reynaldo "Bebot" Momay, who lent him a motorcycle.

13. Marivic Bilbao – She claimed to be the live-in partner of Reynaldo "Bebot" Momay for 22 years up to November 23, 2009.

Testimony of Datu Esmael "Toto" Mangudadatu

When presented on the witness stand on January 27, 2010, DATU ESMAEL "TOTO" MANGUDADATU (DATU TOTO)[139] testified that he served as the vice-mayor of Buluan, Maguindanao, which is 30 to 40 minutes away from Shariff Aguak. For more than 10 years, he knew accused Datu Unsay since their families were very close during the lifetime of his father. The circumstances however, changed sometime in 2008 when Datu Andal, Sr. told his followers to kill Datu Itao in Shariff Aguak. Datu Itao died together with his eight (8) companions, and his 12-year old baby girl.[140] He showed ***photographs (Exh. "(12) U")*** in open court. Thus, on that year, Datu Toto broke away from the group. Thereafter, news came out that he would be running for governor of Maguindanao.

He claimed that sometime in October 2006, in a meeting attended by his brothers Assemblyman Khadafeh Mangudadatu, Senior Provincial Board Member Freddie Mangudadatu, Jong Mangudadatu, and his sisters Bai Eden and Bai Farina Mangudadatu, Datu Andal, Sr. discouraged him from running as governor of the province.

Datu Andal, Sr. also told them that he would create three (3) provinces out of Maguindanao, one of which was for Datu Toto (to be named Radja Boyan Province), and the other for then Vice-Governor Bimbo Sinsuat. The witness said that he believes that the purpose behind the creation of the three (3) provinces was because the Ampatuans were afraid of losing if he runs as governor of Maguindanao.

However, only two (2) provinces were created. The one that did not materialize was Radja Boyan Province. As for the other province, Shariff Kabunsuan, Datu Andal, Sr. said that Vice-Governor Bimbo Sinsuat was to be its governor. Datu Toto then remarked that his brother should become the vice-governor of Maguindanao by operation of law, for he was the Senior Provincial Board Member. But Datu Andal, Sr. rejected his claim and asserted that his son should be the vice-governor.

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[139] Witness Datu Esmael "Toto" Mangudadatu testified on the following dates: January 27, 2010; February 03, 2010; June 27 and 28, 2012; July 19, 2012; August 22, 2012; January 23, 2013; and September 19, 2013.
[140] TSN (Vol. 2) dated January 27, 2010, p. 176.

Subsequently, Datu Andal, Sr. asked the board members of Maguindanao to make a resolution indicating that the brother of the witness, Freddie Mangudadatu, was not eligible for vice-governorship due to his lack of education and experience. The proposed resolution pained them since his brother was a graduate of Customs, a three-term elected Board Member, and a senior member of the board who sometimes presided over its sessions. Unable to do anything, Freddie Mangudadatu signed the Resolution, keeping in mind that the Ampatuans had more or less a hundred bodyguards in their compound. Still, according to the witness, Datu Andal, Sr. gave them two (2) municipalities (one named Pandag Municipality). His brothers became the mayors of these territories.

In November 2007, Datu Andal, Sr. came to Buluan and met the witness. His uncles, Congressman Pax Mangudadatu and Sultan Mangudadatu, as well as the sons of Datu Andal, Sr. attended the meeting. In that gathering, his uncle forbade him to run against Datu Andal, Sr. The witness agreed, resulting in the reconciliation of their families. However, the harmony did not last long for his constituents asked him to run as governor.

In 2008, in the aftermath of his expressed intention to run, Sr. Supt. Piang Adam, the Provincial Director of Maguindanao, disarmed the police officers of Buluan, Maguindanao allegedly for inventory purposes. In addition, a grenade launcher was thrown at Buluan, Maguindanao on May 01, 2008 resulting in mass evacuations in the old and new public market. Furthermore, on July 08, 2009, Major Sukarno Dicay, together with the 75th I.B. under Col. Labitan, the 64th I.B. under Col. Gerona, and the 601st Brigade under Col. Geslani, disarmed the PNP of Pandag. They also fired rounds of 105 mm Hewitzer in Pandag Municipality under the directive of Datu Andal, Sr. to search for Ameril Umbrakato in the municipality. Datu Toto, however, already told the police that there was no Umbrakato in his municipality.

On July 09, 2009, the witness, Governor Teng Mangudadatu and Pax Mangudadatu went to Pampanga to see President Gloria Macapagal-Arroyo. They told her about the disarming of their local police. In response, she instructed General Ibrado to return the firearms. On the same day, the firearms were returned.

On July 20, 2009, Secretary Gabby Claudio of Malacañang invited the camp of the witness and the Ampatuans to a meeting at the office of Department of National Defense Secretary Gilbert Teodoro. From the side of the witness, he, his brothers Assemblyman Khadafeh Mangudadatu, Mayor Jong Mangudadatu, Mayor Freddie Mangudadatu, Mayor Sajid Mangudadatu, Governor Teng Mangudadatu, his mother, Vice-Mayor Eden Mangudadatu, and Elizabeth Mangudadatu attended. As for the Ampatuans, Datu Andal, Sr., Datu Zaldy, Datu Unsay, Datu Sajid

Ampatuan, Saudi Sham Ampatuan, Jr., and Congressman Simeon Datumanong went to the meeting.

On that occasion, the witness was made to promise that he would not run for governor. He was also asked to settle the case filed against them by Piang Adam. It was also discussed that Regional Governor Zaldy Ampatuan will transfer accused Major Sukarno Dicay, who caused the troubles. However, that transfer did not happen. Likewise, the request of Governor Teng Mangudadatu from Secretary Gilbert Teodoro to transfer Col. Geslani did not materialize.

On August 11, 2009, Secretary Gabby Claudio once again invited the Mangudadatus and the Ampatuans to attend the dinner meeting with President Gloria Macapagal-Arroyo. Datu Andal, Sr. asked him once more not to run for governor. The witness insisted his constituents prodded him to run.

On October 10, 2009, Datu Toto met with Secretary Gilbert Teodoro in Manila. Governor Carreon of Marinduque and Mayor Sajid Mangudadatu happened to join that meeting. The witness reiterated his intention to run. Secretary Teodoro forbade him from running because the latter "loves him very much and the Ampatuans are violent people."[141] On November 04, 2009, the witness met with Secretary Butch Pichay, affirming his intention to run. To this, Secretary Pichay responded and said that he "better take care because those people are violent."[142]

On November 23, 2009, at 7:00 a.m., he and his children were to return to Buluan, Maguindanao from Davao City. At 9:00 a.m., his wife Bai Genalin Mangudadatu went to Shariff Aguak, Maguindanao to file his COC for governor in the 2010 elections.

His sisters Bai Eden Mangudadatu, Bai Farinah Mangudadatu (who was five months pregnant), his aunt, cousins, and other friends from the media who included Bart Maravilla of Bombo Radio, Jimmy Pal-ac, Andy Teodoro and Bong Reblando, accompanied his wife.

A number of them joined his wife because Col. Geslani denied his request for security escort. The latter posited as reason that the personnel were not enough, and that he himself was in Manila for a seminar. The PNP also denied his request for security. For this reason, the witness sent women to file his candidacy considering that in Islam, the women are accorded respect and utmost courtesy.

At about 9:00 a.m. or 10:00 a.m., Datu Toto's cell phone received a call from his wife. He supported his claim with a ***Billing Statement from Smart Communications, Inc., (Exh. "I" to "I-5") and***

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[141] TSN (Vol. 2) dated January 27, 2010, p. 201.
[142] TSN (Vol. 2) dated January 27, 2010, p. 202.

photographs of his phone (Exh. "Q" to "Q-2"), which revealed that on November 23, 2009, 09088924153 placed two (2) calls to his number 09173706525, at 10:17:41 and 10:18:33.

His wife said, *"hinarang kami ng napakaraming lalake dito."* According to her, the men were armed.[143] When asked who the men were, she said *"maraming lalaking naka-armado. Andito na si Unsay, sinampal niya ako."* Those were the last words of his wife.[144]

The witness tried to contact his wife but failed to do so for her phone was already turned off. He also could not contact his sisters' phones as these were turned off.

He then called Assemblyman Toy Mangudadatu and asked that they meet and ask help from DXLB. He also called Major Sukarno Dicay to inform the latter that his wife had been kidnapped. The former told him: *"wala akong alam diyan."* After receiving text messages that his wife was beheaded, he went to the radio station to inform the public that men led by Unsay abducted his wife. He pleaded for them not to hurt his wife, relatives, and media friends. He met with his other relatives and calmed them.

At 3:00 p.m., the witness asked his brother Jong Mangudadatu to look for the convoy and to verify whether they were dead. An hour after, the convoy and the cadavers were found. After being consoled by his brother, he prayed. He felt sorrowful. His children also cried.

On November 24, 2009, retrieval of the bodies in Barangay Masalay, Amapatuan, Maguindanao began. The PNP SOCO and NBI Regions 11 and 12 asked assistance from him. They did not ask help from the Maguindanaon government for they knew that they cannot do so.

At around 6:00 p.m., he finally saw his wife at Allen Funeral Home. Genalin sustained an estimate of 17 gunshot wounds; there was even in her private area ("laslas sa kanyang ari"); her right hand and right foot were crushed, her lower jaw was broken, and there were lacerations on her right breast. The ***pictures (Exh. "P" to "P-2")*** from the funeral home were identified by him. He was shedding tears upon seeing the pictures.

For purposes of his testimony, Toto Mangudadatu executed ***sworn statements (Exh. "A-2" and "B-1").*** Aside from those matters he stated in the direct testimony, he also made several statements in his sworn statement. He stated that before the departure of the convoy to file his COC, he requested, through several phone calls, Col. Medardo Geslani and Police Chief Superintendent Faisal Umpa, who was the PNP

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[143] TSN (Vol. 2) dated January 27, 2010, p. 204.
[144] TSN (Vol. 2) dated January 27, 2010, pp. 204-205.

ARMM Regional Director, for security escorts, but to no avail. The officials did not provide security notwithstanding the verified information of a possible ambush and heated political atmosphere in the province.

When crossed-examined on February 03, 2010, Datu Toto said that he had been a politician for over 20 years, and on November 20, 2009, he decided to run as governor. For him, his strongest opponent for this election contest was Datu Unsay.

Prior to the filing of his candidacy on November 23, 2009, there were prior threats to his life. He affirmed that the Mangudadatus are a strongly entrenched political family, who occupied several positions in the government. The Mangudadatu brothers, Jong, the witness Datu Toto, Freddie, Sajid (Dodong), and Khadafeh (Toy) respectively served in the following capacities: Mayor of Buluan, Vice-Mayor of Buluan, Mayor of Mangudadatu Town, Mayor of Pandag, and Assemblyman of Maguindanao's 2nd District. His uncles, Pax and Tex, are respectively the congressman and governor of Sultan Kudarat.

He disclaimed Lt. Rolly Gempesao's statement that he intended to have 200 persons and 100 vehicles as escorts if he were to file his COC.

He admitted that when he asked for security escorts from the 601st Brigade of the Philippine Army and the PNP, he only made calls but did not submit formal written requests. And while he alluded before the DOJ that he intended to file cases against the Philippine Army and the PNP, he had not yet filed such cases.

Instead of travelling for 30 to 40 minutes to Shariff Aguak, the witness decided to go to a radio station to broadcast his grief. He also did not immediately ask for help from President Gloria Macapagal-Arroyo, or from his high- ranking relatives despite having linkages with them.

The witness maintained that he did not visit the massacre site. He only saw what happened through the video footage.

He did not have any proof in the form of written petitions that his constituents clamored for him to run. The witness presented no documentary proof that Datu Andal, Sr. ordered Major Sukarno Dicay to look for Umbrakato. Likewise, there was no proof that the PNP SOCO and the NBI asked the Maguindanao government to help in the retrieval of bodies.

On re-direct made on February 03, 2010, the witness clarified that the media persons in the convoy included Andres Teodoro, Jun Gatchalian, Bong Reblando, Jimmy Pal-Ac, Bart Maravilla, Henry Araneta, MacMac Areola, Joy Duhay, and Julito Evardo. 32 media people joined in the convoy. The witness further elucidated that he did not rush to the

massacre site on November 23, 2009 because his brother, Toy Mangudadatu, prevented him.

On cross-examination, Datu Toto averred that he did not have a list of the media personalities in the convoy. Without personal knowledge, his only basis was the list given by his brother to the media on November 23, 2009.

On June 27, 2012, the witness gave additional direct testimony. He described Datu Andal, Sr. Datu Sajid, Datu Akmad, Sr. and Datu Anwar, Sr. as powerful and influential political leaders; while Datu Zaldy as influential and violent. As for Bahnarin Ampatuan, he characterized him as powerful, influential, and so violent.

The parties stipulated on the identification of Datu Akmad, Sr., Datu Anwar, Sr. and Major Sukarno Dicay. The witness remembered the latter as regards the Pandag incident and the person who said that he did not know anything about the abduction of his wife.

He testified that he knew Col. Bahnarin Kamaong, the Regional Commander of the PNP's RMG in the ARMM region and Abusama Maguid as the OIC Provincial Director of the PNP in Maguindanao. They are related with the Ampatuans as Colonel Kamaong is the brother of Engr. Nori Unas (Provincial Administrator of Maguindanao) and the personal aide of Datu Zaldy while Maguid's spouse is an Ampatuan.

As regards his earlier testimony – that the Ampatuans killed Datu Itao – he presented in court the ***pictures (Exh. "(12) U")*** given by the latter's wife depicting the death of Datu Itao.

On June 28, 2012, the witness gave another additional direct testimony. He said that the Pandag incident referred to the operation of Major Sukarno Dicay in a supposed search for a certain Umbra Kato. But the witness saw that high-powered weapons: *Sanggukos* mounted with .50 calibers, 500 men, military with 6x6 cars were all aimed at the house of his brother Sajid Mangudadatu.

He enumerated his relatives that submitted the COCs: sister Bai Eden Mangudadatu, youngest sister Bai Farinah Mangudadatu Hassan, cousin Rowena Mangudadatu, aunt Wahida Ante, cousin Pinky Balayman, and aunt Mamotobai Mangudadatu. The lawyers who joined the convoy included Atty. Cynthia Oquendo and Atty. Connie Brizuela.

The witness explained that the COC had to be filed in the COMELEC office in Shariff Aguak given that they closed the office in Cotabato City. As proof, he presented a ***Notice to the Public transferring the COMELEC office from Cotabato to Shariff Aguak (Exh. "(12) V")***.

The witness gave additional direct testimony on January 23, 2013. He described Datu Zaldy as a violent person. He recalled that the latter shot a person sometime in 1995 when he was still an Assemblyman of ARMM. At that time, Datu Zaldy and the witness, were going to a gas station, each riding a separate vehicle. When Datu Zaldy saw a motorcycle with the driver, he began to shoot the driver. The witness asked about the shooting. Datu Zaldy said: "*bakit mo ako iniwan dito*", "*bakit ganyan ka*", and "*kalaban natin yan sa politico, bahala na ang pulis diyan*."

The parties subsequently stipulated on the identity of accused Datu Zaldy Ampatuan.[145] The witness likewise identified Col. Abusama Maguid, Al Hajj.[146]

The witness gave additional direct testimony on May 22, 2013. He said that he personally knew police officer P/Supt. Bahnarin Kamaong ever since he was assigned sometime in 2004 with the RMG as personal aide of Datu Zaldy Ampatuan.

As Regional Commander of the RMG, accused P/Supt. Kamaong controlled the deployment, re-assignment, and assignment of all regional forces in Maguindanao and the ARMM in general. Of these RMGs, the witness is personally familiar with the 1506th, 1507th and 1508th. The parties stipulated that the witness can identify the accused.

When recalled on September 19, 2013, the witness confirmed that the Ampatuan and Mangudadatu families were very close, visiting and celebrating with one another during joyous events. The Ampatuans like Datu Andal, Sr., Datu Unsay, Datu Anwar, and Daty Zaldy, even visited his family to console him after his father passed away.

During the meeting on November 24, 2009, at the camp of the 601st Brigade, Tacurong, Sultan Kudarat, Presidential Adviser Secretary Jesus Dureza, DND Secretary Norberto Gonzales, DND Undersecretary Ibrado, and Army Commander Medardo Geslani attended. However, none of the public elected officials from the Province of Maguindanao and ARMM went to the meeting.

The meeting was about the massacre in Masalay, in which he requested the military and government officials to go to the massacre site. In turn, Sec. Dureza remarked that he would not yet go to the massacre site because it was still dangerous. He further requested for the military to arrest Datu Unsay on the basis of the last phone call of Bai Gigi Mangudadatu.

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[145] TSN, dated January 23, 2013, p. 20.
[146] TSN, dated January 23, 2013, p. 22.

On cross-examination, the witness claimed that he does not know whether or not there was any invitation given by the organizers of 601st Infantry Brigade meeting for the officers of ARMM and Province of Maguindanao to attend the aforesaid meeting. He relayed to his relatives that his wife left them even before he was notified of the fact of her death. His wife also did not tell him that they were abducted, contrary to his announcement in the radio station.

He did not present evidence in court regarding the text messages that he received stating that his wife had been beheaded. When he saw his wife, he saw that the head was "durog" with a wound which looked liked it was inflicted by an axe.

He clarified that the threat he received from filing a COC was directed against him, and not against his relatives or media personnel.

Upon the directives of the military, police, and the COMELEC, checkpoints can be established to prevent violations of election laws.

His wife, Bai Genalin Mangudadatu did not specifically tell him that her convoy was flagged down in a checkpoint. At most, she stated that "*hinarang kami ng mga armadong tao*." His wife did not ask for help after armed men flagged them. He did not personally follow the convoy of his wife after his brothers had told him not to proceed to the area. Neither did he request the chief of police of Buluan to provide a rescue team for his wife and the convoy. What he did was to make a public call in the radio.

On re-direct examination*,* the witness said that after he heard the news about his wife, he immediately called Major Sukarno Dicay for rescue. However, the latter did not respond.

Testimony of Datu Khadafeh Mangudadatu

KHADAFEH MANGUDADATU[147] testified on December 01, 2010. He recalled that while visiting their mother in Davao Doctor's Hospital on November 21, 2009, they talked about the plan to file the COC of Datu Toto on November 23, 2009.

They agreed to file it in Shariff Aguak, by the female relatives of the Mangudadatus in order to avoid trouble as women were highly respected. For his part, the witness would gather the media people in the house, as they were joining the convoy in filing Datu Toto's COC. They tapped the media to witness the event considering that all this time, nobody challenged the Ampatuans.

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[147] Witness Khadafeh Mangudadatu testified on the following dates: December 01, 2010, and September 18, 2013.

Prior to this date, he had initially begun talks with media persons. Specifically, on November 19, 2009, he talked to Andy Teodoro and Bombo Radyo's Henry Araneta and Bert Maravilla. On November 20, 2009, he talked to Mac Mac Areola and Victor Nuñez. He encountered the media personnel during press conferences in the course of his political career.

On November 22, 2009, the witness returned to his home in Buluan City. By early evening, Bai Genalin Mangudadatu asked him to go to their house and meet some lawyers: Atty. Cynthia Oquendo, her father Tatay Catalino, and Atty. Connie Brizuela.

Upon returning to his residence, the witness found UNTV media men, Mac Areola, Victor Nuñez, and their driver Daniel Tiamzon. The media men just asked about the convoy's schedule and they were told to be at his house by 5:00 a.m., since the convoy would leave around 6:00 a.m.

On November 23, 2009, upon waking up at 5:00 a.m., the witness saw the members of the convoy already arriving. From the media, he saw Henry Araneta (DZRH), Bong Reblando, Bert Maravilla, Joseph Humilah, Anthony Sonio, Bong Bernales, Andy Teodoro, Bebong Momay, Joy Duhay, Jimmy Cabillo or Jimmy Pal-ac, and the media from SOCSARGEN.

Thereafter, Bai Eden Mangudadatu together with Atty. Connie Brizuela arrived. They were followed by Bai Genalin Mangudadatu (sister-in-law), Mamotabai Mangudadatu (aunt), Rowena Ante Mangudadatu (cousin), Raida Sapallon (cousin), Rahima Peuto Lawan, Ella Balayman, Pinky Balayman, Meriam Calimbol, and Suraida Bernan.

Lastly, the cars arrived: Silverado van driven by Norton Enza (Edza), White van driven by Abdilla Ayada, Green van driven by Eugene Demillo, Super Grandia driven by Daud. The witness owned the latter vehicle and is already in his custody.

After the people arrived, they had breakfast. Henry Araneta and Joseph Humilag (Jubelag) were then discussing the need for security escorts especially that the media people received messages that there were heavily armed people on blockade along the highway going to Shariff Aguak. However, Khadafeh told them that when they tried getting escorts, none was provided.

By 9:00 a.m., the convoy consisting of six (6) vehicles departed. These were the following: Black Wagon Ssangyong (owned by Henry Araneta), Super Grandia white, Toyota Hi-Ace white, Silverado Van Toyota Hi-Ace, Toyota Hi-Ace green, and UNTV van.

The witness identified in open court the persons he remembered who joined the convoy. He referred to them through ***photographs (Exhs. "Quintuple X-11" of Bai Eden Mangudadatu, "Quintuple X-12" of Pinky Balayman, "Quintuple X-13" of Cynthia Oquendo, "Quintuple X-14" of Wahida Kalim, "Quintuple X-15" of Mamotobai Mangudadatu, "Quintuple X-16" of Surayda Bernan, "Quintuple X-17" of Bai Farinah Mangudadatu, "Quintuple X-18" of Raida Sapallon, "Quintuple X-19" of Faridah Sabdullah, "Quintuple X-20" of McDelbert Areola, "Quintuple X-21" of Jimmy Pal-ac (Romeo Cabillo), "Quintuple X-22", "Quintuple X-23", "Quintuple X-24", and "Quintuple X-25".***

After the convoy left, he went to his grandmother's house and while therein, he received the news from Datu Toto that *"kinuha na ni Unsay si Gigi, pinagpingin* (slapped)*."* Thereafter, they went to DXLB radio station and appealed. Then, they held a Live Congregation in order to pray.

They gathered at Datu Toto's house, and he saw that people in the compound cried and grieved. He also received many text messages conveying that *"huli lahat ng media, pinagsisira lahat ng camera, hinuli ni Unsay ang sampung sasakyan ng media."* Later on, they received information from their brother, Mayor Ibrahim "Jong" Mangudadatu, that he found the dead bodies in Ampatuan, Maguindanao. His brother located the site after the former boarded a chopper at 4:00 p.m.

On November 24, 2009, they went to the 601st Brigade to meet military men – Brig. Com. Col. Geslani, EASTMIN Com. Gen. Ferrer, 601st Infantry Div. Com. Gen. Cayton, as well as Jess Dureza, DND Sec. Gonzalez, PNP Chief Gen. Versoza, and Gen. Pangilinan of the AFP – in order to ask permission to go to Masalay, Ampatuan, Maguindanao. However, they did not push through with the plan for security reasons. The witness returned to Buluan and advised the clan to stay calm.

On November 25, 2009, the witness waited for the call of his brother to meet at the rotunda in Tacurong in order to recover the cadavers. When they met Jong Mangudadatu, he was aboard a Silverado pick-up containing the bodies of Bai Eden, Bai Farina, and Bai Genalin. Many other vehicles arrived thereafter. Subsequently, the group proceeded to Allen Funeral homes in Marvel (Marbel) City. He and his brother assisted in bringing down the cadavers.

He observed that Bai Genalin bore multiple gunshot wounds (GSWs). She had slashes in her body and on her private parts. As for Bai Eden, half of her skull was detached; and her private parts were bloodied. Bai Farina's head was also bloodied, and the zipper of her pants was opened.[148] In describing the other cadavers, the witness said: *"kalunus-*

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[148] TSN (Vol. 7), dated December 01, 2010, p. 105.

lunos, kaawa-awa, beyond recognition ang halos karamihan sa kanila dahil sa tinamo nilang sugat sa katawan."[149]

At Allen Funeral Homes, the witness said that they stayed until the autopsy of Bai Genalin ended, and at that time, he saw the relatives of the other victims: Governor Teng Mangudadatu, Atty. Nena Santos, and cousins from Buluan.

On November 26, 2009, Bai Genalin, Bai Eden and Bai Farida were buried in Sitio Munion, Mindanao. As proof of their demise, death certificates were secured by Atty. Nena Santos. The witness identified these dead bodies of convoy members and clan members through ***pictures (Exh. "Quintuple X-1 to X-25")*** in open court: Bai Eden, Pinky Balayman, Atty. Oquendo, Wahida Kalim, Mamotabai Mangudadatu, Surayda Bernan (cousin), Bai Farina, Raida Sapalon, Faridah Gaguil Sabdillah (cousin), Bai Genalin, Ella Balayman (cousin), Victor Nuñez, Mac Mac Areola, Rowena Ante (cousin), and Jimmy Pal-Ac.

On June 04, 2010, the witness regained possession of his Toyota Grandia. The vehicle had gunshots along the side. He also found several items left inside the van, including cellphone, wrist bands, sunglasses, IDs, cards, and empty shells. The shells came from a 5.56 firearm as per a police investigation from Buluan National Police Station.

On September 18, 2013, Khadafeh Mangudadatu gave additional direct testimony. He testified that he could identify the person of Bebot Momay, whom he saw on November 23, 2009, as one of those media practitioners who arrived in his house and joined the convoy to file the COC of Datu Toto. He identified the alleged ***picture of Bebot Momay (Exh. "Quintuple X-26") in open court.*** Also, the vehicles were returned to the witness, to which ***acknowledgment receipts and pictures were issued (Exh. "Nona P-1" and "Nona P-2 to "Nona P-32"; "Nona Q-1";).***

Testimony of Ibrahim Mangudadatu

IBRAHIM "JONG" MANGUDADATU[150] took the witness stand on December 12, 2012. He testified that he knew Datu Andal, Sr. because when his father died, the latter entrusted the witness to the care of said accused.

In 2004, he was tasked by Datu Andal, Sr. to call Toto Paglas because of the political problems of the Ampatuans. On one occasion that transpired in an airport, he witnessed Datu Andal, Sr. asking Toto Paglas to withdraw his candidacy for the Regional Governor of ARMM so that Datu Zaldy Ampatuan will have no rivals.

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[149] TSN (Vol. 7), dated December 01, 2010, p. 106.
[150] Witness Ibrahim "Jong" Mangudadatu testified on December 12, 2012 only.

As another political issue, the witness said that Datu Andal, Sr. divided Buluan into three (3) towns: Mangudadatu, Buluan, and Pandag towns. The accused caused the division because they heard that Datu Toto would run as governor of Maguindanao.

On December 24, 2008, Datu Andal, Sr. summoned the witness and all the mayors of Maguindanao. In the mansion at the Poblacion, the former gave them food and ₱200,000.00 that they can use in buying tickets to Hongkong. Datu Andal, Sr. told them "*paano na yan, Datu, maghiwa-hiwalay na tayo*."

Thereafter, he went home to Buluan. Kagi Milo, the bagman of Datu Andal, Sr. called him, and mentioned that Apo (referring to Datu Andal, Sr.) did not like the Bagong incident. He was summoned back but he refused to return since he had a meeting with the Sangguniang Bayan.

In the evening of the same date, Provincial PNP Director of Maguindanao Piang Adam called him and asked that he return to the house of Datu Andal, Sr. The witness told him that he would not return as he will be ambushed by Datu Unsay.

On January 02, 2009, he was summoned by Datu Andal, Sr. He told his mother that: *"pupunta po ako kay Datu Andal, pinapatawag niya po ako, pero kapag hindi ako nakalabas hanggang ala-singko ng hapon ay patay na po ako."*

Datu Andal, Sr. asked about what he heard of the Mangudadatus running as Maguindanao governor. The witness replied, *"Apo, kung itinuturing mo kami na mga apo at mga mamamayan ng Maguindanao na mabuti, ang hangarin ko po sa pagkatao ko po ay hindi ako tatakbo, pero sa mga kapatid ko po ay hindi ko alam."* Apo replied *"Kung gayon, Datu, magsimba tayo, ipagdasal natin kay Allah, kung sino ang magtraydor ay gagapaan ni Allah."*

On July 20, 2009, he and his siblings Datu Toto and Khadafeh went to Manila as summoned by then DND Secretary Gilbert Teodoro. The following were present aside from them: Teng Mangudadatu, Apo, Unsay, Zaldy, Samsamin, Cong. Datumanong, Sajid Islam, Akmad, Anwar, Norie Unas, Secretary Gabby Claudio, and Prospero Pichay. In the meeting, *"kinakausap po kami na hindi ituloy and kandidatura ng aking kuya na si Esmael "Toto" Mangudadatu sa pagka-Gobernador ng Maguindanao."* Nothing happened in that meeting so they went their separate ways. The parties stipulated that the witness could identify those who attended this meeting, including Datu Andal, Sr.

In September 2009, Secretary Gabby Claudio, Prospero Pichay, and Ian Datu summoned the witness and Datu Toto to have a meeting at the

Swiss Dairy Restaurant in Davao City. At the restaurant, they were asked again that Datu Toto should not run as governor; and in exchange, he was offered to run as senator. They laughed at the idea since Datu Toto will not win as a senator. Prospero Pichay told the witness in reply, *"hindi man kayo mananalo, ano lang yun, popularity o kasikatan."*

On October 23, 2009, Prospero Pichay, Secretary Gabby Claudio, and Congressman Datumanong called the witness in Buluan to go to Manila. He was joined by his mother, his sister Bai Eden Mangudadatu, Bai Elizabeth Mangudadatu Tayuwan, and his wife. At 11:00 a.m. of October 23, 2009, they arrived in Manila at the Office of the Political Affairs in Malacañang. Again, Secretary Claudio told them that Datu Toto should not pursue his candidacy as governor of Maguindanao. In reply, he told them that it's not for him to decide but it's for his brother.

On November 23, 2009, the witness brought his mother to Davao Doctors Hospital. The doctor declared that his mother had bone cancer. At 10:00 a.m., Datu Toto called him and relayed that Datu Unsay kidnapped Datu Toto's wife and their siblings. He then called Prospero Pichay to relay the incident, and the latter gave him the number of Capt. Paz.

He called Capt. Paz and requested for a helicopter. They went to Buluan and boarded the helicopter with Mayor Sajid Mangudadatu and police officer Ibrahim Abdullah. They landed near the radio station and heard Datu Toto requesting the listeners to pray for his wife and sister.

He called Col. Geslani and asked him if he heard about the kidnapping. Col. Geslani told him that he knew none of it and that he had to call Datu Andal, Sr. first. Col. Geslani and Datu Andal, Sr. talked on the phone, with the latter denying the kidnapping. Later on, Datu Andal, Sr. called again and was told that Datu Unsay was a suspect. Thereafter, Col. Geslani relayed to the witness that according to Datu Andal, Sr., Datu Unsay was not there but was in the farm; and Col. Geslani asked the surrender of Datu Unsay.

The witness told Colonel Geslani that he would look for his siblings. Thereafter, he boarded a helicopter together with its captain, Col. Suspeni, and his bodyguard.

Even before reaching the Ampatuan municipality, he saw numerous police officers, army personnel and police vehicles along the highway.

Then, he saw a trail with two (2) tanks, white cars, and PNP vehicles parked. Pursuing the trail, he saw a white vehicle, green and blue cars. He then called his brother Datu Toto and affirmed that they have located the convoy in Barangay Masalay, Sitio Malating. Col. Suspeni called Col. Geslani to relay the news.

They alighted from the helicopter. *"Nang malapitan ko na po, ang nakita ko po na nakahandusay na bangkay ay bangkay ni Palawan, ang kanyang T-shirt po ay yellow. Sunod si Sabdullah, ang kanyang T-shirt po yung mahaba hanggang dito may black. Sunod po ay si Rowena Ante Mangudadatu na naka-open po ang kanyang zipper."*

The witness told what he saw to his brother, who advised him to search for their relatives. He looked and searched around and saw the parked van. The two (2) vans were empty while the sides of the third van were opened with Wahida Kalim sprawled with something red on her shirt. The witness demonstrated that the blood was still oozing from the right knee and her head was tilted upwards. He saw Mr. Oquendo next to her.

He then saw her youngest sister, Bai Farinah Mangudadatu Hassan, who was then pregnant. The latter and their cousin Berhan were embracing each other.

The witness saw another vehicle parked towards the south and seated in the driver's seat was his driver Eugene Demillo whose hands were tied. He saw another person dead on the second row of the vehicle – who could either be Reblando or Areola.

"Tumuloy ako sa likod ng sasakyan na blue, ang nakita ko na bangkay duon ay naka-T-shirt na puti, na wasak ang kanyang ulo, parang kinatay na kambing o baboy man, ang pagkakita ko ay grabe ang sugat ng tao na iyon na naka-puti duon sa likod."

He turned to the other side and saw two (2) persons wearing red and yellow. He saw the arm of the other person with serious wounds because of gunshots.

"Tumuloy ako duon sa unahan ng sasakyan na blue, may nakita naman ako duon sa kabila na isang bangkay na puti, ang tama niya ay dito sa likod, ang mata niya ay nakahiwalay sa kanyang ulo."

On November 24, 2009, at 2:00 a.m., Kenny Dalandag, a person who is unknown to him, called. The caller said that he was from Ampatuan and would testify regarding what happened to his siblings.

The witness asked Sixon, the Chief of Buluan Police Station, to talk to the caller Kenny Dalandag because he was already tired.

The next day, he went to the house of Toto Mangudadatu who instructed him to return to the place and get the bodies. At the site, his brother, Mayor Dodong, told him that some of the bodies were buried in another area. He then climbed a cliff, and as he was holding on to the

grass, *"paghukay ko ng kamay ko ng ganyan, may nakita ako na daliri, sabi ko tao, tao."* He continued to scrape the soil, and in the process, he saw the body of Atty. Brizuela.

Later on, he saw the body of his sister Bai Eden Mangudadatu whose pants were torn. Thereafter, he saw the body of his sister-in-law Genalyn Mangudadatu. Her clothes and pants were also torn. He saw both his sister and sister-in-law in this condition: *ang kanyang pag-aari po, ang kanyang bra po ay naalis at may mga tama ng baril.*

Subsequently, he asked Gen. Khu and Col. Dangane if they could be allowed to get the bodies including that of their sisters Bai Eden and Bai Mamotabai and sister-in-law Bai Gigi. Gen. Khu and Col. Dangane allowed them and had them bring the bodies to Marbel in a funeral parlor.

For purposes of his testimony, Ibrahim Mangudadatu executed a *sworn statement (Exh. "A-5")* together with his brothers Freddie and Zajid Mangudadatu.

Testimony of Atty. Arnold Oclarit

ATTY. ARNOLD OCLARIT took the witness stand on May 03, 2012 only. He claimed that he knew the victim, Atty. Cynthia Oquendo for they were associates in the law office of Atty. Nilo Flaviano. She was also a good friend and a bass guitar player of a band that they were trying to organize.

On November 23, 2009, at around 10:30 a.m., while at the office in General Santos City, he allegedly received a text message in his cellphone with no. 09194260989 from Atty. Oquendo using the number 09106880595.

He received the text message: *"kidnap mi with tatay, dahan mi, advise client Ampatuan, we might get killed, they are firing. Pls send to Tom."* As the witness knew how to read or speak in Visayan dialect, the translated text message meant: "I with tatay and several others were kidnapped. Advise client Ampatuan. We might get killed; they are firing. Please send to Tom." At first, the witness thought that it was a joke; so, he replied: "*Unsani?" ("What is this?")* At about 10:40 or 10:42 a.m., Atty. Cynthia Oquendo replied: *"true, not joke."*

Witness then tried to call Atty. Cynthia Oquendo. She received the call and in a low and frightened voice, told him, *"Ayaw tawag, bawal and cellphone dinhi."* ("Don't call me, cellphones are not allowed here.") Thereafter, he sent a text message to Atty. Cynthia Oquendo at around 10:50 or 10:40 a.m. asking, *"Asa location nyo?"* She replied at around 10:52 a.m., *"loc nlf hq nascom 12 pls."*

After receiving the third message, he tried to call back. Realizing that he had been warned not to call, he immediately aborted the call. Acceding to her request, the witness called Atty. Tomas Falgui II and forwarded to the latter the text messages received from Atty. Cynthia Oquendo. He also conveyed to Atty. Falgui II that Atty. Cynthia Oquendo might be in danger.

After calling and communicating with Atty. Falgui II, the witness received a fourth text message from Atty. Cynthia Oquendo in this wise: *"mnlf hq sh aguak nascom 12, daghan na patay, dadulo mi, please tell tom."* The witness inferred that Atty. Cynthia Oquendo was telling him that their location was in MNLF Headquarters, Shariff Aguak; and that many people were already killed, with her being next to die; and pleading the witness to tell Tom, which he immediately did.

Realizing the evidentiary value of these text messages, the witness placed them in one folder in his cellphone. However, his cellphone got reformatted, and as a result, he lost the aforementioned folder in his cellphone, including all other information stored therein.

The witness informed the Panel of Prosecutors about the reformatting of his cellphone. He was advised to bring the cellphone to the NBI. On their way, Prosecutor Ruiz and Atty. Gemma Oquendo accompanied him.

At the NBI, the witness surrendered his cellphone to the NBI agents. Atty. Gemma Oquendo also submitted the cellphone of Atty. Cynthia Oquendo to the NBI so that they could recover the deleted folders. Unfortunately, the NBI agents were not able to recover it.

As proof of the aforementioned text messages, the witness affirmed the transcribed text message coming from the recovered cellphone of Atty. Cynthia Oquendo enclosed in a ***folder containing pages of transcription of the Sony Ericsson P1i cellular phone (Exh. "Sextuple W").***

He maintained that he received the following messages: *"kidnap mi w/ tatay, dahn mi, pls advise client ampatuan, tama na pls, we myt get killed, they r firing, pls send to tom"; "tru nt jok pls"; "loc nlf hq nascom 12 pls"; "mnlf hq 12 sh aguak daghanna patau, dadulo mi ingatom."*

After witness forwarded the fourth text message to Atty. Tomas Falgui II, the latter called the former to tell him that he could not contact any of the Ampatuans.

At around noon that same day, Raymundo Oquendo, the brother of Atty. Cynthia Oquendo, came to the office of the witness, asking for her whereabouts. The witness told Raymundo Oquendo about the text

messages received from her. The former forwarded the text messages, called friends who might be able to locate her sister, and then left the office of the witness. Later on, after knowing about the demise of Atty. Cynthia Oquendo, he forwarded the text messages to her family.

On cross examination, the witness, despite having practiced law for 17 years, had admitted that he did not preserve the text messages by jotting these down, putting in a blotter, memorializing through an affidavit, or capturing these in photos. Neither did he tell the text messages to the Chief of the PNP, the Secretary of the DOJ, the Head of the Panel of Prosecutors, the mobile service provider or any police officer. The witness also did not have any document proving that he owned a cellphone, which was a prepaid one, and that its contents had been reformatted.

He relied on forwarding the text messages and archiving these in a folder in his own cellphone. However, when he opened it, that was the time it accidentally reformatted, with the folder of messages being deleted.

The witness mentioned that he and Atty. Tomas Falgui II were casual friends for the latter was older, practiced election law in part, and a known counsel for the Ampatuans.

Atty. Oclarit knew that the Ampatuans were a political clan, with enemies. He clarified that he first saw the transcript in the last months of 2011. He did not know about the incidents of its preparation. He claimed that Atty. Gemma Oquendo, the sister of the victim, informed him that he would later on testify in court. He remarked that the Oquendo family never asked for his cellphone in order to transcribe the messages.

Testimony of Atty. Tomas Falgui II

ATTY. TOMAS FALGUI II took the witness stand on November 21, 2012. He stated that the Ampatuans were his former clients during the 2004, 2007, and 2008 elections. Specifically, he represented Datu Andal, Sr. for the 2007 elections, and Datu Zaldy for the 2008 elections.

As a practicing lawyer in Mindanao, he also knew Atty. Cynthia Oquendo-Ayon, his long-time friend and colleague in the profession. He also knew Atty. Arnold Oclarit, his co-practitioner and fellow election lawyer in General Santos City.

On November 23, 2009, sometime between 10:00 a.m. and 11:00 a.m., he was in his office located at General Santos City. At past 11:00 a.m., he received two to three text messages from Atty. Arnold Oclarit through his mobile number 09177140888. These three (3) messages conveyed: *"true not joke"; "Christian greetings, kidnap me with tatay,*

daghan patay, they are shooting, please tom" (this is his nickname); and, "mnlf headquarters 12."[151]

He was surprised when he read the text messages such that he replied *"unsani bay?", "what is this, my friend", "where is this come from" (*sic).[152] Instead of replying, Atty. Arnold Oclarit called him and told him that he got those messages from Atty. Cynthia Oquendo; and that the *"not joke"* text was the reply of Atty. Cynthia Oquendo when she was texting Atty. Oclarit.

Then, he called his clients. He tried reaching Atty. Jose Barroso, the then Presidential Assistant for the ARMM, and the most senior lawyer of the Ampatuans. He was not able to contact him.

Afterwards, he called Nori Unas, who engaged his services as election lawyer for the Ampatuans. The latter told him that he was on his way to Davao because he was summoned by Datu Zaldy, who was in Malacañang. Nori Unas offered to make some calls because he was not aware of the situation for he was in Davao at that time. The witness then conveyed to him the message from Atty. Oclarit.

He also tried calling his friend Teng, former Department of Trade and Industry (DTI) Secretary of the ARMM; but he did not reach him. Subsequently, he called Atty. Oclarit and relayed to him what Nori Unas told him. After their conversation ended, he showed the messages to his staff.

On cross examination*,* the witness claimed that despite the fact that he and Atty. Cynthia Oquendo were friends who, also exchanged text messages, she did not text him directly on November 23, 2009.

According to the witness, he no longer has the text messages from Atty. Arnold Oclarit. Thus, he only based his testimony on his recollection. He also did not execute an affidavit. Neither did he have a record or documentary proof that he called Atty. Jose Barroso, Nori Unas, or Teng of the DTI. He lacked all the documentation despite being a litigation lawyer for three (3) decades. He also did not make a police blotter.

He did not give any interviews to the NBI, PNP-CIDG, or the prosecutors. He also claimed that Atty. Oclarit had told him that he would be a witness after two (2) years since the incident.

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[151] TSN (Vol. 34), dated November 21, 2012, pp. 42-43.
[152] TSN (Vol. 34), dated November 21, 2012, p. 44.

Testimony of Gemma Oquendo

GEMMA OQUENDO, [153] the daughter and sister, of victims Catalino Oquendo, Jr., and Cynthia Oquendo-Ayon, respectively, was presented on the witness stand on October 04, 2012.

She testified that in the morning of November 23, 2009, in her office at the Court of Appeals, Manila, she received a text message from Charlene, the secretary of her sister Cynthia, informing her that her father and Cynthia were kidnapped in Shariff Aguak. She then contacted her siblings in search for Catalino and Cynthia. By afternoon of that day, she saw in the news that those who joined the convoy, were killed.

On November 26, 2009, the wake of her father and sister began. Her brother, Raymundo Oquendo, told her and Dennis Ayon that the cellphone belonging to Cynthia must be kept secure. The witness figured that the cellphone was important. Earlier, Charlene texted her that as they were exchanging messages, Atty. Oclarit and Cynthia were already texting.

The witness, together with Raymond Oquendo and Dennis Ayon, decided to submit the cellphone for forensic examination at the CIDG, Gen. Santos City. When told that nobody is allowed to go inside the laboratory except the PNP officers, they decided to forego with the forensic examination.

The witness tried examining the cellphone herself in Manila, through the use of the application *My Phone Explorer.* She printed the data that showed the call and messaging history of the phone, producing 16 pages. The most significant message that she remembered was: "Christian greetings. Kidnap mi with tatay. Please tell Tom to tell client Ampatuan to stop. We could get killed here. Please tell Tom."

On October 27, 2011, she was in the office of Computer Crimes Unit at the NBI, Manila. Jed Sherwin Uy conducted a forensic analysis of the cellphone but the device he used had a connection error.

On November 03, 2011, they analyzed the picture. As a result, she was able to have NBI photographer Antonio Estabillo, Jr. take ***30 pieces of pictures (Exh. "Sextuple W-5")*** of one (1) Sony Erickson, and the ***transcription of the messages (Exh. "Sextuple W-6")*** contained in this cellular phone. She also identified the ***cellphone (Exh. "Sextuple U").***

On cross examination on October 17, 2012, the witness narrated that they kept the possession of the cellphone of Cynthia in

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[153] Witness Gemma Oquendo testified on October 04 and 17, 2012.

secret for their lives were in danger at that time. However, the witness failed to particularize her basis of fear at that time. Not even her brother, a police officer, reported the retrieval of the cellphone.

The witness admitted that when she extracted the data from the cellphone, none of her family members and prosecutors knew about the activity. She confirmed that her sister never messaged her about the scheduled filing of the COC on November 23, 2009. Her brother allegedly received the cellphone from Tata Puton, the person who embalmed her sister in Southern Funeral Homes. During the wake, none of them activated the cellphone.

Oquendo said that she did not inform the NBI that she opened herself the cellphone through *My Phone Explorer.* She also did not inform anyone about the computer she used in using the said application. Neither did her cellphone or that of her brother's was examined by the NBI.

The witness had possession of the cellphone for 10 months – from the wake to its examination by the NBI. She turned it over to Leo Dacera, however, she lost the receipt during the flood.

On re-direct examination, the witness said that she did not surrender the phone to the NBI or the CIDG because she did not trust them. There was also no witness when she used the application *My Phone Explorer* because at that time, she could not trust anyone. She recalled that there was even a PNP personnel who offered money in exchange of that cellular phone.

On re-cross examination, the witness said that she never reported to anyone, save for her brother that someone offered money for the cellphone. She also admitted that she did not write the CIDG General Santos City and NBI about her claim that the former refused to allow her extraction.

Testimony of SPO2 Cixon J. Kasan

SPO2 CIXON J. KASAN[154] was presented on the witness stand on August 24, 2011. He narrated that by virtue of the September 09, 2009 Special Order No. 266 issued by OIC Provincial Director P/Chief Insp. Sukarno Adil Dicay, he was designated as the OIC Chief of Police in Buluan Municipal Station until November 30, 2009. The witness personally knew Major Sukarno Dicay, who he was able to identify in open court.

According to the witness, on November 23, 2009, at past 5:00 a.m., he was called by Assemblyman Khadafe Mangudadatu asking for escort

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[154] Witness SPO2 Cixon J. Kasan testified on August 24 and 31, 2011 only.

security for the convoy of Datu Toto Mangudadatu who would be filing his Certificate of Candidacy. Subsequently, he went to the house of Khadafe Mangudadatu.

On their way at past 9:00 a.m., he and his team saw the Mangudadatu convoy 50 meters before they reached the house. Thereafter, he proceeded to meet Khadafe Mangudadatu, who was with his wife, Bai Jihan Mangudadatu. Upon asking whether they will have to escort the convoy, the former answered in the negative as according to him, it would be better if they will not join since it was better that no firearms would be seen with the convoy.

At 10:00 a.m., he and his men were conducting a mobile patrol activity within Buluan when they saw a gathering of people estimated to be 300 led by Datu Toto Mangudadatu, near the DXLB radio station located along the National Highway of Buluan. When the latter saw him, he was asked to call the Police Provincial office and verify that the convoy was waylaid at Brgy. Salman. He then called the Operations Office, and while verifying, his mobile team unit extended help by controlling the crowd and directing the vehicles.

At 1:00 p.m., Mayor Ibrahim Mangudadatu arrived in a helicopter and informed them that he will conduct a surveillance using the same. At 4:00 p.m., Ibrahim arrived and told Khadafeh and Toto that he saw the convoy at the mountainous part of Brgy. Salman.

By 6:00 p.m., Ibrahim, Khadafeh and Toto left to pray at the latter's house. The witness' team went with them and stayed with the Mangudadatus until 10:30 pm.

When cross-examined on August 31, 2011, the witness explained that it was normal for police officers to escort a convoy for purposes of filing a COC. But there were no special orders for him to bring his team to the house of Mayor Ibrahim Mangudadatu.

On re-direct, the witness said that he did not make an affidavit, or tried to investigate, because the massacre site was outside his jurisdiction.

Testimony of Eliseo Collado

ELISEO COLLADO[155] took the witness stand on May 09, 2012. He stipulated that he owns E.I. Collado Funeral Parlor and Southern Funeral Homes, which provided embalming services to 13 cadavers recovered in the Maguindanao massacre site including that of Atty. Cynthia Oquendo-Ayon and Catalino Oquendo, Jr.

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[155] Witness Atty. Tomas Falgui II testified on May 09, 2012 only.

Raymundo Magno Oquendo, brother of Atty. Oquendo-Ayon, allegedly requested the embalming of her cadaver and that of their father, Catalino Oquendo, Jr. at Southern Funeral Homes located in Polomolok, South Cotabato. Per directive of the witness, Jonito Puton, the assistant embalmer in Southern Funeral Homes, embalmed the body of Atty. Oquendo-Ayon. The witness received from Jonito Puton the ***Sony Ericsson cellular phone (Exh. "Sextuple U")*** recovered from her body. The witness himself turned over the same cellular phone to Raymundo Magno Oquendo.

Testimony of Jonito Puton

JONITO PUTON[156] was presented on November 28, 2012. He narrated that on November 24, 2009, Eliseo Collado called him to report for work as assistant embalmer at Southern Funeral Homes.

When the body of Atty. Oquendo-Ayon arrived, the witness and Ramil (another assistant embalmer) cleaned the cadaver. He observed that the body was bloody and muddy; she had gunshot wounds (GSWs) on her leg and left thigh; he also saw a scar on her face and a GSW on the right eye.

The witness also noticed that there was something bulging on her private part which turned out to be a cellphone. He then removed the same and thereafter placed it inside his bag.

When he arrived home, he turned it on, but the phone died because the battery was empty. This cellphone was a Sony Ericsson, colored black with silver sides and a red keypad which was stained with blood. Then, he received a call from Eliseo Collado who was inquiring about the cellphone, and instructed him to return the phone, which he did at 5:00 a.m. the following day. He specifically turned over the phone to Eliseo Collado. He identified the phone in open court.

On cross examination*,* the witness claimed that since November 24, 2009, he never saw the cellphone again. He also did not place any identifying mark on the phone but remembered its color details: black body, silver siding, red keypads. He would not have returned the cellphone had not Eliseo Collado instructed him to return the same.

He clarified that he placed the cellphone inside his bag, which was located in a hut separate from the funeral home. When he slept, his bag was with him (hung inside the hut). However, when he went back to work the next day, the bag remained inside the hut. There was no security guard in that place.[157]

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[156] Witness Jonito Puton testified on November 28, 2012 only.
[157] TSN (Vol. 34), dated November 28, 2012, p. 41.

While he was embalming Atty. Cynthia, Ramil was embalming the cadaver of her father. During the two-hour period that they were embalming in the same room, they had short chats and were also facing each other at times.

He did not report to anyone, or even placed in a police blotter about the cellphone that he retrieved. He also did not mention the phone to Ramil or make an affidavit pertaining to it.

Testimony of Nasser Z. Sansaluna

NASSER SANSALUNA[158] took the witness stand on May 09, 2012. He testified that in March 1995, he resided at Libutan, Maganoy, Maguindanao. On March 13, 1995, he accompanied Akas Paglala to file his COC as Vice Mayor of Maganoy, Maguindanao for the 1995 elections. Akas Paglala ran with Sahid Salik, who was running against Datu Andal, Sr. as mayor. Omar Paglala, Abdul Bayan Upam, and Lakandula Bantilan also accompanied them.

According to the witness, on March 14, 1995, Akas Paglala and Omar Paglala went to his house to invite him to the house of Sahid Salik. The group proceeded to the latter's house aboard two (2) motorcycles. He drove one (1) of the motorcycles, and Akas Paglala the other one. En route, they passed by a supermarket in Cotabato, Notre Dame University and General Luna Street. In General Luna, Akas Paglala stopped for a while when he saw his friend Abdul Bayan. The two (2) chatted for a while.

Parked within two (2) meters from Akas Paglala, the witness saw the arrival of a red pick up, and Datu Zaldy Ampatuan alighted therefrom together with three (3) police officers. Datu Zaldy then fired his gun at Akas Paglala and Omar Paglala. The victims were only one (1) meter away from the assailant.[159] He recognized Datu Zaldy not only because he was an assemblyman in Cotabato at that time, but also because his family was known.

After seeing the shooting incident, they went away because they were afraid. Subsequently, they went to Sahid Salik's house in Cotabato City. They found it futile to report to police authorities because the Ampatuans were very powerful. But now, he testified and executed an affidavit since he can already be a witness under the Aquino administration.

For purposes of his testimony, Nasser Sansaluna executed a ***sworn statement (Exh. "(13) I")*** .

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[158] Witness Nasser Z. Sansaluna testified on January 31, 2013 only.
[159] TSN, dated January 31, 2013, p. 9.

On cross examination, the witness clarified that the deceased persons were not part of any political party; neither were they politicians. As for Sahid Salik, he ran as a mayor for the first time.

At the time of the incident, the witness saw a police officer by the name of Adam Maliga, and another person whom he did not know. However, he also did not see any other politician in the vicinity. He maintained that he did not see Datu Toto Mangudadatu in that area.

The witness also said that at the time that he executed the affidavit on January 22, 2013, Datu Zaldy and Datu Andal, Sr. had already been arraigned. He was a witness to the case filed by the relatives of Akas and Omar Paglala. While the witness opined in his Affidavit that Akas Paglala was killed because of politics, he had never confronted Datu Zaldy as to the motive of his shooting.

Testimony of Joseph Jubelag

When presented on the witness stand on August 07, 2013, JOSEPH JUBELAG testified that he has been a journalist for the last 15 years; and on November 23, 2009, he was working as an editor of the Mindanao Bulletin, a local paper based in General Santos City. He was also the provincial correspondent of the Manila Standard Today. Specifically, he was assigned to cover political events and other crimes in the Socsargen area.

He testified and executed an ***affidavit (Exh. "13 O")*** about Reynaldo "Bebot" Momay, whom he personally knew. He had worked with him in the South Cotabato and Sultan Kudarat provinces; and on November 23, 2009, he had already known Momay for almost 10 years.

According to the witness, in the morning of November 23, 2009, upon invitation, they were gathered at the house of Assemblyman Khadafeh Mangudadatu in Buluan, Maguindanao, because they were preparing to proceed to the Provincial Office of the COMELEC in Shariff Aguak, to cover the filing of the COC of then Vice Mayor Esmael Mangudadatu; and thereafter, a press conference at the house of Mangudadatu in Buluan. For them to proceed to their destination, there will be vehicles available for journalists and other people of Vice Mayor Toto Mangudadatu; but he himself had his own vehicle, a Mitsubishi Lancer.

The witness said that he arrived in Khadafeh's house at 7:00 a.m. on November 23, 2009. Upon arrival thereat, they were already more than 30 journalists in the place, and he saw Momay who was properly dressed, with vest jacket worn by reporters and a cowboy hat.

After 7:30 a.m., they discussed about the security arrangement for the journalists. At 9:00 a.m., they (the convoy which included 6 vehicles, including his car), decided to leave Buluan. At that time, he saw Momay riding in the Toyota Grandia van assigned to the field reporters. With Momay, he also saw: Bong Reblando, Andy Teodoro, Joy Duhay, Rey Merisco, Nap Salaysay, Ronnie Perante and others that he cannot recall the names anymore, but they were more than 10 in the vehicle.

According to the witness, the group stopped in a gas station to refuel. Then, two (2) other reporters transferred to his vehicle. At that point, Momay was still inside the green Toyota Grandia van, ***photos thereof (Exhs. "Quintuple V-5" to "Quintuple V-9") were identified by him.*** Subsequently, the convoy left, with him trailing behind (his Lancer was the last vehicle in the convoy).

Upon reaching Tacurong City, the witness stopped tailing the convoy because he was no longer feeling well and felt some stomach disorder. He then returned to J.B. Pension House, National Highway, Tacurong City, where they stayed the night before going to Buluan.

Upon arrival thereat at about 9:15 a.m., he was informed by the lady receptionist at the front desk that there were two (2) unidentified persons asking for the identities of the journalists who stayed in the pension house. Feeling suspicious, he then used his mobile phone to relay this information to Bong Reblando, and even told him to no longer proceed to Maguindanao. In reply, the latter said that they will just meet in the house of Toto Mangudadatu in Buluan after the filing of the COC for the press conference. The witness then said okay.

During that phone conversation, the witness asked Bong Reblando about their exact location to which the latter replied that they were somehere in the vicinity of the Ampatuan area. During that conversation, he also heard voices in the background of the other companions of Bong, including Momay whose voice he can recognize for he knew him for a long time. He also identified Momay through the latter's picture.

After the conversation, the witness decided to go back to Buluan, and arrived thereat at past 10:00 a.m. He saw Toto Mangudadatu in his house; and at that time, they were informed that the convoy was held at gunpoint by armed men. At that point onwards, he and everyone he knew, have never seen Momay anymore.

On cross-examination, the witness admitted that in his affidavit, there was no mention that the van was colored green. There were also some conflicting statements in his oral testimony compared with his sworn statement: contrary to what he stated in the direct testimony, there is no mention that he suffered from "stomach problems." What was merely contained in the affidavit was that "he was not feeling well." There is

likewise no mention in the affidavit about the receptionist in the Pension House, telling him that there were people looking for media men. It was Henry Araneta, not Toto Mangudadatu, who invited them to cover the latter's filing of his COC. He is actually not aware/he has no knowledge of whether the vehicles he saw in the house of Khadafeh Mangudadatu were provided by Toto Mangudadatu. There is no mention in his affidavit regarding the claim that Mr. Reblando texted him; and regarding the circumstance that he lost his cellphone.

There is also no mention in his affidavit regarding the claim that he returned to the house of Mangudadatu and was told by the latter about the fate of the convoy.

The witness maintained that the van in the picture looks like dark green in color. As a journalist, he should have taken note of the details of the van with accuracy; he should have also – as part of his job – conveyed the information regarding the green van to Manila Standard Today or in his own publication, the Mindanao Bulletin.

The witness also testified that after one (1) year from the incident, he never executed an affidavit. He only executed it in January 2011, after the CIDG came to him.

The witness maintained that although he saw Momay boarding the van, he never saw him at the massacre site itself. Neither did he see his body/cadaver. At present, there was no wake or death certificate for Momay.

The last time that he saw Momay was when they were to depart from the house of Mangudadatu. From that place to Tacurong gasoline station, the distance is 10 kilometers.

The witness admitted that he has no cellphone receipts showing that he called Mr. Reblando. Although he was able to save the latter's text message, unfortunately, he lost his cellphone. Apart from his testimony, there is no object evidence showing that he talked to Mr. Reblando and heard voices in the background.

The following testimonies were likewise absent in his affidavit: Momay was riding a Toyota Grandia with Bong Reblando; Momay and Reblando were in the van with Andy Teodoro, Duhay, Rey Merisco, Nap Salaysay, Ronnie Perante and about more than 10 of them; he tailed behind the convoy and Momay was still in the van; he went back to the Pension House in Tacurong City at around 9:15 a.m.; he called Bong Reblando and told him that people were looking for them to ask for their identities.

Nonetheless the witness maintained that he was familiar with the Ampatuan municipality in Maguindanao because he used to cover that area. He heard voices including that of Momay, while conversing with Bong Reblando in the cellphone.

The witness said that he did not report the loss of his cellphone to authorities or made a police blotter. He also did not transcribe the contents of the text message.

Jubelag also said that Khadafeh Mangudadatu never prevented the group from continuing with the filing of the COC despite the lack of clear security arrangements. Despite his predicament of "nanghihina," his senses were not clouded. He was able to drive on his way to the Pension House.

Testimony of Judy Agor

JUDY AGOR was presented on the witness stand on August 28, 2013. She testified that Reynaldo "Bebot" Momay is the uncle of her husband, Reiner Momay Agor who works as a police officer. They had been neighbors for the past nine (9) years (from 2000 to 2009) at Purok Yellow Bell, Brgy. New Isabela, Tacurong City, Sultan Kudarat.

According to the witness, the last time she spoke with Momay was in the morning of November 23, 2009, between 6:00 to 7:00 a.m. when the latter went to their house to borrow from her the motorcycle of her husband who was in East Timor for a mission. The description of the motorcycle is as follows: Color: Maroon; Make: Kawasaki Bajaj; Plate Number: MA 4565; Year: 2007; Registered under: Reiner Momay Agor.

Momay allegedly told the witness that he was borrowing the motorcycle to attend a press conference in Buluan. At that time, Momay already had the possession of the motorcycle, having borrowed it the night before but he was not able to park it in her house, pursuant to their usual agreement.

She allowed Momay to borrow the motorcycle, and she was told that he will return it after lunch on said day, but he failed to do so. When he failed to return after 1:30 p.m., she texted him to ask him his whereabouts. He did not reply. At 5:00 p.m., Momay still did not return; and it was then that she heard the news regarding the massacre.

She and her cousin tried to text and call Momay and his friends. They received the response that Momay attended the press conference in Buluan. In their search for Momay, they also found out that he left the motorcycle in the compound of the Mangudadatu in Buluan. Subsequently, after seeking help from Momay's daughter Maria Reynafe Momay Castillo, they were able to retrieve the motorcycle. In particular,

the latter's husband, Ronnie Castillo brought back the motorcycle to their house.

Currently, the motorcycle is in her house. She identified the ***pictures of the motorcycle (Exh. "(13) V" – "(13) V – 2")***, having recognized its model, color and plate number. By stipulation, the witness' affidavit dated January 11, 2011 was marked (***Exh. "(13) W" – "(13) W-2").***

After November 23, 2009, and thereafter, they were not able to see or contact Momay.

The witness was subjected to cross examination on August 28 and 29, 2013. She maintained that the only matter mentioned to her by Momay was that he will go to Buluan to attend the press conference.

She said that a maroon Bajaj Kawasaki is prevalent in the area of Sultan Kudarat. Many of its inhabitants are using motorcycles as a principal mode of transportation. One identifying mark, but not unique, in her motorcycle is a PNP sticker. The motorcycle also has a scratch in front.

The witness maintained that she does not know the engine number and chassis number of her motorcycle. She also did not know when the pictures of the motorcycle were taken. What she knew was that the motorcycle was inside the compound of Mangudadatu. She was able to take possession of the motorcycle less than 15 days from November 23, 2009 or around December 2009.

Finally, the witness said that she has no proof, other than her verbal testimony, that she sent Momay a text message.

Testimony of Marivic Cordero Bilbao

MARIVIC CORDERO BILBAO who was presented on August 28, 2013 testified that she was the live-in partner for 22 years until 2009 of Reynaldo Momay, a photojournalist for the Midland Review. Part of his work was to go to press conferences and take pictures for the newspaper. He regularly comes home after his field work.

The witness narrated that in the evening of November 22, 2009, he told her that he will be attending the press conference of the candidacy of Vice-Mayor Toto Mangudadatu in Buluan.

In the morning of November 23, 2009, as far as she knows, Momay was with Mr. Joy Duhay, a colleague in the local media. She knew about this because she heard their conversation. Momay also told her that he

just talked to Joy Duhay before he left their house. She particularly heard Momay replied: "okay, I will just follow in going to Buluan."

At 1:00 p.m., after hearing about the massacre, she texted and called Momay but to no avail. The nephews, nieces, siblings and children of Momay tried to contact him. She contacted him since she knew that he was part of the media people accompanying the Mangudadatu party.

On November 24, 2009, they started to go to funeral parlors in Koronadal, Isulan, and Tacurong City. They were not able to find Momay's body among the victims.

On December 01, 2009, the CHR summoned her to show the denture recovered in the crime scene. She went to the house of Mrs. Agor, Momay's sister, between 9:00 to 10:00 in the morning, wherein the CHR asked her whether the denture belonged to Bebot Momay. She answered in the affirmative.

According to the witness, she knew that it was Momay's denture which she subsequently identified ***(Exhibit "(13) S")*** because she was the one who cleaned it every night since 2003 up to 2009. Up to the date of her testimony, he still had not returned to their abode. The last time she saw him was on November 23, 2009, at 7:00 a.m. The witness was shown an affidavit dated January 11, 2010 which by stipulation was admitted having been executed by her ***(Exh. "(13) X – "(13) X-3").***

On cross-examination, the witness testified that she did not know whether Momay went to Shariff Aguak. She just presumed that he was with the party that went to Shariff Aguak given that he did not go home at noon time for lunch on board a motorcycle.

She did not know who personally recovered the denture. It was merely shown to her by CHR representatives. She reported to the police, but the police had no report because they did not see Reynaldo Momay.

She admitted that she did not hear the telephone conversation between Momay and Joy Duhay. She was just told by the former of such fact. She could also not recognize Joy Duhay's voice itself. Neither did the witness call any other member of the convoy to confirm that Momay was part of it. There was no information given to her that Esmael Mangudadatu will file a COC. She was just told that Momay will go to a presscon.

The witness also said that she did not have a cellphone. She did not borrow from Ms. Agor or a neighbor to personally call Mr. Momay. She also did not report to the PNP or any investigating agency regarding the loss of her husband. Neither did she file a case regarding Momay's

absence. They just assumed that he is already dead *("kasi alam naman ng lahat.")*

The witness admitted that she cannot remember whether it was she or the notary of Atty. Harry Roque who prepared the Affidavit. But the affidavit contained her words *("tinatanong po nila ako.").* She read the draft of the affidavit presented to her and signed it.

Contrary to her testimony, there was nothing in her affidavit regarding the conversation between Joy Duhay and Bebot Momay.

Although Ms. Agor testified that Momay committed to return in the afternoon with the motorcycle, she stated that Momay told her that he was not sure of his return in the afternoon.

The witnesses of the prosecution, who corroborated the testimonies of the other witnesses are the following, namely:

1. Lt. Col. Randolph G. Cabangbang - He was then the spokesperson of Eastern Mindanao Command of the Philippine Army. His testimony is relevant to that of Lakmodin Saliao.

2. Elsie R. Gaba – She works as the Front Desk Manager of the Century Park Hotel since October 2000 up to the present. Her testimony is relevant to that of Lakmodin Saliao.

3. Fabian S. Fabian - He was the Supervisor of the Records Section, Philippine Airlines (PAL), who identified several travel records.

4. Joeffrey L. Lizada - He was the Senior Liaison Supervisor, Legal and Regulatory Department of Smart Communications, Inc., who identified several billing statements.

5. Atty. Melchor S. Latina - He was the Head of Legal Services Division, Globe Telecoms, Inc.

Testimony of Lt. Col. Randolph G. Cabangbang

LIEUTENANT COLONEL RANDOLPH G. CABANGBANG[160] was presented on May 23, 2012. He testified that he has been in active service with the Philippine Army for 20 years. At the time of the taking of his testimony, he was with the Western Mindanao Command based in Camp Navarro, Zamboanga City. From May 2008 to November 2010, he was assigned with the Eastern Mindanao Command (Eastmincom) based in Davao City. He was concurrently the Deputy of the Operations Branch

[160] The witness testifiedon May 23 and 24, 2012.

and at the same time was also the spokesman of Eastmincom. His superior, as spokesman, was Lieutenant General Raymundo B. Ferrer.

On December 05, 2009, the witness was at the Capitol Building of Maguindanao, conducting a press conference to announce that martial law had been declared in the province. Before that press conference, Lieutenant General Raymundo B. Ferrer gave instructions that Datu Andal, Sr. should be transferred from Davao Doctors Hospital to the hospital inside Camp Panacan, Davao City. The witness then gave instructions that a logbook should be placed at the hospital.

The witness kept a logbook to know the visitors of Datu Andal, Sr., in order to update the media. The logbook contained entry fields for names, dates, and times that the visitors visited Datu Andal, Sr. The witness presented the logbook in open court, ***Camp Panacan Station Hospital Visitor's Logbook (Exh. Septuple "T" with sub-marking).*** The entries began on December 06, 2009 and ended on April 05, 2010. Notably, Datu Andal, Sr. was confined in that hospital from December 06, 2009 up to April 16, 2010. Sgt. Martinez, JH is one of the non-commissioned officers handling the daily logbook.

The witness relayed to the court that the nurses told him that whoever comes in the room of Datu Andal, Sr. must first approach the watcher, Lakmodin Saliao or "Laks." He later came to know that the latter was a trusted aide and a cell phone holder of Datu Andal, Sr.; and that every transaction that Datu Andal, Sr. makes, Laks was part of it. He knew of this relationship because it was his daily routine to visit the hospital and at 8:30 in the morning, he always talks to Laks. By 9:00 a.m., he then talks to Datu Andal, Sr. He never attempted to go to Datu Andal, Sr. without Laks.

In May 2010, Laks called the witness and told him that it was urgent for the two of them to meet. When he met Laks at a mall in Davao City, the latter had a bag containing clothes, and told him that he wanted to go to the house of the witness as he had been receiving threats and that somebody was trying to get rid of him.

The witness acceded and brought Laks to his home. A day after, the witness was called by somebody, asking for Laks. The latter said that it was Datu Unsay. The last time that the witness saw Laks was in the last week of May 2010, after he handed Laks to Atty. Leo Dacera in a café in Davao City.

When cross-examined on May 24, 2012, the witness specified that the jurisdiction of Eastmincom included Regions 10 to 13, as well as Maguindanao. He stated that everyone who visited Datu Andal, Sr. had to put their names in the logbook. The witness further said that he visited the latter almost daily.

Testimony of Elsie R. Gaba

When presented on the witness stand on April 03, 2013, ELSIE R. GABA[161] testified that she works as the Front Desk Manager of the Century Park Hotel since October 2000 up to the present. Her duties and responsibilities include supervision of room reservations from guests, business center, bell services, duty manager, and telephone exchange of the Century Park Hotel.

The witness mentioned that she is familiar with Datu Andal, Sr. and Datu Unsay for they are VIP ("very important persons" guests of the hotel.) They had stayed with the hotel for several years, and when they were billeted, they get several rooms in one stay. In her assumption, they get five (5) to 10 rooms per guest.

She presented in open court a document listing the billeting information of the hotel ***(Exh. "13 M" and sub-markings),*** from July to November 2009. Relevant to these cases, from July 18 to 21, 2009, Datu Andal, Sr. booked 10 rooms; and booked an additional room from July 18 to 22, 2009. From July 18 to 21, 2009, Datu Unsay booked five (5) rooms. Between the same dates, Datu Sajid Islam booked five (5) rooms.

Testimony of Fabian S. Fabian

FABIAN S. FABIAN[162] **testified on March 20, 2013.** The parties stipulated that he currently works as the Supervisor of the Records Section, Philippine Airlines (PAL). His duties and responsibilities include the safekeeping of physical and electronic data of PAL, issuance of travel certification, issuance of flight manifests upon request of government agencies, and appearance in court proceedings. He could also identify the following flight manifests:

1. ***July 18, 2009 PAL Manifest, Flight No. 0818, Davao to Manila (Exh. "13 L-1" and sub-markings),*** which listed the names of "Ampatuan/Datu Andal Jr., Ampatuan/Datu Andal Sr., Ampatuan/Datu Bahnarin Ampatuan/Akmad Ampatuan/Kanor Ampatuan" as passengers.

2. ***July 19, 2009 PAL Manifest, Flight No. 0454, General Santos to Manila (Exh. "13 L-2" and sub-markings),*** which

[161] The witness testified on March 20, 2013 and May 22, 2013. He also testified for the defense on November 19, 2014 (for Datu Zaldy) and March 12, 2015 (for Datu Unsay).
[162] The witness testified on March 20, 2013 and May 22, 2013. He also testified for the defense on November 19, 2014 (for Datu Zaldy) and March 12, 2015 (for Datu Unsay).

listed the names of "Anwar Ampatuan, Jr., and Anwar Ampatuan, Sr." as passengers.

3. ***July 19, 2009 PAL Manifest, Flight No. 0188, Cotabato to Manila (Exh. "13 L-3" and sub-markings),*** which listed the names of "Norie Unas, Puti Ampatuan, Bahnarin Kamaong, and Abdulhawid Pedtucasan" as passengers.

4. ***July 19, 2009 PAL Manifest, Flight No. 0812, Davao to Manila (Exh. "13 L-4" and sub-marking),*** which listed the name of "Zaldy Ampatuan" as a passenger.

5. ***July 19, 2009 PAL Manifest, Flight No. 0814, Davao to Manila (Exh. "13 L-5" and sub-markings),*** which listed the names of "Datu Sajid Ampatuan, Akmad Ampatuan, Norodin Ampatuan, Sukarno Dicay, Rex Ariel Diongon" as passengers.

6. ***July 21, 2009 PAL Manifest, Flight No. 0187, Manila to Cotabato (Exh. "13 L-6" and sub-markings),*** which listed the names of "Datu Puti Ampatuan, and Norodin Ampatuan" as passengers.

7. ***July 21, 2009 PAL Manifest, Flight No. 0817, Manila to Davao (Exh. "13 L-7" and sub-markings),*** which listed the names of "Akmad Ampatuan, Datu Andal Ampatuan Jr., Datu Andal Ampatuan Sr., Datu Bahnarin Ampatuan, Kanor Ampatuan, Norie Unas, Sukarno Badal, Jonathan Engid, Abbey Guiadem" as passengers.

8. ***July 22, 2009 PAL Manifest, Flight No. 0809, Manila to Davao (Exh. "13 L-8" and sub-markings),*** which listed the names of "Datu Sajid Islam Ampatuan, Norodin Ampatuan, Sukarno Dicay and Rex Ariel Diongon" as passengers.

9. ***July 22, 2009 PAL Manifest, Flight No. 0811, Manila to Davao (Exh. "13 L-9" and sub-markings),*** which listed the name of "Zaldy Ampatuan" as a passenger.

10. ***July 22, 2009 PAL Manifest, Flight No. 0817, Manila to Davao (Exh. "13 L-10" and sub-markings),*** which listed the name of "Ampatuan Jr., Anwar, Ampatuan Sr., Anwar" as passengers.

When FABIAN S. FABIAN was re-called on May 22, 2013, the parties additionally stipulated that he could identify the following:

11. ***July 22, 2009 PAL Manifest, Flight No. 0821, Manila to Davao (Exh. "13 L-11" and sub-markings),*** which listed the name of "Bahnarin Kamaong" as a passenger.

Testimony of Joefrey Freddie L. Lizada

JOEFREY FREDDIE L. LIZADA[163] was presented on May 09, 2012. He testified that he is the Senior Liaison Supervisor, Legal and Regulatory Department of Smart Communications, Inc.

He provided the prosecution with the ***Smart Billing Statement of Bai Genalin Mangudadatu (Exh. "I" to "I-5")***, Account No. 07011770595 of Mobile No. 0908-8924153 for the period of November 17 to December 18, 2009. He also narrated that upon receiving the billing statement from his immediate supervisor, Atty. Ivy Plaza-Cortez, he was instructed by the latter to attend the hearing in order to comply with the ***subpoena duces tecum (Exh. "H")*** issued by this Court.

The witness narrated that it was a staff member of the company, Patricia Zialcita Asnar, who printed the billing.

During the cross and re-cross examinations of said witness, he essentially affirmed the statements he posited during his direct examination.

The witness was recalled to give his direct testimony on June 13, 2012. He provided the prosecution with the ***screen shots (Exhs. "(12) E" to "(12) I")*** of five (5) phone numbers: 0908-7891111; 0910-6880595; 0919-4260989; 0910-9153553; 0921-8543342.

In response to the subpoena of this court, he personally followed-up the billing statement to Patricia Zialcita. In turn, the latter followed-up the request with the company's I.T. Department. Thereafter, he received information that the said department can no longer retrieve the cell phone numbers, subject of the subpoena due to the observation of the one-year retention of data period provided by NTC Circular 04-06-2207.

Subsequently, he personally requested the Customer Care Department to gather information for the numbers subject of the subpoena. The Customer Care Officer then furnished him a copy of the screen shot of the customer details via email.

He explained and identified that the customer records (as in the screen shot) contained the name of the registered subscriber (Victor O. Nuñez), an activation date (June 28, 2005), SMS use date or the date the

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[163] Witness Joeffrey Lizada testified on January 27, 2010; June 13, 2012; and January 23, 2013.

text was made and received, and voice last used or the date the call was made or received by the said cell phone number.

The witness was again recalled to give his direct testimony on January 23, 2013. The parties stipulated on his testimony. He would have testified that he received a subpoena on January 22, 2013 requesting that he produce from the ***Smart Billing Department the Statement of Account of Zaldy Ampatuan (Exh. "Septuple C")***, mobile number 09188085555. Based on the Statement of Account, Datu Zaldy made his last call on November 22, 2009 at 7:05 p.m. and his first call on November 23, 2009 at 5:23 a.m.

Testimony of Atty. Melchor S. Latina

ATTY. MELCHOR S. LATINA[164] appeared on January 27, 2010. He testified that he is the Head of Legal Services Division, Globe Telecoms, Inc. Per ***Designation (Exh. "O")*** to him of the latter, he provided the prosecution with November 23, 2009 ***Globe Billing Data Records (Exh. "N" to "N-3")*** pertaining to the cell phone number 0917-3706525, subject of the ***subpoena duces tecum ad testificandum (Exh. "M")*** of this court.

In his capacity as representative of Globe Telecoms, he directly testified that it was his duty to inter-phase with the subscribers on the billing statements of Globe subscribers. He narrated that the Information Systems Group was responsible for obtaining the Billing Data Records (BDR), which is a system generated listing of transactions of the line subscribed, which cannot be changed manually. It shows the list of outbound SMS, inbound SMS, inbound calls, and outbound calls.

On cross and re-cross examinations on May 24, 2012, the witness testified that the BDR cannot be produced from any other computer terminals. Only a few officers, including the legal department, can access the document. The BDR does not indicate the actual user of the line. Neither does it reflect where the calls were made. But if asked, Globe can trace the calls of a certain cell phone.

Crime Scene Investigation Witnesses

Collectively, the witnesses who performed tasks pertaining to incidents closely related to the discovery of alleged crimes are as follows, to wit:

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[164] Witness Atty. Melchor S. Latina testified on January 27, 2010; and May 24, 2012.

Responders from the Philippine Army

1. Sergeant Jimmy Coronel - He was one of the Intelligence Operatives of the 64th Infantry Battalion, Philippine Army, 6th Division, in Salbo, Brgy. Kabingi, Municipality of Datu Saudi Ampatuan, which conducted the rescue operation relative to a reported abduction in Masalay, Municipality of Ampatuan, on November 23, 2009.

2. Lt. Rolly Stefen Gempesao - He was the Intelligence Officer ("S2") of the 64th Infantry Battalion, Philippine Army, 6th Division, in Salbo, Brgy. Kabingi, Municipality of Datu Saudi Ampatuan, which conducted the rescue operation relative to a reported abduction in Masalay, Municipality of Ampatuan, on November 23, 2009.

3. Major Peter Edwin R. Navarro - He was the Executive Officer ("XO") of the 64th Infantry Battalion, Philippine Army, 6th Division, in Salbo, Brgy. Kabingi, Municipality of Datu Saudi Ampatuan, which conducted the rescue operation relative to a reported abduction in Masalay, Municipality of Ampatuan, on November 23, 2009. He and his team were allegedly the first ones to arrive at the crime site.

4. Lieutenant General Raymundo Ferrer - He was the Area Commander of the Eastern Mindanao Command (Eastmincom) of the Philippine Army that covered the province of Maguindanao. He was part of the Crisis Management Committee and the Joint Security Coordinating Council handling the Maguindanao Massacre. He was also the administrator of the Martial Law proclaimed in Maguindanao in December 2009 under Executive Order No. 1959.

5. Lt. Col. Randolph G. Cabangbang - He was then the spokesperson of Eastern Mindanao Command of the Philippine Army. Aside from testifying about witness Lakmodin Saliao, he also narrated the chronology of events subsequent to November 23, 2009.

Responders from the CIDG

6. P/Sr. Supt. Pedro Austria, Jr. – He was then the Regional Chief of the CIDG Region 12 assigned to be part of the team investigating the incident in Ampatuan, Maguindanao.

7. P/Sr. Insp. Francis Sonza - He was then a police officer of the CIDG Region 12 who searched the warehouse allegedly owned by Datu Andal, Sr.

Responders from the PNP

8. P/Supt. Dennis Sabido – He was then the Acting Chief of the Regional Headquarters Security Group of Provincial Regional Office 12

assigned to safekeep physical evidence in connection with the alleged crimes.

9. P/Supt. Oscar Nantes – He was then the Acting Chief of the Regional Personnel and Resource Development Division of the Police Regional Office-Autonomous Region in Muslim Mindanao (PRO-ARMM), who testified about the recall and transfer of police officers assigned to Maguindanao.

Responders from the SOCO

SOCO Region 12

10. P/Supt. Pamfilo Regis - He was the team leader of the SOCO, Region 12, which processed the crime site.

11. PO2 Richard S. Santuele - He was the photographer of the crime site from SOCO, Region 12.

12. PO2 Danny Fortaleza - He was the sketcher of the crime site from SOCO, Region 12.

13. PO1 Rudimer C. Daproza - He was the records custodian of the SOCO, Region 12.

14. P/Sr. Insp. Anne Aimee Pelayre - She was the records custodian of SOCO, Region 12.

SOCO ARMM

15. P/Supt. Igmedio Garcia - He was the team leader of the SOCO, ARMM, which processed the crime site.

16. P/Insp. Aldrin F. Forro - He was the photographer of the crime site from SOCO, ARMM.

17. SPO4 Alejandro P. Ubag – He was the sketcher of the SOCO, ARMM, that also processed the crime site.

18. PO1 Jowie Marie Lebanan - She was the assigned recorder of the Regional Crime Laboratory Office of the ARMM.

SOCO in December 2009

19. SPO4 Jessie Garcia - He was a member of SOCO, Region 12 that processed the crime scene in December 2009. He photographed the dentures found in the grave site.

Responders from the NBI

20. Manuel M. Fayre, Jr. - He was a special agent from the NBI, who made an initial report dated November 25, 2009, regarding the death of the victims in these cases.

21. Atty. Ricardo Diaz - He is one of the Directors of the NBI who helped in the investigation of these cases. He was also one of the arresting officers of accused Datu Andal "Unsay" Ampatuan, Jr.

22. Elmer Nelson Piedad - He is as an expert witness appearing as ballistician of the NBI.

23. Antonio Estabillo - He was a photographer from the NBI who took pictures during the examination of the cell phone retrieved from the body of victim Atty. Cynthia Oquendo Ayon.

24. Jed Sherwin Uy - He was the computer forensic analyst of the NBI who extracted data from the cell phone of victim Atty. Cynthia Oquendo Ayon.

Responders from the CHR

25. Ronnie Rosero - He was part of the team that conducted a fact-finding investigation in the Maguindanao Massacre. He also found the dentures allegedly belonging to victim, Reynaldo Momay, Jr.

26. Dr. Joseph Jimenez - He was part of the team that conducted a fact-finding investigation in the Maguindanao Massacre. He interviewed the person who made the dentures of victim, Reynaldo Momay, Jr.

27. Atty. Christina Haw Tay Jovero - She is the Officer-in-Charge of CHR, Regional Sub-office, Cotabato City. In that capacity, she and her administrative officer alone had access to the steel cabinet that stored the dentures allegedly owned by victim Reynaldo Momay, Jr.

Medico-Legal Officers

28. P/C Insp. Dr. Raymond B. Cabling - He was a medico-legal officer from the PNP Crime Laboratory Services, Region 12, Camp Lira, General Santos City, who conducted eight (8) autopsies on the bodies recovered from Sitio Masalay.

29. Police Chief Inspector Dr. Dean C. Cabrera - He is a medico-legal officer from the PNP Crime Laboratory, Camp Crame, Q.C. who conducted 12 autopsies.

30. Police Senior Inspector Dr. Felino M. Brunia, Jr. - He is a medico-legal officer from the PNP Crime Laboratory, Camp Crame, Q.C. who conducted 14 autopsies.

31. Dr. Reynaldo Romero – He is a medico-legal officer from the NBI who conducted 10 autopsies.

32. Dr. Ricardo Rodaje – He is a medico-legal officer from the NBI who conducted nine (9) autopsies.

33. Dr. Tomas A. Dimaandal, Jr. - He is a medico-legal officer from the PNP, ARMM, who conducted three (3) autopsies.

34. Dr. Ruperto Sombilon - He is a medico-legal officer from the NBI who conducted two (2) autopsies.

35. Police Senior Inspector Jasper Magana - He is a Forensic DNA Analyst from the PNP Crime Laboratory, DNA Analysis Section, Camp Crame, Quezon City, who examined the three (3) earlobes obtained from the site.

Responders from the Philippine Army

Testimony of Sergeant Jimmy Coronel

SERGEANT JIMMY CORONEL[165] took the witness stand on January 26, 2012. He testified that by November 2009, he had worked for almost two (2) years with the 64th Infantry Battalion based in Brgy. Kabingi, and acted as the executive officer responsible for the supervision of battalion staff, personnel, and administration.

The witness said that he has been a soldier of the Philippine Army for the last 24 years and was assigned as an intelligence operative for the 64th Infantry Battalion of the 6th Infantry Division of the Philippine Army. His duty mainly consisted of collecting information against lawless elements with Lt. Rolly Stefen Gempesao as his immediate officer.

On November 23, 2009, at 7:30 a.m., the witness and Cpl. Emilio Ysita were together in Shariff Aguak to collect information regarding lawless elements. They left at 10:00 a.m. after they received a call from Lt. Rolly Stefen Gempesao requiring them to confirm whether there were Mangudadatu supporters who were apprehended along the National Highway of Masalay.

While gathering information, the witness observed that there were many scattered uniformed armed men. They did not reach the Masalay

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[165] Witness Sergeant Jimmy Coronel testified on January 26, 2012.

detachment, because 200 meters from their destination, they met Sgt. Rodriguez of the Military Intelligence Battalion assigned at the 6th Infantry Division of the Philippine Army who told them to return because the situation was already dangerous. However, they still proceeded for about 100 meters more and before reaching the Masalay Detachment, he saw a checkpoint manned by men in police and CVO uniforms. Then, he heard emanating from the checkpoint: *"Adon sa mga gadong, mga S2"* [166] *("May mga sundalo, may mga intelligence.").*

Thereafter, the witness and his companion made a turn to the road going back to Shariff Aguak. He travelled until he saw a checkpoint in Labo-Labo, which precedes Shariff Aguak. Labo-Labo is one (1) kilometer away from the checkpoint in Masalay. In that area, he conducted a stake out because he could not leave the checkpoints of the CVOs along Labo-Labo and crossing Masalay.

The stakeout of the witness, who was joined by Cpl. Ysita and Sgt. Rodriguezz, lasted for almost 20 minutes. At that time, he saw one (1) long bed trailer truck that carried a backhoe facing towards Isulan. Then, he saw that the backhoe went down from the long bed trailer truck and proceeded towards the direction of Brgy. Salman. Thereafter, the CVOs in police uniform opened the checkpoint.

The witness proceeded to the Masalay Detachment of the CAFGUs of the 38th Infantry Battalion of the 6th Infantry Division. From that vantage, he could see, 100 meters away, the checkpoint manned by police officers and CVOs who were on alert status because some of them were holding the trigger of their M16 or M14 firearms. He, however, went down because the CVOs were giving a sharp look or stare.

Together with Cpl. Ysita and Sgt. Rodriguez, the witness went to the opposite direction and proceeded to Brgy. Kauran instead of Shariff Aguak because the alleged Ampatuan supporters conducting the checkpoint operations may be offended *("baka po masamain nila yung aksyon po namin"*).

At Brgy. Malating, the witness saw Major Sukarno Dicay (whom he subsequently identified together with PO1 Ebara Bebot), who was giving orders to his police officers. He saw police cars and one (1) *Sangguko*, which looked like a "*simba* " or "*tangke ng giyera*", a four-wheel vehicle mounted with 250 caliber and 30 caliber machine gun.

Thereafter, the witness passed by several checkpoints along the national highway from Brgy. Malating going to Isulan. He remembered that after the checkpoint manned by Major Sukarno Dicay, there was

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[166] S2 refers to the intelligence operatives of the battalion.

another checkpoint with one Sangguko manned by CVOs and police officers. There were many men armed with long firearms.

The last checkpoint sighted by the witness was in Crossing Saniag. In that vicinity, was one (1) *Sangguko* and CVOs on alert status. He also saw that the men were lying prostrate on the ground and pointing their firearms towards the direction of Kauran. He saw that some of the CVOs were on alert status, while some laid prostrate on the ground.

He finally arrived in Brgy. Kauran at around 12 in the afternoon but had to return to the battalion headquarters at Brgy. Kabingi, Datu Saudi Ampatuan, Maguindano, because of the cell phone call from Lt. Gempesao. On his way, he saw that the CVOs in Crossing Saniag were running and boarding their vehicles – police cars, multicab, Izusu Elf and Sangguko. Then, in Malating and Crossing Masalay, he saw the CVOs and police officers withdrawing, boarding their vehicles, and leaving towards the direction of Shariff Aguak.

The witness did not reach the headquarters for along the way, at Brgy. Tumaig, Datu Unsay, he met Lt. Gempesao with their Battalion Commander Col. Nerona and their Ex-O Major Navarro. He then returned to the Masalay Detachment and conducted a tactical command post.

Col. Nerona proceeded to brief his officers. At this instance, the witness saw that the long bed trailing truck entered Salman. Then, he himself conducted a briefing to the enlisted personnel of his battalion.

Aside from those matters he stated in the direct testimony, the witness also made several statements in his ***sworn statement (Exh. "B-13").***

On cross-examination, the witness testified that since his enlistment, he had served in Mindanao, and as to the 64th Infantry Battalion, he had been in that group for four (4) years. He was assigned primarily to intelligence work.

The witness claimed that he was trained to measure distances. He stated that the distance from Shariff Aguak to Labo-Labo, if traversing the national highway, is half a kilometer; from Labo-Labo to Crossing Masalay or Crossing Salman is eight hundred meters or one (1) kilometer; Masalay Crossing to Malating is almost 500 meters; and Malating to Saniag is one and a half (1.5) kilometers.

Coronel said that from Masalay Detachment, one could actually see the Malating checkpoint where Major Dicay was. Even without binoculars, using the naked eye, one could see it since the distance between the two (2) points is 100 meters. Likewise, the distance from Masalay Detachment to Salman Crossing is 100 meters.

The witness explained further that he gathers information against lawless elements. Lawless elements, which number around 3,000, refer to the MILF, Nur Misuari's renegade group, the Abu Sayaff, who also sport uniforms similar to that of the military or police. The witness said that it is possible that lawless elements wear the very same uniform worn by the officials. Thus, he said that he would not know whether the persons he saw wearing fatigue uniforms in vehicles on November 23, 2009, were lawless elements or friendly forces.

Nonetheless, he reported through a cellphone call, to Lt. Gempesao that he suspected lawless elements in uniform manning Masalay Crossing.

The witness admitted that he approached them but did not find out which unit they belonged to. Except for Major Sukarno Dicay, the witness did not identify or name any of the supposed CVO, SCAA, or police officer in his affidavit.

The witness affirmed that both the long bed trailer truck and the backhoe had driver/operator wearing civilian attire. He also maintained that per order of his commanding officer, Lt. Gempesao, he monitored the movement of politicians despite that the task was a police matter and not a function of the Philippine Army. He even stated in his affidavit that: *"Sir, iyong tungkol sa MILF ay karaniwan na naming ginagawa pero iyong tungkol sa pulitiko ay espesyal na inutos dahil nakatanggap kami ng impormasyon na kung mag file ng COC ang mga Mangudadatu aambusin daw sila ng mga Ampatuan."*

The witness claimed that the aforementioned information is not just a rumor but an "A1" information, meaning, it was well known all throughout the province of Maguindanao.

The witness said that when he passed by the checkpoints near Crossing Masalay, he and his troops were told to go back. One of the personnel said: *"walang sunda-sundalo dito, balik kayo."* Then, he reported to Lt. Gempesao.

When the witness saw the site, he saw a lot of empty shells from M16s, M14s and K3 Machine guns.

During his stay in Maguindanao for the last four (4) years, he had seen that during election period, the presence of checkpoints is normal in the national highway from Isulan to Cotabato. The conduct of checkpoints is part of election peace keeping efforts.

Therefore, it was not unusual on November 23, 2009, an election period, to have seen several checkpoints in Isulan, Cotabato Highway. Neither was it unusual to see soldiers in military uniform with long

firearms during election period, all in the name of peace keeping for an open and honest election.

The witness affirmed and verified that rumors in Shariff Aguak circulated that if the Mangudadatus will file the COC of Datu Toto Mangudadatu, they will be ambushed. However, the witness did not reflect those in his affidavit. He also affirmed that as intelligence officer, he knew that the Mangudadatus have armed men, but he could not say how many.

At around 10:40 a.m. on November 23, 2009, the witness was already in Labo-Labo. In going to Labo-Labo, he passed by the Municipality of Ampatuan going to Masalay Detachment. From Ampatuan going to Masalay Detachment, he did not see any victims of the Mangudadatu convoy during that time.

The witness said that from November 23, 2009, up to the time that he executed his sworn statement on November 28, 2009, he read and saw news about the killings. He also did not make a police report or blotter about what he witnessed on November 23, 2009.

The witness maintained that the planned ambush had already been known to the people; the exact place where it would be carried out was likewise known.

The witness said that the persons manning the checkpoint happened to be Ampatuan supporters although he did not inquire. His basis is his belief that they happen to be so.

On re-direct examination, the witness said that he no longer inquired the specific units or identity of those manning the checkpoints as he might be apprehended considering that there were news that the Mangudadatu supporters had been apprehended along the highway in Masalay detachment. He also did not verify the vehicles he saw on November 23, 2009 as he was not task to do so; and additionally, see the Ampatuans were usually seen using those vehicles.

He also did not prepare a police report or blotter as that would be the work of the police and not the Philippine Army.

On re-cross examination, the witness affirmed that the checkpoint at Masalay or Salman Crossing happened to be along Isulan-Cotabato Highway, where anybody can pass through.

Testimony of Lt. Rolly Stefen Gempesao

LT. ROLLY STEFEN GEMPESAO[167] took the witness stand on December 01, 2011. For purposes of his testimony, he identified his ***Sworn Statements (Exh. "A-2", "B-1" and "B-12").*** He testified that as of November 2009, he had worked for four and half years with the 64th Infantry Battalion based in Brgy. Kabingi. At that time, he acted as the Intelligence Officer ("S2") of the batallion. Presently, he is assigned at the 191st Military Police Battalion, Headquarters Support Group, Philippine Army in Fort Andres Bonifacio, Taguig City.

As Intelligence Officer, the witness assists his Commander in matters concerning intelligence, counterintelligence, security, and others. He must provide the commander with timely, accurate, precise, strategic, and tactical intelligence. Strategic intelligence concerns collecting information and evaluating it into useful information to be passed to higher ups for their appreciation and decision. Tactical intelligence is concerned with collecting information and providing them to the commander. When the commander decides upon it, he will give it back to the lower units for their use in combat operation. Counter-intelligence operations are passive and active measures in order to secure the physical communication and operational security of the unit against threats.

According to the witness, on November 22, 2009, at around 7:00 p.m., he was at the Battalion Headquarters located at Brgy. Kabingi when he received a text from his Battalion Commander, Lt. Col. Rolando Nerona stating that around 200 members of the Mangudadatu group on board 100 vehicles, escorted by around 100 armed men, would be filing their candidacy the next day at Shariff Aguak.

Nerona advised the witness to monitor the situation and told him that the same was a police matter, concerned only with local peace and order as well as law enforcement. During that time, they were not deputized by the COMELEC for any election related duties; which meant that they were there to monitor only. Thereafter, he called his personnel, namely: Sgt. Coronel, Cpl. Ysita, Cpl. Hidalgo, Cpl. Dulce and Cpl. Piniero, for a meeting. Their duty was for them to monitor this certain information, especially if there will be a fitting of description of such convoy the next day.

The witness tasked his personnel to two (2) areas along the highway where they can effectively monitor: Esperanza, Sultan Kudarat and Brgy. Labo-Labo, Shariff Aguak. Cpl. Hidalgo, Cpl. Dulce, and Cpl. Pinierio monitored Esperanza, while Sgt. Coronel and Cpt. Ysita checked Labo-Labo. These areas were monitored because they were very vital as

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[167] Witness Lt. Rolly Stefen Gempesao testified on December 01 and 07, 2011 and November 21, 2012.

they covered the single highway that runs between Isulan and Cotabato City.

On November 23, 2009 at around 6:00 a.m., the witness was at the Battalion Headquarters dispatching his personnel who were on board motorcycles. He told them that they have to give an immediate feedback to him as soon as they see a convoy, which fits the description relayed to them earlier.

At around 10:00 a.m., the witness received a phone call from his classmate – Lt. Orbase – the intelligence officer of the 2nd Mechanized Battalion based in Camp Siongco, Cotabato City. The latter asked *"Bok, ano bang nangyari dyan sa area nyo? Kasi narinig ko sa radio na nagsasalita si Toto Mangudadatu na in-abduct yung kanyang asawa at yung mga kasama niya sa vicinity ng Ampatuan."*

He placed down the phone and looked for a radio to monitor the broadcast that Lt. Orbase was talking about but did not find the same. Thus, he made a phone call to two (2) operative teams that he earlier sent. He began contacting Esperanza, as it would be the first one to see the convoy that will be moving towards Shariff Aguak. The Esperanza team relayed that they were not able to see anything that fits the description of the subject convoy.

He then called the Brgy. Labo-Labo team. Cpl. Ysita said that he was not able to see any such convoy, although he can see that there was a build-up of vehicles at the south side of the road, which is going to the vicinity of Brgy. Masalay. The witness then gave instruction to Cpl. Ysita to verify. When the witness relayed the information to the commander, the latter also told him to verify.

Cpl. Ysita called the witness again, relaying that the team passed by one blockade at the bridge before Ampatuan, and another one at the vicinity of Felix Gas station, beside the highway, in Poblacion, Ampatuan Municipality. Camouflage-wearing men, who were heavily armed, manned the blockades. Cpl. Ysita told the witness that one of the men in camouflage uttered in Maguindanaon: *"Ang sabi nila, sir kung didiretso kami, ang sabi nung isa idadamay na rin kami."* The witness ordered his personnel to return to the battalion for their safety.

Around 10 minutes later, Cpl. Ysita called and told the witness that he had seen one (1) trailer, loaded with a backhoe, going to the direction of Brgy. Masalay. The witness instructed Cpl. Ysita to go back to the battalion.

In all these two (2) calls made by Cpl. Ysita, the phone was in loudspeaker mode. His commander, executive officer, and the battalion operations officer, who were beside him, heard the conversation.

After the last conversation, Col. Nerona stood up and made a phone call to higher headquarters: the 601st Brigade headed by Col. Medardo Geslani. After that call, Col. Nerona relayed the order of Col. Geslani to prepare for the conduct of a search and rescue operation.

They prepared the necessary troops, personnel, vehicles, and equipment. Those tasked for the preparation included: 1st Lt. Reyes, the Battalion Headquarters under Lt. Mustafa, elements of Bravo Company under Lt. Gundayao, his intelligence personnel and his Battalion Commander and Battalion Executive Officer.

Around 50 personnel had been assembled and boarded three (3) KM450, one (1) owner type jeep, around three (3) motorcycles, two (2) armored personnel carrier, and an elf truck. After the assembly, Col. Nerona conducted a short briefing, stating that the direction of their movement was going to the vicinity of Brgy. Masalay in Ampatuan.

They agreed to the following vehicle arrangement: the witness rode the lead vehicle, followed by the KM450 boarded by the Commander, then another KM450 with the Battalion Executive Officer and Battalion Operation Officer, the next KM450 with another officer, Lt. Mustafa, followed by the elf where Lt. Gundayao was riding, and two (2) armored personnel carriers.

They started to move at around 11:30 a.m. of November 23, 2009. On the way, the road was deserted of any civilians, there were few armed men that they saw walking along the road in the vicinity of Shariff Aguak, and there was a blockade, as earlier called by his operative. But, in an eatery in Brgy. Labo-Labo, he saw two familiar persons – P/Supt. Pedtucasan and Mike Solai. P/Supt. Pedtucasan was assigned to the Maguindanao Provincial Police Office, while Mike Solai was the personal assistant cook of Datu Unsay.

When they reached the junction of a road leading to Brgy. Salman, still in the vicinity of Brgy. Masalay, at around 12:30 p.m., he observed the area and made an initial assessment. He noted one (1) trailer truck on the right side of the road. Around 200 meters away from the junction, the witness sighted police vehicles and some police personnel.

He stayed at the junction, while his commander, executive officer and operations officer, together with some of their personnel, continued towards those PNP in front. When his commander came back, the latter said: *"Bok, nandun si Dicay. Sabi niya kanina pa raw sila dun, wala rin daw silang nakita."*

His commander told them that they were to proceed to Masalay Detachment which was just across the highway. Upon arrival thereat,

they set up a command post, and looked for Cpl. Raymundo, the Detachment Commander of all the CAFGUs assigned in that detachment.

Major Peter Edwin Navarro approached Cpl. Zaldy Raymundo, and when the former approached, the witness stood by the side and listened to their conversation. Then, the witness himself went to Cpl. Zaldy Raymundo, asking him what happened. The latter said that he was able to see a group of around 300 armed men going to the hilly portion of Brgy. Salman, and heard some bursts of gunfire during that time. The witness relayed this information to his commander.

Thereafter, he received a radio call from Bravo Company under Lt. Gundayao who was just around 30 meters away from the junction of the road. Lt. Gundayao said that they were able to accost two (2) armed men on board a motorcycle. The latter were armed with a shotgun and an M16 rifle, wearing upper camouflage uniform. At the Masalay Detachment where they were brought for further questioning, the witness found out that there were some powder burns on the two (2) firearms because of the accumulation of carbon at the bolt of the firearm saying that it has just been fired.

The witness said that the accosted persons were Takpan Dilon and Esmael Canapia who when asked, told them that they just came down from the hilltop as they were hunting, and that they belonged to the Police Auxiliary Unit of the Ampatuan Municipality.

The commander of the witness told him to continue holding these men. Around that time, three councilors from Ampatuan Municipality and two policemen arrived at the detachment. He remembered that the councilors were Magelna, Masukat, and Malang, and the police officers were SPO4 Bakal and Entoc. The councilors and the police officers took Dilon and Canapia at around 1:30 p.m. after conversing with their commander who then ordered their release.

Later on, Major Navarro who volunteered to lead the group because there is no certainty in the arrival of the police reinforcements, became the ground commander for said movement. He then assembled the officers at the junction and briefed them. The team was composed of elements of Bravo Company under Lt. Gundayao who acted also as the steerhead of the team, the Battalion under Lt. Reyes, then the elements of Headquarters Company, then the two (2) armored vehicles were also with them, and the intelligence personnel. They were altogether 50 personnel. Their commander, Col. Nerona stayed at the Masalay Detachment.

Major Navarro informed them that the movement would be a tactical one. They were cautioned to expect some resistance on their way

up and they were going to follow the road during their movement. After briefing, they initiated the movement between 1:45 p.m. and 2:00 p.m.

The witness said that tactical movement primarily concerns security and safety. It means that they were going to move with bounce: one group is moving ahead in a designated distance, and upon reaching that point, it will cover the movement of the second group that will be moving towards the side or ahead of the first group – until the team reaches the objective.

The place leading to the hilly portion, which was the direction where the abductees were taken, was grassy *"talahib".* The terrain is rolling, uncultivated, and isolated. Although there were houses in the area, those were few and situated far apart from each other.

There was a single road leading upwards, up to the hill. The road leading to the hilly portion was very rough, even the Armored Personnel Carriers were having a hard time on that road.

As the team moved, the witness claimed that they reached one point where the leading element signaled for a hold to conduct observation post in the area. At that location, the witness saw a group of vehicles around 500 meters away consisting of four (4) vans, a black vehicle and a backhoe, which appeared to be still running and making noises from its engine.

To their surprise, a white helicopter allegedly belonging to Mangudadatu appeared above them. The same landed around 100 meters away from the group of vehicles. When they approached the helicopter, the witness saw the backhoe, scattered personal items all around, and disturbed soil on the site on both sides.

Behind the backhoe, he saw four (4) passenger vans colored gray, one (1) green, and one (1) black sports utility vehicle. The witness located the dead bodies inside and all around outside of the van who sustained gunshot wounds, their bloods dripped, and their brains scattered on the wind shield.

Witness said that he felt terrible because despite that they were earlier told that there was no incident, several dead bodies lay in that place. He then reported to the higher headquarters that he counted 22 bodies at that time. He received instructions to inquire about the identities of these persons, and to look for survivors. However, the witness did not find any survivor. His team then secured the area and waited for the PNP SOCO to arrive at the site.

At around 4:00 p.m., P/Insp. Rex Ariel Diongon arrived at the vicinity of the site and was met by Major Navarro. The witness was just

beside them when Major Navarro confronted P/Insp. Diongon regarding the nondisclosure of the dead bodies in the area.

On November 25, 2009, at 7:00 a.m., while the witness was at Battalion Headquarters, he received a phone call from Mayor Saudi Ampatuan, Jr., Mayor of Datu Saudi Ampatuan municipality. The latter blamed him to be the one giving the army and police officers information for them to arrest him. When the conversation ended, the two argued and ended their friendship.

On November 28, 2009, at 9:00 a.m., the witness went to Koronadal City to go to the NBI in Marbel. Upon arrival thereat, he gave a sworn statement before an NBI agent.

The witness recalled that sometime in the second week of February 2010, while he was at the Battalion Headquarters, he received a call from Atty. Sigfrid Fortun. The latter asked for his NBI affidavit and inquired if the witness could visit Iligan City. Atty. Fortun allegedly offered him ₱2 million for his needs. The witness refused and emphasized that he could not be bought with money.

At the conclusion of his direct testimony, he identified the following persons, viz: SPO2 Badawi Bakal, P/C Insp. Sukarno Dicay, Takpan Dilon and Esmael Canapia. He saw SPO2 Badawi Bakal on November 23, 2009 at the Masalay Detachment; P/C Insp. Sukarno Dicay at a checkpoint located 200 meters away from Crossing Masalay; Takpan Dilon as one of the persons questioned at the Masalay Detachment on November 23, 2009.

On cross examination, the witness explained that as Battalion Intelligence Officer, he supervised around 28 intelligence operatives. Upon receiving information from them, he processes and evaluate its reliability.

He maintained that he only had knowledge about the alleged massacre on November 23, 2009 at around 10:00 a.m. He also did not receive reports coming from Corporal Zaldy Raymundo regarding the armed persons prior to November 23, 2009. But on November 22, 2009, at around 7:00 p.m., he received a text message from Col. Nerona that the Mangudadatus would be filing certificate of candidacy on November 23, 2009.

As regards his affidavit, the witness maintained that he did not mention SPO2 Badawi Bakal in it. Neither did he mention about a helicopter and the backhoe he saw on November 23, 2009.

At the situs of the dead bodies, the task of his team was for search and rescue operations as they were the first responders. Later on, they

were obliged to provide for security operations; but they are not crime scene investigators. However, in his tenure as a soldier for six (6) years, he was overwhelmed with the scene of dead bodies that he saw.

Prior to November 22, 2009, he had received reports of checkpoints along the highway in Maguindanao manned by the PNP because of the uniforms they were wearing. He just assumed that all those who were manning the checkpoints were police officers.

According to the witness, it was public knowledge and "open book" that Datu Toto would be filing a COC for governorship in Maguindanao during the 2010 elections. He himself knew about the four (4) or five (5) days before November 23, 2009. He also expected that an untoward incident would happen because it was an open information or rumor to everybody. He reported the same to the higher ups but no action was taken.

He affirmed that he was not aware that the Mangudadatus requested security from the military regarding the filing of candidacy. He also explained that Esmael Canapia and Takpan Dilon were arrested for looking suspicious, given that: they had arms, wore the uniform improperly, have not introduced themselves, and were not shaved or had the correct crew cut. He admitted though that he had no copy of their release papers.

During the implementation of their search and rescue operations, the witness saw some armed groups in Brgy. Labo-Labo, Brgy. Salman, and in the Poblacion of Ampatuan Municipality. He never accosted any of them because it was a normal site in those areas.

He highlighted the statement in his affidavit that there were public pronouncements from the Ampatuans that if Mangudadatus would file their COCs, there would be bloodshed. This fact, according to the witness, was known to everybody. As an intelligence officer, he knew that during elections, checkpoints along the highway are normal given that Maguindanao was a hot spot area. Seeing armed men in Maguindanao was likewise a normal sight, and if CVOs and Police Auxiliary Units are seen, they were just left alone.

He clarified that the detachment manned by Corporal Zaldy Raymundo was about 50 meters from the road going to the hilly portion of Masalay. Likewise, the detachment is 200 meters away from the checkpoint manned by P/C Insp. Sukarno Dicay. It is tracked by a straight road with no curves.

He clarified that the Philippine Army has no arresting powers. Upon seeing a person committing a crime, they will just subdue him to eliminate the threat, put him down, and then look for PNP and turn him over.

The witness explained that checkpoints can prevent crimes from happening within particular area; but it would not be effective to apprehend criminals with respect to crimes because it is supposed to be the job of the PNP. For the military, checkpoints are conducted as a dragnet.

The witness said that his group did not initiate any talks with the Mangudadatus, Ampatuans, or Sangkis before November 23, 2009 for the conduct of honest, orderly and peaceful election.

On November 23, 2009, when the witness received a phone call from Corporal Ysita regarding the abduction at around 10:30 a.m., he placed the cell phone on loudspeaker for Major Navarro, Lt. Reyes and his Commanding Officer to hear. That was an "A1 Information" as it came from own Intelligence Officer.

The witness said that his group accosted and disarmed Takpan Dilon and Esmael Canapia on November 23, 2009 and brought them to Masalay detachment for interrogation. 30 minutes lapsed from the time they were accosted to the time they were released. Based on visual inspection of guns, M16 and shotgun, there was black soot which meant that their guns have been recently fired. The witness did not return the guns to them. He also did not turn them over for inquest proceedings, no fingerprints were taken from them, and no police blotter was made with respect to accosting and disarming them.

According to the witness, although there have been rumors in the past about Datu Toto Mangudadatu running for governor, they could have verified the information had he actually filed the certificate of candidacy that time. They only had raw information that Datu Toto would run against Datu Unsay. This rumor came out around November 15, 2009. He himself was not aware that Datu Toto Mangudadatu had a complete line up from the governorship down to the vice-governor, sangguniang panlalawigan, and even mayor.

As an intelligence officer, he knew that Mangudadatus also have their armed escort. 200 is just an estimate, probably around 300 to 400 armed men. When armed men were seen, escorts surely are equipped with firearms, not only short but also with long firearms.

As stated in his affidavit, the witness knew that the Ampatuans and the Mangudadatus had a very harmonious relationship during the lifetime of Datu Pua Mangudadatu. Their rift started when a certain town was carved out from the territory being handled by the Mangudadatus.

He reiterated that his batch mate, Lt. Orbase relayed to him what he heard over the radio, at 10:00 a.m. The question specifically was

"anong nangyari sa area nyo? Asawa ni Toto na-abduct sa vicinity ng Ampatuan."

Thereafter, the witness called his personnel at Esperanza and Labo-Labo, Shariff Aguak, who said that there was no convoy that fits the description that he had mentioned to them. It did not fit because the description given them was about the Mangudadatus having 200 armed escorts in 100 vehicles. He did not ask if there was a certain incident that happened about abduction of the wife of Datu Toto Mangudadatu in the vicinity of Ampatuan.

The witness admitted that upon receiving the calls of Corporal Ysita, he told them to go forward to the blockade, but they were prevented by armed men. After around 10 minutes, he told them to just continue with his last order which was to go back to the battalion.

The witness explained that direct communication between their troop to the CAFGU group of Corporal Zaldy Raymundo was not possible because these two (2) units use different radio nets: Corporal Zaldy Raymundo utilized a VHF radio, while the witness operated a Harris type military radio. The witness claimed that the immediate superior of Corporal Zaldy Raymundo is under the Delta Company.

The witness clarified that the group of Lt. Gundayao was the one that accosted Esmael Canapia and Takpan Dilon who had an M16 and a shotgun, which were recently fired. He then assigned Major Peter Edwin Navarro to proceed to the location of Lt. Gundayao, and to question said two (2) individuals. The latter gathered that they were members of the police auxiliary unit of Ampatuan, Maguindanao, under Mayor Zacaria Sangki and Vice Mayor Rasul Sangki.

However, the witness did not invite Mayor Zacaria Sangki and Vice Mayor Rasul Sangki to shed light on whatever possible information which can be obtained from them that is related to what had happened in the crime site. Neither did they recommend the filing of possible cases against the councilors who took custody of Esmael Canapia and Takpan Dilon.

As for the processing of the crime site on November 23, 2009, the witness said that aside from his 64th Infantry Batallion, the PNP SOCO from RCLO 12 arrived at around 10:00 p.m., followed by the PNP SOCO from ARMM in the morning of the next day. No police officer from Ampatuan, Maguindanao, as well as Mayor Zacaria and Vice Mayor Sangki, came at the crime site after it had been cordoned and secured.

The witness admitted that when he studied at the Philippine Military Academy, he did not take lessons or courses on intelligence work and counter-intelligence operations. But he had some formal schooling in

intelligence, counterintelligence, strategic and tactical intelligence. He became a Battalion S2 Intelligence Office after he graduated from that formal schooling in 2007 until March 2010. As of time, he is no longer doing intelligence work.

As an intelligence officer of the 64th Infantry Battalion, he has certain mission such as to conduct counterinsurgency and internal security operations to address the threats posed by the MILF, Misuari renegade group, Abu Sayaff group, and other lawless elements. He, thereafter, identified the photos of Takpan Dilon and Esmael Canapia.

The witness also claimed that in Maguindanao, enormously escorting a 100-vehicle convoy was a usual occurrence particularly if it pertains to a group which is part of the clan or the families that actually or politically connected or economically connected in the province. The Mangudadatus would be one of them as well as the Ampatuans, the Sangkis, the Sinsuat, and the Midtimbangs. Insofar as these clans are concerned, all of them are armed with long firearms. The Sangkis ran the Ampatuan municipality where the alleged incident took place.

The witness elucidated that "to monitor" per instruction of Colonel Nerona, the situation on November 22, 2009, that simply meant that he must wait and watch the situation. He was not told to undertake active participation, consistent with mission, counterintelligence, intelligence, and internal security. He discussed that in case of a violent reaction between two (2) armed groups operating the area, there is the distinct possibility that other armed groups will take over and join the fray, including the MILF, Abu Sayaff, Misuari Renegade Group, and other lawless armed elements.

In keeping with his duty in the Battalion, he has to monitor to prevent any other group from taking advantage of the situation and cause mayhem in the area. Resolution of that conflict by police officers is preferred as it is a local police matter. It is the function of the Philippine Army to avert inclusion by the MILF in case of armed conflict creating a vacuum of power in Maguindanao.

The witness said that he was not aware that the armed men of the Mangudadatus are also called Buaya ng Lanao. Neither is he aware that the Ampatuans assist in military operations against the MILF.

The witness also said that what was originally a police matter became a search and rescue mission because it was the thinking of the Battalion, including himself, that the abductees could have been taken by lawless element and armed groups, like the MILF, Abu Sayaff, Misuari Renegade Group and other lawless elements.

The witness clarified that Esmael Canapia and Takpan Dilon were under the jurisdiction of Ampatuan municipality, and they do not exercise jurisdiction over police auxiliary.

The witness said that he was not able to record the cell phone conversation with Atty. Fortun. He also said that he has no personal knowledge whether the person at the other end of the line was Atty. Fortun.

On re-direct examination, Gempesao clarified that the investigator taking down his statements did not write the name of SPO2 Badawi Bakal despite of the fact that he mentioned it. Neither was the presence of backhoe, vehicles, pick-ups and dead bodies seen at the crime scene mentioned in his statement as the same was not asked by the investigator.

The witness narrated that the 64th Infantry Batallion did not provide security escort to the Mangudadatus when they filed the COC on November 23, 2009, because they are in the area outside of the former's jurisdiction. The area of Mangudadatu belongs to another unit, and no request was made to the 64th Infantry Battalion. During that time, it was election period, and the military was not deputized by the COMELEC to provide security or assistance.

As for the November 23, 2009 incident, the witness believes that the MILF, Abu Sayaff, Misuari group and other lawless elements group had no participation.

The witness said that even if he only inferred that the caller was Atty. Fortun, he deduced that inference as the voice that he heard was similar to that he hears over the news.

On re-cross examination, the witness affirmed that he was able to read the statements in the affidavit taken for him by the investigator. He also maintained that the three (3) councilors to whom custody of Esmael Canapia and Takpan Dilon was given were: Pendatun L. Magelna, Datu Kadtog S. Malang and Datuisan Masukat.

He delineated that the Isulan Highway to Shariff Aguak was considered part of area of responsibility, but Isulan is not part of area of operation. He also maintained that he could not recommend Sangkis to be investigated upon because that would be outside his tasks given by the commander. Moreover, he has no authority to run after the perpetrators of the crime.

At the time that he was conducting search and rescue operations, he was simultaneously conducting intelligence and counter-intelligence operations. At that particular point, no information was available as to

who the perpetrators were. Even during the conduct of security operations, it was still not clear who the perpetrators were at that time. But there was no possibility that armed enemies of the state could have a hand in the incident.

As intelligence officer, he did not have special training with respect to voice recognition.

On November 21, 2012, Lt. Rolly Stefen Gempesao was recalled to the witness stand. He identified P/Supt. Pedtucasan in open court. He remembered seeing the accused at Brgy. Labo-Labo checkpoint wearing the police uniform equivalent to his army uniform. The accused was together with some men donning police camouflage and civilian clothes scattered along the eatery.

When cross examined, the witness explained that the highway from Koronadal City to Isulan to Cotabato City towards Parang stretches more or less 150 kilometers, which by car would take around three (3) to four (4) hours of travel. Zooming particularly to the camp of the 64th Infantry Battalion towards Masalay, the total area is around 20 kilometers; on the other hand, the police headquarters in Parang, Maguindano towards Masalay is at least a hundred kilometers. And from that entire stretch of 50 kilometeres, there are military and police checkpoints.

The witness said that the checkpoints consisted of a composite team of military, police, and some civilian support groups. He maintaned, nevertheless, that the military did not receive any deputization order from the higher ups. And, on November 23, 2009, he only saw one (1) checkpoint from his camp headquarters to Masalay: that one headed by P/Chief Insp. Sukarno Dicay. He also admitted that his testimony about Supt. Pedtucasan and Mike Solai was not in his affidavit.

Testimony of Major Peter Edwin R. Navarro

MAJOR PETER EDWIN R. NAVARRO[168] took the witness stand on November 23, 2011. He testified that by November 2009, he had worked for almost two years with the 64th Infantry Battalion based in Brgy. Kabingi. At that time, he acted as the Executive Officer responsible for the supervision of battalion staff, personnel, and administration.

On November 23, 2009, at around 10:30 a.m., at the battalion headquarters, while reviewing the daily operational reports coming from their subordinate units, the witness said that he received an information from witness Lieutenant Rolly Stefen Gempesao that a group of individuals riding in different vehicles had been abducted in Masalay highway. Immediately, he informed his battalion commander, Lt. Col.

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[168] Witness Major Peter Edwin R. Navarro testified on November 23, 2011.

Rolando Nerona who said that he already knew about the abduction from Lt. Rolly Stefen Gempesao.

The witness was told by Lt. Col. Nerona to compose a troop that would respond to the said report. At 11:30 a.m., the troop assembled in front of the headquarters, composed of the Bravo Company under Lt. Gundayao, 3rd reaction force of the battalion under Lt. Domingo Reyes, and other personnel from the battalion under Lt. Jimmy Mustafah.

Lt. Col. Rolando Nerona briefed the troop on the rescue operation plan to be undertaken at the reported place of abduction in Masalay highway. He tasked Lt. Rolly Stefen Gempesao to lead the convoy of 40 to 60 personnel aboard three KM450 transport carriers, one (1) civilian owner type jeep, and two (2) armored personnel carriers. After the briefing, they jumped off to the reported place of abduction at around 11:35 a.m. Upon arrival at Brgy. Masalay at about 12:00 p.m. to 12:30 p.m., they momentarily stopped in front of the CAFGU detachment under the 38th Infantry Battalion commanded by witness Cpl. Zaldy Raymundo. Then, Lt. Col. Nerona ordered for them to proceed to the PNP checkpoint located 200 meters away from the detachment in Brgy. Malating.

At said PNP checkpoint, the witness saw about 30 PNP personnel with the following officers of the PNP: P/C Insp. Sukarno Dicay, P/Insp. Rex Ariel Diongon, and P/Insp. Macada or Macaraeg. He remembered that P/C Insp. Sukarno Dicay wore a PNP battle dress camouflage uniform, with a low carry firearm in a holster between the legs tied. P/Insp. Diongon and P/Insp. Macada (Macaraeg) also wore battle dress uniforms.

When Lt. Col. Nerona confronted P/C Insp. Sukarno Dicay about the abduction report in Masalay, the latter categorically said: *"Sir, kaninang umaga pa kami dito, walang abduction na nangyari."* The witness, who was surprised by that answer, observed that the police officer appeared very tensed, who kept moving, and as he smoked, he puffed deeply, and could not look straight in the eye. The witness described P/Insp. Diongon as relaxed but at the same time uneasy, while P/Insp. Macada or Macaraeg was on "trigger finger" at that time, on full alert and ready to engage. According to the witness, the other PNP personnel along the road appeared to strategically position themselves.

Then Lt. Col. Nerona decided to return to their detachment. According to the witness, as they were about to leave, he glanced at P/Insp. Diongon, *"parang gusto niyang sumama, sabi niya sir."*

Upon their return to the 38th Infantry Battalion CAFGU Detachment, the witness talked to Cpl. Zaldy Raymundo about the reported abduction. The latter appeared afraid and very hesitant. The witness convinced him by saying that they are military persons to be trusted.

Cpl. Raymundo told him that he saw that the vehicles were flagged down at Masalay highway; and more or less 300 armed men of Datu Unsay took the vehicles with passengers, which were brought to Brgy. Salman passing Crossing Masalay. This information was passed by the witness to Lt. Col. Nerona.

Moments later, while the witness conversed with Lt. Domingo Reyes and Lt. Rolly Stefen Gempesao, Lt. Gundayao of Bravo Company brought two armed men who were CVOs from the municipality of Ampatuan that they were able to disarm. They identified themselves as accused Takpan Dilon and state witness Esmael Canapia. Their firearms were inspected: one (1) M16 and one (1) shotgun.

Thereafter, three (3) councilors from the Ampatuan municipality and a police officer named SPO4 Badawi Bakal asked for the custody of the two CVOs. He recalled that the latter who wore a PNP uniform, introduced himself as the acting Chief of Police of Ampatuan municipality. Thereupon, Lt. Col. Nerona instructed Lt. Rolly Stefen Gempesao and Lt. Gundayao to turn over the custody of the CVOs to SPO4 Bakal.

When the reinforcements came, the witness asked Lt. Col. Nerona to change from rescue plan to pursuit operation. The former proceeded to assemble the Bravo Company, the newly arrived reinforcement from the Division Recognizance Company, and the armory. After conducting a short briefing, they proceeded to Brgy. Salman at about 2:00 p.m. In going up to Brgy. Salman, while they were moving, the witness saw shattered glass from the windshield of a vehicle and an ID card lying along the road.

The witness told his men to continue with their "tactical movement," knowing that more than 300 armed men went up to Brgy. Salman, with only 80 of them in the troop, including the reinforcements. Later on, they reached an elevated portion on a hilltop wherein Lt. Gundayao and Lt. Reyes reported that they have spotted vehicles and a backhoe. The witness relayed this information to his battalion commander, then instructed Lt. Gundayao and Lt. Rolly Stefen Gempesao to establish an observation post.

With the use of a binocular from that observation post, the witness saw stalled vehicles 400 meters away. Then, a helicopter carrying Jong Mangudadatu and Col. Suspene from the 601st brigade landed near the site of the stalled vehicles.

Thereafter, the witness ordered his men to move towards the crime site. Approaching the area, he smelled a strong stench of blood. At the crime site, he saw a backhoe, vans, a pajero-type of vehicle, and the litter of documents. The witness saw dead bodies inside and outside of the

vehicles. He also recalled that P/C Insp. Sukarno Dicay had made a prior denial of an abduction, contrary to what he had just seen.

The witness reported to the battalion commander in the headquarters that they found dead bodies which in turn asked for their identities. Thereafter, the witness commanded the troop to secure the site, search the area, and check for possible survivors.

After securing the area, P/Insp. Diongon arrived near the crime site around 5:00 p.m. The witness, however, did not allow him inside the area considering that he did not report an abduction. While P/Insp. Diongon and his team stood about 100 meters away from the crime site, the witness approached and said: *"Sabi mo walang abduction, ito ang daming patay, ano nakokonsiyensya ka na ba?"* He saw P/Insp. Diongon looked remorseful.

Through ***photographs, (Exhs. "Quintuple T-161", "T-167", "T-169", "T-202" to "T-204),*** the witness identified the backhoe he saw, with markings "Province of Maguindanao, Gov. Datu Andal Ampatuan." He also identified P/C Insp. Sukarno Dicay, P/Insp. Rex Ariel Diongon, P/Insp. Macaraeg, SPO4 Badawi Bakal, and Takpan Dilon.

For purposes of his testimony, Major Navarro executed ***sworn statements (Exh. "(11) K").*** *Aside from those matters he stated in the direct testimony, he also made several statements in his sworn statement. However, he admitted during his cross examination that he did not narrate the following in his sworn statement: that he saw a chopper; that he confronted P/Insp. Diongon and the latter was barred from entering the crime scene; that he saw Macada (Macaraeg) in battle uniform and in full alert status.*

On cross-examination, the witness explained that the police officers of the PNP and army officers of the AFP have different mandates. While the AFP protects the sovereignty, the PNP handles the internal security but, the two may assist one another.

He said that Col. Rolando Nerona turned over the custody of the CVOs to the PNP without the AFP conducting a custodial investigation as they are not authorized.

In his almost 30 years of experience in the military, he observed that even lawless elements in Mindanao such as the MILF, Abu Sayaff, and others, use uniforms similar to that used by the AFP, PNP, and CVOs. A group of men wearing camouflage uniforms similar to the uniforms of the PNP or the military, from afar, will not be recognized right away if they belong to lawless elements or the government forces. Consequently, when men with such uniform approach, it is a standard operating procedure that they be on heightened alert.

His unit also conducted checkpoints when instructed, usually in times of threats, intelligence reports, IDDS, abductions, and ABDs. But while conducting checkpoints is a regular occurrence in Maguindanao, he did not receive any implementing orders to conduct checkpoints in November 2009.

The witness said that Brgy. Salman is at least three and a half (3.5) kilometers away from Malating. He also stated that he does not know P/C Insp. Sukarno Dicay personally, but he could read the name patch. In response to the question of Col. Rolando Nerona, the witness affirmed, as he was an arm's length away, that he heard Dicay say: "*Sir, kaninang umaga pa kami dito walang abduction*."

As for P/Insp. Rex Ariel Diongon, the witness said that the officer was about four (4) to five (5) meters away from him; while a man with a name tag of Macada or Macaraeg was about 10 meters away. The witness said that he stayed in the area around two (2) to three (3) minutes.

The witness said that he had been assigned in Ampatuan Municipality for one (1) year and six (6) months at the time of the incident. He confirmed that he received the report about the supposed abduction at about 10:30 a.m. of November 23, 2009. They responded and left the headquarters at around 11:30 a.m. of November 23, 2009.

The witness asserted that his intelligence officers in the battalion did not relay any information during the month of November 2009, concerning the filing of the COC of Datu Toto Mangudadatu. He also did not receive any information regarding the possible abduction of the Mangudadatus from his intelligence officers on November 22, 2009.

The witness said that when Corporal Zaldy Raymundo reported to him the abduction, he could not effect disciplinary action to the former. The two have different groups: Corporal Zaldy Raymundo belonged to the 38th Infantry Battalion, which controlled the CAFGUs while he belonged to the 64th Infantry Battalion that had jurisdiction over the territorial area.

The witness explained how they formed the troops to respond to the reported abduction. Initially, he had 40 to 50 members of the composite team of the Philippine Army 64th Infantry Battalion, all under Lt. Gundayao, Lt. Jimmy Mustafa, and Lt. Domingo Reyes. After the formation of the troops, they had full battle gear with service pistols and long firearms: .45 calibre, M16, M14 and M203, K3, M60. Then, he ordered his men to be fully armed, ready for action, ready for rescue, and ready for firefight because of the reported abduction. He likewise received an information that they might encounter other armed troops along the way based on the intel report given by Lt. Gempesao.

Aside from the firearms, the witness also had 3K M450 (a military carrier, a half contruck which is a bigger size truck capable of carrying about 20 personnel), one (1) owner type jeep (with a capacity of 3 to 5 persons), and two (2) armored personnel carrier (with a capacity of 3 to 5 persons), that belonged to the Light Armor battalion.

The witness said that he had received news about Datu Toto Mangudadatu running for governor of Maguindanao even before November 23, 2009, and that the politician would be filing his Certificate of Candidacy at Shariff Aguak. He said that a possible conflict might arise as a result of Datu Toto Mangudadatu running as governor of Maguindanao against an Ampatuan. Nonetheless, the witness clarified that Lt. Gempesao is the one giving information; while he merely relayed the intelligence report to the Battalion Commander.

The witness also said that he saw around 30 PNP personnel at the checkpoint manned by P/C Insp. Sukarno Dicay but, he could no longer identify any of them.

Testimony of Lieutenant General Raymundo Ferrer

When presented on the witness stand on **March 21, 2012, LIEUTENANT GENERAL RAYMUNDO FERRER**[169] testified that in November 2009, he was the Area Commander of the Eastern Mindanao Command (Eastmincom) of the Philippine Army. He had already retired from the Armed Forces of the Philippines on January 23, 2012.

The witness first explained that the Eastmincom covers Region 11 of the Davao Region, Region 13 of CARAGA Region, Region 12 of SOCSARGEN, Maguindanao of ARMM, Cotabato City and other areas of Eastern Mindanao.

The witness said that on November 23, 2009, he was in Manila for a meeting. He had about two (2) missed calls from Datu Toto Mangudadatu as early as 6:00 a.m. but he was only able to answer the third call at about 6:30 a.m. The latter called to ask for security for his convoy that would file his Certificate of Candidacy in Shariff Aguak, Maguindanao.

Datu Toto told the witness that he believed that there is a threat on their safety. He said that if the witness could not provide a bodyguard, at least provide convoy security which is a vehicle that will follow a convoy of a certain person or group of persons moving from one point to another.

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[169] Witness Lieutenant General Raymundo Ferrer testified on March 21, 2012 and April 26, 2012.

Lt. Gen. Ferrer allegedly told Datu Toto that he would call the Division Commander to address his security concerns. By 7:00 a.m., the witness called up General Cayton, the Division Commander of the 6th Infantry Battalion. General Cayton responded that the filing of the Certificate of Candidacy was a political matter, which meant that the security concern was more of a police matter, for which the PNP was allegedly already informed.

After the meeting of the witness, he got hold of his cell phone at 12:15 p.m. Witness received several messages, mostly from Datu Toto reporting that there was an abduction of the convoy of Bai Genalin Mangudadatu.

The witness called General Cayton to verify the information, but to no avail. He then called Col. Rolando Nerona in Maguindanao. The latter said that he already sent troops, led by Executive Officer Major Peter Edwin Navarro, to check the situation.

He also called Major Peter Edwin Navarro who said that at about 1:00 p.m., his troops were already on their way towards Brgy. Salman which was reported to be the place where the abduction happened. The witness told Major Navarro to locate the abducted persons for they might be killed. His basis for saying that was his knowledge as a previous Division Commander in that area: he knew the reputation of the Ampatuans. Even prior to the reported abduction, there were already several information and intelligence reports that there was really a plan against Datu Toto Mangudadatu if he pursues his plan to file his candidacy as governor.

According to the witness, the initial feedback of Major Navarro to him was that he confronted Major Sukarno Dicay and P/ Supt. Abusama Mundas Maguid, who were conducting checkpoints in the area. The two (2) officers denied about the ambush. Nonetheless, there were indications seen by Major Navarro: he saw traces, trucks on the dirt road leading to the interior of Brgy. Salman, some sort of an equipment, and a prime mover left in that intersection.

The witness told Navarro to pursue the leads that he has gathered and to proceed towards the interior area of Brgy. Salman. By 3:00 p.m., Major Navarro called back and gave information that he had positively located five (5) vehicles and dead bodies scattered around those parked vehicles in the interior part of Brgy. Salman.

The witness primarily instructed Major Navarro to preserve the crime scene and not to allow anybody, particularly personnel from PNP Maguindanao, to get close to it until they get a clearance. All initial reports that the witness received through his intelligence officers pointed to the participation of some PNP personnel from Maguindanao.

At 5:00 p.m., the witness said that he received a call from Sec. Dureza, who told him to meet with him the next day, in the headquarters of the 601st Brigade, Tacurong City, Sultan Kudarat. Sec. Dureza told the witness that he was instructed by then President Gloria Macapagal Arroyo to look over the incident and to organize a Crisis Committee.

On November 24, 2009, the witness met Sec. Dureza and National Defense Secretary Norberto Gonzales regarding the incident. They were joined by Chief PNP Jesus Versoza, Lt. Gen. Rodrigo Maclang from the AFP, and National Security Council Undersecretary Nilo Ibrado. When Sec. Gonzales and his party left, Sec. Dureza formally organized the Crisis Management Committee, with the latter as the Chairman. The members included Police Director Felizardo Serapio, the Director of the Directorate on Integrated Police Operations of Western Mindanao, who represented the PNP; and the witness, representing the side of the AFP.

After the formation of the committee, they established the Joint Security Coordination Center which will be located in the headquarters of the 601st brigade to supervise the security and the law enforcement operations of the joint AFP and PNP to address the incident of November 23, 2009. The units involved in that joint security group were the AFP, CIDG, SOCO from Region 12 and also the NBI, which provided the investigation team and some SAF elements. The AFP operating forces were led by then Col. Leo Crescente Ferrer.

Subsequently, the President issued a Presidential Decree declaring the provinces of Maguindanao, Sultan Kudarat, and the City of Cotabato under a State of Emergency.

The PNP forces that were tasked to conduct law enforcement operations started their investigation activities on November 24, 2009. They began by filing for search and arrest warrants. But the task proved to be difficult as all the judges in Maguindanao and Cotabato City went on leave.

According to the witness, on November 26, 2009, the Joint Task Force of the AFP and PNP took Datu Unsay into custody. This was significant because first, there were attempts to hide him. The witness also narrated that they were not able to disarm several armed men immediately after the incident, which caused them to believe that threats to the security of the area existed. He also stated that they could not locate any government official in some towns of Maguindanao. Neither could they secure a Death Certificate for the cadavers.

When they took custody of Datu Unsay, they had to get him by helicopter from Maguindanao Capitol. Then, he was brought to General Santos for inquest because there was nobody in the provincial capitol to

inquest him. There was a breakdown of local government in that part of Maguindanao – Shariff Aguak, Datu Unsay Municipality, and Datu Hoffer Municipality. They had to start mobilizing additional AFP units in the area to restore peace and order. They deployed about two companies of the 73rd Infantry Battalion from Saranggani Province to Shariff Aguak.

On December 04, 2009, the proclamation of Martial Law was handed down to them. The General Headquarters of the AFP, through Lt. Gen. Maclang who was the acting Chief of Staff, called the witness and gave specific instruction to implement Martial Law.

As implementor of Martial Law, witness issued ***Mission Orders (Exhs. "(11) R", "(11) S", and "(11) T"; "(11) S-1")*** to effect the arrest of the primary suspects in the November 23, 2009 incident.

The basis of the Mission Orders arresting Datu Andal, Sr., Datu Zaldy Ampatuan, Datu Unsay, Datu Akmad Ampatuan, Datu Anwar Ampatuan, and Datu Sajid Uy Ampatuan were the series of investigations conducted by the several police agencies, i.e. the CIDG, SOCO, SAF, and NBI.

When cross-examined on April 26, 2012, the witness affirmed that Datu Unsay voluntarily gave himself to the custody of Secretary Jesus Dureza although at that time, there were no complaints or charges filed against him.

The witness also did not have in his possession the reports that served as the basis of the arrest of Datu Andal, Sr. and his family but he maintained that the actions of the task force were valid as they have legal officers analyzing all intelligence reports from investigative agencies.

He maintained that the Ampatuans were not arrested because of Martial Law. The witness said that Martial Law was lifted on the basis of an Executive Order issued on December 12, 2009, one week after all the Ampatuans had already been arrested.

The witness admitted that prior to November 23, 2009, Datu Toto Mangudadatu already asked for security. He also admitted that he did not tell the latter that his request could not be granted for that was a police matter. He still maintained that he could not easily determine what level of security Datu Toto Mangudadatu needed as he was an Area and not a Ground Commander. After he and Datu Toto conversed at 6:30 a.m., the two (2) no longer corresponded save for the text messages.

The witness narrated that prior to November 23, 2009, he, together with Datu Toto Mangudadatu and his family had been discussing intelligence reports and security concerns that if the latter pursues his candidacy, there might be some threats. The witness stated that the

Mangudadatus had their own security personnel composed of army and police officers, among others. He said that as an Area Commander, he does not give security to anybody.

The witness said that he signed the recommendations of his legal officers for the arrest order. None of them told him that Martial Law is only limited to suspending the privilege of asking for a writ of habeas corpus. He himself did not actually know the metes and bounds of authority during that time.

The witness said that he received reports especially about seizure of firearms. He was aware that there was a firearm that was taken at the back of the Ampatuan Municipal Hall found positive to be among those that was used allegedly in the Maguindanao Massacre. He could recall that they effected several arrests, recovered almost 900 guns, and millions of ammunitions.

On re-direct examination, he explained that he could not give security to Datu Toto Mangudadatu because by the time the latter called, most, if not all members of his security personnel, were already recalled by their respective units. During his stint as Division Commander from March 2007 to January 2009, he recalled that only the Ampatuans have CVOs.

The witness clarified the seeming disparity between the voluntary surrender of Datu Unsay vis-à-vis his taking into custody by the task force. According to him, the Crisis Management Committee had two efforts: one is for Secretary Jesus Dureza to talk to Datu Andal, Sr. to ask him to surrender his son; and two, if option one fails, the AFP and PNP were to effect the arrest of Datu Unsay. Datu Andal, Sr. refused to hand over Datu Unsay, thus, they sent 64th Infantry Battalion Commanding Officer Col. Nerona and 601st Brigade Commander Col. Geslani to effect the arrest of Datu Unsay who was subsequently turned over to Secretary Jesus Dureza at the provincial capitol. Many people witnessed the same including Datu Zaldy Ampatuan and other family members.

The witness also explained that the PNP issued a lock and secure order of the government office in Maguindanao because many of the offices were abandoned. His basis was the ***Chronology of Events (Exh. "(11) V")*** and a ***Report from P/Sr. Supt. Bienvenido Latag (Exh. "(11) W").*** The order intended to secure the facilities and the documents from pilferage and sabotage.

According to the witness, Martial Law was terminated ***(Exh. "(11) X")*** after they reported that they have restored the normalcy and peace and order in Maguindanao; hence, the President decided to lift it on December 12, 2009.

On re-cross examination on even date, the witness *admitted* that despite the intelligence reports that Datu Mangudadatu's life would be endangered by the filing of his COC, he still did not provide him with security as the same was not part of his job.

The witness maintained that he did not file cases for obstruction of justice against the judges who went on leave during their application for arrest warrants. Neither did he recall firearms of the police and the military in Buluan, Maguindanao, as he was not in charge of said task. At most, 43 loose firearms from Buluan had been surrendered.

The witness maintained that he did not disarm CAFGUs and CVOs as he was not a law enforcer, but a commander, in that area. P/Dr. Felizardo Serapio, the Director of the DIPO, the Eastern Mindanao Command AFP represented by Major Randolph Cabangbang officiated the recall and registration of high-powered firearms.

The PNP and CIDG and other teams were tasked to conduct all investigative procedures including ballistics examination.

The witness admitted that he does not actually know if Datu Unsay was actually arrested by Col. Geslani and Col. Nerona or turned himself in or gave himself up because he was not there. Although he saw when they turned over Datu Unsay to Sec. Dureza.

Despite the lifting of Martial law, he continued to be a part of the Joint Security Coordinating Council and Crisis Management Committee up to a certain point only after martial law. When it was lifted, the law enforcement functions were relinquished to the PNP. The witness said that he did not have continuous participation in the investigation in connection with the Maguindanao Massacre. But, at the time of Martial Law, all the PNP investigators and all the AFP investigators were under his jurisdiction.

Testimony of Lt. Col. Randolf Cabangbang

LT. COL. RANDOLF CABANGBANG, [170] the Deputy of the Operations Branch and at the same time spokesman of Eastern Mindanao Command (Eastmincom) based in Davao City from May 2008 to November 2010.

He testified that in the morning of November 23, 2009, they received an information from the 6th Infantry Division regarding the abduction in Maguindanao. He asked his media friend, Bong Reblando, to monitor the situation, but there was no response from him.

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[170] Testified on May 23, 2012.

In the afternoon, he received instructions from their Eastmincom Commander, Col. Monilla to move to Tacurong in order to set up a Tactical Command Post. He then gathered his Non-commissioned officers or enlisted personnel at the Public Information Office to tell them that they will be moving on notice. The following day, November 24, 2009, his team moved from Davao to Maguindanao. He was joined by Gen. Ferrer and Col. Monilla. At the massacre site, he saw therein the soldiers of 64th IB, some SOCO and PNP. The members of the 64th Infantry Batallion were already securing the area while the members of the SOCO were already preparing the scene. He also saw Edwin Peter Navarro at the site. They stayed in the massacre site for 30 minutes. Then, they left and went to the HQ of the 601st Brigade in Tacurong City to convene the Crisis Management Committee which included three members only: Gen. Ferrer, Sec. Jesus Dureza and P/Dir. Serapio. He drafted the Crisis Management Plan for Sec. Dureza to sign.

The witness also testified that he stayed in Tacurong and Maguindanao from November 24 to December 21, 2009. He was running the operations of the unit in Maguindanao; drafted the directives and policies that the commander dictated; and implemented the crisis management plan.

He also made a ***Chronology of Events/Operations (Exh. "(11) V"; "(11) Y")*** which referred to a compilation of events of their action after November 23, 2009 and it also includes a report from 6th ID, the investigation report of 6 ID on what had happened on November 23. In a ***ring bound compilation (Exh. "(11) Z")*** he also compiled all the communications he drafted, and reports he received.

On December 05, 2009, the witness claimed that they went to the Capitol Building of Maguindanao and conducted a press conference to announce that Martial Law was declared in Maguindanao.

On cross-examination on May 24, 2012, the witness testified that the Chronology of Events Operations (Exh. "11Y") consisting of actual reports he gathered from reports of tactical units on the ground of the army and navy as well as PNP started on November 22, 2009 up to January 30, 2010.

Responders from the CIDG

Testimony of P/ Sr. Supt. Pedro Austria, Jr.

P/SR. SUPT. PEDRO AUSTRIA, JR.,[171] a law enforcer since 1986, currently the Regional Chief of the CIDG, Cordillera Administrative Region,

[171] Witness P/Sr. Supt. Pedro Austria, Jr. testified on February 22, 2012.

and was the Regional Chief of the CIDG, Region 12, from November 10, 2009 up to November 09, 2011.

P/Sr. Supt. Austria, Jr. testified that in the afternoon of November 23, 2009, he received an order from P/C Supt. Atty. Josefino Cataluña, Regional Director of the PNP Regional Office 12, directing him together with P/Supt. Regis, the Regional Chief, Regional Crime Laboratory, Region 12, to report at Regional Director's quarters, Camp Fermin Lira, General Santos City. They were ordered to form a team to investigate the shooting incident in Ampatuan, Maguindanao, under P/C Supt. Felicisimo Khu, the Assistant of P/C Supt. Cataluña.

The witness organized his personnel as follows: he composed Teams Alpha, Bravo, and Charlie. Team Alpha that conducted the investigation at the crime scene was headed by P/Sr. Insp. Francis Sonza. Team Bravo that investigated the checkpoint near the Philippine Army Detachment was headed by P/Sr. Insp. Teody Condesa. Team Charlie, tasked to identify the driver of the backhoe, was headed by P/Insp. Serafin Acupan.

The witness acted as the Case Manager. As such, he gave instructions to his team, received their reports, and coordinated with the PNP Crime Laboratory. The reports which witness received were then collated and submitted to Special Investigation Task Group (SITG) Maguindanao and Camp Crame. The ground commander of SITG Maguindanao was P/C Supt. Benito Calleja Estipona, the Deputy Director for Administration of the CIDG.

On November 30, 2009, the witness received from P/C Teody Condesa a ***Certification (Exh. "(11) L")*** of the vehicles and firearms, which witness identified and inspected at Tambler, Police Regional Office 12. As a result of the ocular inspection, the witness found that all of the listed items in the Certification were found at the evidence site in Police Regional Office 12. He identified the vehicles he saw at Tambler through ***photographs (Exh. "Nona J-15"*** **and** ***"Nona J-16").***

On November 22, 2012, the witness gave an additional direct testimony. He testified that on December 05, 2009, he received a call from Chief Supt. Felicisimo Khu, the Deputy Regional Director for Administration of Police Regional Office 12 and Task Force Commander of Joint Task Force Alpha, who formally instructed him to augment the joint operations by the PNP and Army in Maguindanao. Working with them was P/Sr. Insp. Francis Sonza, who was his subordinate in CIDG 12. The joint operation was related to the implementation of the search warrant inside the warehouse of Datu Andal, Sr. located in Shariff Aguak.

P/S Insp. Sonza relayed to the witness that the search operation resulted in the confiscation of several motor vehicles and firearms. The

witness identified the ***receipt of properties seized during the operations (Exh. "(11) Q"),*** and an ***affidavit executed by Col. Ferrer and David (Exh. "(11) U").***

The witness said that after receiving the aforesaid receipt, a verification was made. It yielded that all the evidence listed in the receipt were there in the evidence site – Police Regional Office 12. He identified some of the ***vehicles' photographs (Exhs. "Nona J-27" to "Nona J-30").***

The witness further testified as regards his duties as case manager of the Maguindanao incident. He said that he received from P/S Supt. Alex Lineses, the Provincial Director of the Maguindanao Police Provincial Office, a document entitled as ***Disposition and Location of Police Auxillary Force (Exh. "(13) G")*** which contained a list of names of members of the Police Auxiliary Force who are volunteers, acting as the force multipliers of the army and the police.

On cross examination, the witness affirmed that he has no personal knowledge on the implementation of the search warrant i.e. he could not confirm whether the warehouse was owned by the Ampatuans. He also functioned to transmit some of the documents, but has no part in verifying the comprehensiveness of the lists. However, he had no proof of his transmittals.

Testimony of P/ Sr. Insp. Francis B. Sonza

P/SR. INSP. FRANCIS B. SONZA,[172] was set to testify on November 22, 2012. To abbreviate the proceedings, the parties entered into the following stipulations, viz: 1) that the witness was the Provincial Officer of the CIDG, South Cotabato, CIDG Region 12, from October 2, 2009 to March 2010; 2) that the witness per ***directive (Exh. "(11) S-1")*** was then the team leader of the CIDG Unit that conducted search and seizure operations at the warehouse of Datu Andal, Sr.; 3) as a result of the search, they seized several motor vehicles, firearms, live ammunitions and bandoliers which were properly turned over to SPO4 Lagarita, Asst. Evidence Custodian of PRO 12, Camp Tambler, General Santos City; 4) ammunitions and firearms were also seized and then turned over to P/Supt. Dennis Sabido, Evidence Custodian, Camp Commander of PRO 12; 5) these items were pulled-out from the warehouse and were brought to Maguindano Provincial Police Office for temporary storage, and later on transported to Regional Office 12, Camp Tambler and turned over to the Evidence Custodian, the pictures of which could be identified by the witness; 6) as part of the documentation, the witness has ***inventory receipts (Exhs. "(11) Q", "(11) Q-1", "(11) Q-2", and "(11) Q-3");*** and 7) after all the vehicles were turned over

[172] Witness P/Sr. Insp. Francis B. Sonza testified on November 22, 2012.

to Camp Tambler, he verified the ownership of the Hummer with plate no. SJA 336 by calling the car shop owner who informed him that the Hummer was allegedly bought by Datu Sajid Ampatuan.

Responders from the PNP

Testimony of P/ Supt. Dennis S. Sabido

P/SUPT. DENNIS S. SABIDO[173] was set to testify in open court on March 01, 2012. Instead, the parties entered into the following stipulations, viz: 1) He was then the Acting Chief of the Regional Headquarters Security Group of Provincial Regional Office 12 designated by General Khu to safekeep physical evidence turned over to him in connection with the Maguindanao Massacre case particularly, the motor vehicles; 2) on November 25, 2009, the following vehicles were turned over to him as indicated in the ***Extract Police Blotter of Vehicles (Exh. "(11) M")***: One (1) Unit Silver Green Van with Plate No. MVW-884, One (1) Silver white van with Plate No. LGH 247, One (1) unit dark green Van with Plate No. MVW 885, one (1) unit black 4WD New Family Jeep type with Plate No. MCB 335; one (1) unit Toyota Tamaraw with Plate No. UTG 234 light blue, (totally destroyed); one (1) unit Vios color red with Plate No. SGL 834 (totally destroyed); one (1) unit L3 Van color white with Plate No. LGT 859 with one (1) spare tire (totally destroyed); 3) the witness can confirm the contents of the aforesaid blotter. He identified the vehicles through ***photographs (Exhs. "Nona J-17" to "Nona J-30").***

As per ***Certification dated November 30, 2009 (Exh. "(11) L")***, the witness can confirm that his office received the following: one (1) unit ¾ Ton Truck Scout Car, one (1) unit ¾ Ton Truck Scout car which is reflected in the same Extract Police Blotter, Entry No. 379 dated November 27, 2009, referring to the two improvised Armored vehicle with sign in front 1508th MAG PPO PMG, and the other one (1) sign MAG PPO/MPS, color camouflage, ***photographs of which (Exhibits "Nona J-15" and "Nona J-16")*** he will be able to identify.

As per ***Receipt (Exh. "(11) N")*** issued by the witness, their office received one (1) unit Heavy Duty Backhoe, brand Komatsu PC-300 color yellow, the ***photographs of which (Exhibits "Nona J-1", "Nona J-5" to "Nona J-11"),*** he will be able to identify.

The witness received on November 30, 2009, two (2) ***Certifications (Exhs. "(11) O" and "(11) P")*** dated November 27, 2009, issued and signed by PCI Michael John C. Mangahis, Commanding Officer, 42nd Special Action Company, 4BN, PNP, SAF, pertaining to the two (2) Armored Vehicles.

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[173] Witness P/Supt. Dennis S. Sabido testified on March 01, 2012.

Per ***Receipt/Inventory of Property Seized (Exh. "(11) Q")***, received by SPO4 Lagarita, who was a Supply Officer directly under his supervision, their office received from P/Sr. Insp. Francis B. Sonza on December 10, 2009, vehicles reflected in the Receipt Inventory of Property Seized, particularly One (1) Sangguko or Armored vehicle "Pulisya", (which the witness will be able to identify) One (1) Patrol Isuzu LS; one (1) unit Armored vehicle, one (1) Toyota Hilux; one (1) Isuzu LS, and one (1) Unit 10 wheeler truck.

Finally, the witness will be able to identify one (1) unit Hummer Armored vehicle with Plate No. SJA 336 depicted in photograph, page no. 009748 of Volume 24 as the very same Hummer indicated in this Inventory of Property Seized.

Testimony of P/Supt. Oscar P. Nantes

When presented on the witness stand on July 07, 2011, P/SUPT. OSCAR P. NANTES [174] testified that at the time of the incident, he was then the Acting Chief of the Regional Personnel and Resource Development Division of the Police Regional Office-Autonomous Region in Muslim Mindanao (PRO-ARMM). As such, his function was to advise their Regional Director on matters pertaining to personnel and records management.

He first described the *organizational structure* of the PRO-ARMM. **Level 1** pertained to Municipal Police Stations and three (3) Provincial Mobile Groups (1506th PMG, 1507th PMG, and 1508th PMG).

According to the witness, the Ampatuan Town of Maguindanao has a municipal police station which was under the jurisdiction of the 1508th PMG. In November 2009, 18 PNP personnel were assigned therein, *viz*: SPO2 Bakal Badawi, the Officer-In-Charge, SPO2 Malang Akas, SPO1 Entol Tinulon, SPO1 Bautista Ian Federico, SPO1 Mamak Udtog, SPO1 Mamasabang Aladin, PO3 Nasa Wahida, PO3 Sumael Ebrahim, PO2 Dapie Whencel, PO1 Ansa Arnel, PO1 Cutan Dukent, PO1 Gutierez Bonhata, PO1 Labawan Manuel, PO1 Mabang Majoursa, PO1 Maladia Alobedi, PO1 Matula Zukarno, PO1 Remoto Antonio and PO1 Usman Norodin.

As for PMGs, he narrated that the 1508th PMG was headed by OIC Group Director P/Insp. Diongon which had 73 PNP personnel assigned. He mentioned that the following composed this group: P/Insp. Bernardino Bernie, Jr., the Deputy Group Director, P/Insp. Diongon Rex Ariel, the Officer-in-charge of 1508, P/Insp. Macaraeg Michael Joy, SPO3 Lantoy Manap, SPO3 Maindan Samarudin, SPO2 Verdadero Faustino, SPO1 Awal Anas, SPO1 Donato Oscar, SPO1 Ong Eduardo, SPO1 Pendong Theng, SPO1 Tuan Jessie, PO3 Abdulgani Abibudin, PO3 Adam Nixon, PO3 Adzis

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[174] The witness P/Supt. Oscar Nantes testified on July 07 and 13, 2011.

Suharto, PO3 Alibasa Javier, PO3 Anton Rasid, PO3 Enate Felix, Jr., PO3 Gattoc Eduardo, PO3 Kama Kendatu, PO3 Kamama Kusay, PO3 Mama Zainudin, PO3 Salik Tonggal, PO3 Salvador Mahmodin, PO3 Sespeñe Arthur, PO2 Amilasan Darwin, PO2 Decipulo Hernanie, Jr., PO2 Francisco Angelito, PO2 Gadjali, PO2 Ibno Kabir, PO2 Mamison Faisal, PO2 Nana Hamad, PO2 Pagayao Ruben, PO2 Pangawilan Saripudin, PO2 Pasutan Saudi, PO2 Sulay Emran, PO2 Tampakan Nasser, PO1 Abdul Jimmy, PO1 Abdula Datu Rasid, PO1 Abdulhan Ricasa, PO1 Akmad Marwan, PO1 Alibasa Said, PO1 Amaba Herich, PO1 Ampatuan Abbas Ahmed, Jr., PO1 Ayunan Maximo, Jr., PO1 Baguadato Abdullah, PO1 Balabagan Aratuc, PO1 Bara Bhino, PO1 Edris Abdulkahar, PO1 Dimaukom Abdullah, PO1 Elogsong Jerry, PO1 Guiaber Satar, PO1 Guialal Esmael, PO1 Ibay Abdulaziz, PO1 Kalbar Tony, PO1 Kamidon Pia, PO1 Lejarso Esprelieto, PO1 Lumenda Anwar, PO1 Madsig Michael, PO1 Mangco Jimmy, Jr., PO1 Masandag Camarudin Macasiling, PO1 Mascud Marjouk, PO1 Masukat Anwar, PO1 Masukat O'nell, PO1 Medting Mindato, PO1 Pagayao Adam, Jr., PO1 Panaguilan Norman, PO1 Salim Thon, PO1 Sangki Rasol, PO1 Soriano Arnulfo, PO1 Sumensil Norodin, PO1 Tasil Balit, PO1 Tocao Allan and PO1 Ulah Saudia.

The 1507th PMG was headed by Group Director P/Insp. Saudi Mokamad which had 64 police non-commissioned officers and two (2) officers. The following personnel are the members of 1507th Provincial Mobile Group, namely: P/Insp. Mokamad Saudi, P/Insp. Villarin Roel, SPO4 Belmonte Rene, SPO3 Yson Isidro, SPO2 Gaetos Rudy, SPO2 Labayan George, SPO2 Malaco Ramon, SPO2 Mama Mokamad, SPO1 Bueno Virgilio, SPO1 dela Cruz Ely, SPO1 Elveña Marcelino, SPO1 Gamit Artemio, SPO1 Guiamad Salik, SPO1 Guianaton Alimola, SPO1 Gustilo Rolando, SPO1 Lastimosa Manolo, SPO1 Mago Ganda, SPO1 Maguindra Samad, SPO1 Pasawilan Mc Arthur, SPO1 Rendaje Elizer, SPO1 Sebangan Datuali, SPO1 Solano Ali, PO3 Akmad Hadji Ali, PO3 Alang Mohamad, PO3 Alano Gibrael, PO3 Balanueco Ricky, PO3 Daquilos Felix, PO3 Echavez Eugene Ross, PO3 Gecosala Manuel, PO3 Haron Salipudin, PO3 Loyloy Dulcesimo Jr., PO3 Ordeniza Mervin, PO2 Guiama Rexson, PO2 Ortuoste Sherwin, PO2 Rakim Kendatu, PO1 Abdurakman Ardam, PO1 Alfonso Bensideck, PO1 Bacang Datun, PO1 Balading Mohammad, PO1 Baraguir Ysmael, PO1 Bebot Ebara, PO1 Cabalo Bugel, PO1 Caug Sahabudin, PO1 Dagadas Daud, PO1 Dinaga Homberto, PO1 Ebrahim Mama, PO1 Esmael Abdulfatah, PO1 Hadi Tamano, PO1 Julkadi Marjul, PO1 Kadtong Jimmy, PO1 Kamad Samir, PO1 Lauban Baisharon, PO1 Loberiza Theomar, PO1 Macarongon Michael, PO1 Mundas Abdulbayan, PO1 Nilong Marsan, PO1 Panegas Badjun, PO1 Piang Khalid, PO1 Radjani Radjail, PO1 Saavedra Abdulmanan, PO1 Sedik Mohamad, PO1 Solaiman Amir, PO1 Tugade Vergil, and PO1 Utto Datu Jerry.

Level 2 pertained to Provincial Police Offices located in Maguindanao, Lanao del Sur, Basilan, Tawi-Tawi, and Sulu. The

Maguindano PPO was headed by Provincial Director P/Supt. Abusama Maguid; and his deputy was PCI Sukarno Dicay.

Level 3, the last level, pertained to the PRO-ARMM.

The witness further testified that on November 23, 2009, he heard about the killing in Maguindanao. On November 24, 2009, two (2) Orders were issued by his office, viz: ***General Order No. 879 – Termination of Designation (Exh. "Decuple Q")*** and ***Special Order No. 449 - Re-assignment of PNP Personnel (Exh. "Decuple R").***

The subject of the first order involved the termination of the designation effective November 24, 2009 of P/Supt. Abusama Maguid as OIC of Maguindanao PPO. His designation was terminated because he was primarily responsible in the Maguindanao area when the incident happened. Then, PSI Sukarno Dicay was also terminated as Deputy Provincial Director for the same reason as Maguid's. Consequently, PS/Supt. Alex B. Meneses was designated as OIC of Maguindanao PPO effective on even date.

The second order mandated that police officers (commissioned and non-commissioned) were relieved from Maguindanao PPO. Specifically, these officers were P/Supt. Abusama Maguid, PCI Sukarno Dicay, P/Insp. Rex Ariel Diongon and SPO2 Badawi Bakal. They were then reassigned to Regional Headquarters and placed under *restrictive custody* with PS/Supt. Joseph P. Rama effective on even date. These police officers were placed as such due to the Maguindanao incident.

On November 26, 2009, his office issued two (2) Orders anew. The ***Termination of Designation (Exh. "Decuple S")*** involved the termination of the designations of P/Supt. Abusama Maguid as Acting Regional Logistic Resource Division and P/Supt. Kamaong as Group Director. He did not know the reason behind the termination of Kamaong's designation. The ***Re-assignment Order (Exh. "Decuple T")*** mandated that P/Supt. Bahnarin U. Kamaong, P/Supt. Abdulwahid Pedtucasan and P/Insp. Cabunay were relieved from their designation and re-assigned to the Regional headquarters effective on even date.

On November 27, 2009, his office issued ***Special Order No. 454 – Re-assignment Order (Exh. "Decuple U")***. In this Order, 27 personnel were relieved for being members of the 1508 PMG. These included: Ong, Abdulgani, Enate, Nana, Pasutan, Lajarso, Amaba, Madsig, Soriano and Kamidon.

On November 30, 2009, his office issued ***Special Order No. 462 (Exh. "Decuple V")*** which transferred and placed personnel under **restrictive custody**. These personnel included P/Insp. Armando S. Mariga, P/Insp. Saudi Mokamad and P/Insp. Abdulgapor P. Abad. PNCOs

and PCOs were likewise included (Macaraeg, Ong, Abdulgani, Enate, Nana, Pasutan, Lejarso, Amaba, Madsig, Soriano and Kamidon). Aside from PNCOs, P/Supt. Abdulwahid Pedtucasan was also included.

On December 01, 2009, his office issued ***Special Order No. 465 - Re-assignment Order (Decuple "W")*** which re-assigned personnel in Maguindanao PPO under restrictive custody. These personnel were Abo, Sabang, Guiadem, Dalus, Draper, Ebus, Engid, Haron, Ibad, Masukat, Omar, Pagabangan, Pala, Samson, Zainal, Bandila and Macatimbol.

On cross-examination on July 07 and 13, 2011, the witness testified that he presumed that SPO2 Bakal was manning the municipality of Ampatuan Town, Maguindanao, at the time of the massacre because there was no record from the Provincial Office stating otherwise.

He explained "strike one" policy as follows: it is a standard operating procedure in the PNP to relieve personnel from a particular police station whenever there is an incident which happened in their area. He explained "restrictive custody" as follows: it means that the subject personnel is restricted in a certain area, i.e. in the barracks of the regional office. Being in restrictive custody does not connote that the personnel is under investigation.

The re-assignment and termination are purely discretionary on superior officers, such that he may even sign without asking the reason for terminating the concerned personnel.

According to the witness, it was P/Sr. Supt Bienvenido Latag, (replacing P/Chief Supt. Umpa on November 24, 2009) that gave verbal instructions for the Orders. He himself was not authorized to issue such orders based on Section 41 of RA 6975. However, no summary hearing was conducted. He surmised that the personnel were transferred because they were suspected of being involved in the Maguindanao Massacre.

As for the members of the 1507th PMG, he was not aware whether they were placed under restrictive custody.

Testimony of SOCO

Testimony of P/Supt. Pamfilo Regis

Presented on the witness stand on June 16, 2011, was P/Supt. Pamfilo Regis,[175]the team leader of SOCO, Region 12. He composed a team for the processing of the crime scene.

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[175] Witness P/Supt. Pamfilo Regis testified on June 16, 2011.

Upon arriving at the crime scene at Brgy. Salman, Ampatuan, Maguindanao on November 23, 2009, he cordoned the area, established a command post, and proceeded to process the site. When it became too dark to work, they rested and resumed at 5:00 a.m. of the following day.

Apart from the 22 cadavers he found, the witness observed that the soil was soft and that a previous digging was conducted. He then undertook the digging of the suspected graveyard of alleged missing persons. They were able to unearth 24 cadavers.

He gave instructions to tag and photograph the bodies. Later on, the cadavers were transported to different funeral parlors for autopsy and identification.

At about 6:00 p.m. on November 24, 2009, the SOCO 12 left the crime scene in order to transport the cadavers. The SOCO ARMM team, headed by P/Supt. Igmedio Garcia, took over. They were instructed to take fingerprints, pictures and sketches.

The witness prepared a ***Spot Report (Exh. "Quintuple T-231")*** and a consolidated report entitled ***Memorandum (Exh. "Quintuple T-230").*** This was submitted to his senior officer at Crime Laboratory, Camp Crame and the CIDG Team.

On cross-examination, the witness clarified that at the time of their arrival, the crime scene was not secured by a cordon. Aside from uniformed men, there were also civilians. And, although the area was cordoned off, he allowed some family members of the cadavers for identification; but under his supervision.

In digging, they used a backhoe not from the PNP but from the government of Sultan Kudarat. The backhoe operator, and some of the diggers were also employees of the Province of Sultan Kudarat. He merely supervised the operations.

Testimony of Richard S. Santuele

RICHARD S. SANTUELE[176] testified on May 12, 2011. He was the photographer of the PNP Crime Laboratory Office at Region 12 that processed the crime scene.

He narrated that at around 9:30 p.m., of November 23, 2009, he was with the SOCO 12 Team at Sitio Masalay, Brgy. Salman, ARMM. The members of the team led by Pamfilo Regis were: Renato Mangawang

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[176] Witness Richard S. Santuele testified on May 12 and 25, 2011.

(Fingerprint Examiner), Raymond Cabling (Medico Legal), Pilayre, Armando Galigo (PIO Recorder), a firearm examiner, and two (2) SPO4s, Jessie Garcia, OIC of Sultan Kudarat, SPO4 Teodito Masillones, PO2 Sotero Tauro, PO2 Danny Fortaleza (sketcher), PO1 Rudimer Daproza (an evidence custodian).

His role was to take pictures of the vehicles, backhoe, dead bodies, pieces of evidence, personal belongings, and the area of the crime scene. He took 86 pictures ***(Exhs. "Quintuple T-133" to "Quintuple T-153" and sub-markings, "Quintuple T-154" to "Quintuple T-209" and "Quintuple T-211" to "Quintuple T-218"; and "Quintuple T-161", "T-167", "T-169", "T-202" to "T-204"; "Quintuple T-210)***, and showed some in open court.

On May 25, 2011, the witness testified on cross-examination. He said that he took 150 shots and 64 were not reproduced as these were blurred and dark. He also did not bring his camera for purposes of identification in open court.

Testimony of PO2 Danny Fortaleza

PO2 DANNY FORTALEZA testified on May 26, 2011 that he was a sketcher assigned to the SOCO team that processed the crime scene. On November 23, 2009, at 8:55 p.m., the SOCO team arrived at the crime scene and saw a group of Philippine Army members from the 601st Brigade. He also observed that the there was a backhoe, vehicles and several dead bodies.

His specific duties included preparing a diagram of the area of the scene, setting the compass to the north, obtaining distance measurements and setting forth the major items for evidence, and coordinating the evidence to the Evidence Custodian.

On November 24, 2009, at 5:30 a.m., he walked through and sized up the crime scene, and used his compass to determine the particular area. As a result, he finished making three (3) sketches which are the ***Top View Sketch with Rough Draft (Exh. "Quintuple T-219") and Computer-Generated or Finished Sketch (Exh. "Quintuple T-220"), Neighborhood Sketch with Rough Draft (Exh. "Quintuple T-223") and Computer-Generated or Finished Sketch (Exh. "Quintuple T-224"), and the Sketch for the Pieces of Evidence with Rough Draft (Exh. "Quintuple T-225") and Computer-Generated or Finished Sketch (Exh. "Quintuple T-226").*** **As reference, he prepared** ***measurements (Exhs. "Quintuple T-221" and "Quintuple T-228") and a legend (Exhs. "Quintuple T-222", "Quintuple T-227", "Quintuple T-229").***

The top view sketch showed the crime scene, nearest physical surroundings, actual pieces of evidence, and items of interest located in one plane. It also contained a list of measurements of the distance of the crime scene between the evidence, and legends. The neighborhood sketch showed the crime scene, its nearby places, and the road leading to the place of the incident. The rough sketch for the pieces of evidence referred in the crime scene, and in this case, the fired cartridge cases and fired bullets. Thereafter, he turned over the same to the team leader for compilation.

On cross examination on June 01, 2011, the witness testified that the drawings and sketches were not drawn to scale. He did not have a written proof that he submitted the same to P/Supt. Regis.

The witness claimed that since there were at least 100 men in the crime scene, he would not know whether the pieces of evidence were moved or planted. But the area was cordoned, and the relatives were not allowed to enter. However, the witness said that the 601st brigade were outside and far from the crime scene.

The witness admitted that the legends, draft of neighborhood sketch, final sketch of the top view did not contain his signature. He also said that there were inconsistencies between his testimony and the sketches.

On June 02, 2011, the witness testified on re-direct examination. He clarified that the person witnessing the execution of the sketches, Col. Austria, did not sign those finished sketches made in the office, while he was able to sign the rough sketches made on site.

On re-cross examination, the witness said that despite the accessibility of Col. Austria, he failed to have those finished sketches signed by the former. These finished sketches that were turned over to his team leader and submitted to the CIDG resulted to the preliminary investigation of this case. For sixteen months, he kept the rough sketches and presented them only to the prosecutors in May 2011.

Testimony of PO1 Rudimer C. Daproza

PO1 RUDIMER C. DAPROZA, [177] the Records Custodian of the PNP Crime Laboratory Office, Region 12, testified on May 11, 2011, that at around 7:00 p.m. on November 23, 2009, he and his teammates, P/Supt. Regis, PCI Cabling, P/Insp. Galigo, PO2 Fortaleza, PO2 Tauro et. al. proceeded to Sitio Masalay, Brgy. Salman, Ampatuan Maguindano. Upon reaching the site, and while holding the flashlight, he saw the yellow backhoe, with marking "Property of Province of Maguindanao", some

[177] Witness PO1 Rudimer C. Daproza testified on May 11 and 12, 2011.

vehicles, scattered documents and dead bodies. The team then collected pieces of evidence up to 12 midnight. At 5:00 am of the next day, they resumed to collect the evidence.

In taking the evidence, they conducted an inventory, reduced the same into writing in the ***Evidence Logbooks (Exhs. "Quintuple T-130" to "Quintuple T-132")*** and placed the collected items in a ziplock bag. Thereafter, the items like firearm cartridges were turned over to the Firearm Examiner and the personal belongings were given to the victims' relatives; some which were not given to the relatives were turned over to the SOCO evidence room. The vehicles were turned over to the CIDG.

When cross-examined on May 12, 2011, the witness clarified that despite his signature in the "receipt" column of the logbook, it was Melo who collected the materials. In turn, Melo turned over the items to P/Chief Insp. Raymund Cabling. However, there was no written proof of him having received the materials from the former. Moreover, the evidence logbook failed to include the clothes.

Testimony of P/Sr. Insp. Anne Aimee Pelayre

When presented on June 16, 2011, P/SR. INSP. ANNE AIMEE PELAYRE,[178] the Recorder of the PNP Crime Laboratory Office at Region 12, testified that on November 23, 2009, her team went to Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao Province. She was specifically assigned to list down and record the significant features of the cadavers at the scene, and to make a ***Time Table (Exh. "Quintuple T-232")*** of the incidents for the SOCO team.

The inclusive dates of the *Timetable of Activities* are from November 23, 2009 to December 23, 2009. The last day marked her transfer from RCLO 12 to Provincial Crime Laboratory Office, Zamboanga del Norte.

The significant features of the cadavers to be listed by the Recorder included: the dress, the color of the dress, the position, gender etc. These are needed to establish the identity of the victims. The witness presented the List of Recovered Cadavers ***(Exh. "Quintuple T-233")*** in open court.

The witness summarized the findings of the team. In the late evening of November 23, 2009, 22 cadavers (8 males, 14 females) were found in the elevated portion of the crime scene and in the vicinity of the 5 vehicles.

On November 24, 2009, 24 decomposing bodies were excavated from Grave Site No. 1. After 6:00 p.m., she and some members of the

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[178] Witness P/Sr. Insp. Anne Aimee Pelayre testified on June 16, 2011.

team went to funeral parlors in order that the relatives present therein may identify the cadavers.

On November 25, 2009, SOCO ARMM, through P/Supt. Garcia dug Graveyard number 2. It was relayed to her that 11 decomposing bodies and 3 totally wrecked vehicles were found in that site. On the same day, the witness returned to the office to encode her entries gathered from the crime scene. She already established the identities of the cadavers. Adding the 46 bodies earlier recovered with the 11 decomposing bodies, a total of 57 cadavers were listed in her report.

From November 26 to December 23, 2009, the witness personally listed entries that reflected various activities requested by the CIDG, *i.e.* laboratory examinations.

On cross-examination on even date, the witness clarifed that while she was the one who encoded her report, she was not the one who printed it. And from the time she left SOCO 12, she had no custody over the computer in SOCO 12. She said that she only had personal knowledge of the 10 out of the 31 days with entries found in the *Timetable*. The other entries were merely relayed to her or sent to her. The activities like the briefing, coordination meeting, travel to the funeral parlors and sleeping were not reflected in the *Timetable*. She inputted matters of top priority in the *Timetable*. But, the decision to put in the entries was directed by the team leader, P/Supt. Regis.

The witness also testified that while the dress color and position of the cadavers were not reflected in the *List of Recovered Bodies*, she took note of these in the field notes. However, as her field notes were not part of the subpoena, she did not bring them in open court. In identifying the cadavers, she asked the kin to state the name of the bodies. Some of them only gave the family name, but not the full name. From these cadavers, she personally knew that of Atty. Cynthia Oquendo and Atty. Brisuela as these two lawyers were defense counsels in her drug cases.

Testimony of P/Supt. Igmedio Garcia

On October 26, 2011, P/SUPT. IGMEDIO GARCIA,[179]who is presently assigned with Regional Crime Laboratory Office in Davao City as Regional Chief effective on July 16, 2010, testified that at the time of the incident, he was the Regional Director of the Regional Crime Laboratory Office (RCLO), Autonomous Region in Muslim Mindanao (ARMM) stationed in Cotabato City.

The functions of RCLO ARMM include forensic examination, ballistics for firearms identification, fingerprint identification, medical examination,

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[179] Witness P/Supt. Igmedio Garcia testified on October 26, 2011.

questioned document examination, physical examination, medico-legal and DNA testing. RCLO ARMM has a team to respond anytime if there is a call, also called the SOCO team.

As Regional Chief of RCLO ARMM, the witness heads the SOCO team. He always supervises the team leader on what to do before dispatching the SOCO team to the crime scene to avoid any lapses. The standard operating procedure includes: first, there must be a call, the SOCO team will not reply or respond without any call for assistance. Second, an assessment of the area must be made regarding its security. Third, logistics to be used by the team must be provided. Fourth and last, security or backup has to be requested before going to that place especially if the place is considered critical.

In the morning of November 23, 2009, the witness was at the Maguindanao Police Provincial Office (PPO) located in Shariff Aguak conducting a ballistic examination in compliance with the amnesty program of the government known as Executive Order No. 817. They started the examination at past 9:00 a.m. and finished it at past 12:00 a.m. Thereafter, the witness and his team went back to their office in Cotabato City.

Upon arrival, one of his men, PO1 Lebanan, informed the witness that there was a rumor spreading that there was an incident, a massacre somewhere in Maguindanao. After receiving the information, witness contested it considering that when he and his team went to Maguindanao nothing happened, and everything was normal.

The witness ordered PO1 Lebanan to call the Police Regional Office (PRO) of ARMM to verify the report. PO1 Lebanan was able to contact R-5 (Police Community Relations) through P/Sr. Supt. Alex Lineses, its Chief, who claimed that there was no such reported case.

P/Supt. Garcia learned of the incident when he watched the interview of Datu Toto Mangudadatu that day, narrating that his family and other members of the media were flagged down somewhere in Maguindanao.

After watching, witness ordered PO1 Lebanan to confirm the report from PRO ARMM. This time around, the PRO confirmed that an incident transpired in Maguindanao. He then relayed the news to the senior officers from Camp Crame in the person of P/Sr. Liza Madeja Sabong, the Deputy Director for Operations.

Moments later, P/Chief Supt. Felicisimo Khu, Jr. called the witness through the latter's cellular phone informing him that his SOCO team must be deployed to augment the SOCO team of Region 12.

At past 6:00 a.m. of November 24, 2009, security back-up composed of more or less 6 personnel led by P/Sr. Supt. Alex Lineses arrived. Then, the witness coordinated with the CIDG, led by P/Chief Insp. Mareco. Later on, the team of P/Sr. Supt. Macapantar from PRO ARMM arrived. Hence, when the group left the office, they had a convoy of four (4) vehicles.

The witness was with P/Chief Insp. Tomas Dimaandal (the Medico-legal Officer and acting team leader of SOCO ARMM team), P/Sr. Insp. Alfredo Pacete, P/Insp. Aldrin Forro, P/Insp. Chester Niton, SPO4 Alejandro Pubag, SPO3 Eriel Sanchez, PO2 Togle, PO1 Lebanan, and PO1 Jasmal Sinarimbo.

Upon arrival at PPO Maguindanao at more or less 8:00 a.m., the witness observed that there was chaos and unusual movement of troops inside the camp. Witness received instruction that PD OIC P/Supt. Maguid had to brief witness and his team before they can proceed to the crime scene. However, the briefing did not push through because some of the personnel, P/Sr. Supt. Bien Latag, Sr. Supt. Lineses and Sr. Supt. Macapantar, boarded the vehicles and they agreed to proceed to the crime scene, so the witness and his team followed.

They proceeded to a coffee shop which was an open place near the terminal of Shariff Aguak. The three (3) officers conversed with Datu Andal, Sr. and Datu Unsay. Witness could not hear what they were talking about because they were more or less 15 meters away from him. After they finished talking, the police officers left the area, leaving Datu Andal, Sr. and Datu Unsay.

After waiting for quite some time, no briefing transpired. Hence, the witness and the team of P/Chief Insp. Mareco decided to proceed to the crime scene at past 9:00 a.m.

On the way to the crime scene, they passed the highway to Sultan Kudarat. They arrived somewhere in Masalay more or less at 10:00 a.m. Then, more or less three (3) to four (4) kilometers away from the highway, there was a dead end, that was the massacre site.

The surroundings consisted of green vegetation, corn fields, some trees, and houses. The crime site was already secured with a police yellow line. There was a yellow backhoe, with its bucket still tucked on the ground. There were also signs of disturbance of soil in that particular place inside the police line. There were several motor vehicles or vans located at the western part of the crime scene.

The SOCO team immediately proceeded to their respective assignments. The photographer, P/Insp. Aldrin Forro, went to photograph all evidence that were visible in the crime scene. The

fingerprint examiner, P/Insp. Nitron, conducted the post-mortem fingerprint taking on the 22 cadavers which were unburied. The recorder was PO1 Jowie Lebanan.

The SOCO team processed the crime scene for two (2) days from November 24 to 25, 2009.

On November 24, 2009, witness and his team were directed by over-all ground commander P/Chief Supt. Felicisimo Khu, Jr. to augment PRO-12. As such, they had to work in the field to avoid further lapses to ensure that all evidence found in the crime scene must be collected, tagged, and preserved correctly. The cadavers, if possible, must be identified properly, examination of vehicles must be conducted, and other forensic jobs needed to be done must be performed.

On said date, there were 22 cadavers, which were not buried, were recovered. Most of these cadavers were recovered inside the vehicles and some were located outside near the vehicles.

A total of nine (9) vehicles were recovered consisting of four (4) vans, one (1) Ssangyong, one (1) backhoe and three (3) smashed vehicles. The vehicles were just behind the backhoe, in a line position, in one direction, except the Ssangyong vehicle.

On November 25, 2009, six (6) cadavers were found buried along the three (3) smashed vehicles which were recovered in the northern portion. Said vehicles were totally wrecked and beyond recognition. These vehicles consisted of a red Toyota Vios with label Tacurong City, clearly marked on the left side of the car; a white van of UNTV with marking UNTV made of paint in bold letters; and a light blue Tamaraw FX.

11 other cadavers were also recovered through excavation using the backhoe. These additional 11 cadavers were excavated inside the police line, just adjacent to grave/excavation sites nos. 1 and 2.

A total of three (3) excavations were done. On the northern portion at excavation site no. 1, 24 cadavers were recovered. At the western portion is excavation site no. 2 where six (6) cadavers were recovered. At excavation site no. 3 which is located just between excavation site no. 1 and excavation site no. 2, five (5) cadavers were recovered. A total of 57 cadavers were recovered.

The members of the SOCO team finished the crime scene processing on November 25, 2009 at almost 6:00 p.m. After, per standard operating procedure, they made a Spot Report and an After-Activity Report. The witness identified the Spot Report of the SOCO Team. The After-Activity Report was also presented in open court.

On cross examination, the witness mentioned that he had been in the service for almost 30 years, and he took special trainings to become part of the SOCO in RCLO.

He learned about what had been rumored to have taken place in Maguindanao through local television – ABS-CBN at about 4:00 p.m. of November 23, 2009. There, Datu Toto Mangudadatu was being interviewed, saying that the vehicle with his family was flagged down in Ampatuan, Maguindanao. The interview lasted about 10 to 15 minutes. Datu Toto Mangudadatu gave information about where and how his family's convoy was flagged down, disclosed that uniformed men flagged down the convoy bearing his family. Witness had no knowledge of any radio broadcasting, only television. Witness received information that this interview was replayed several times although he only saw it once. He believed what he had seen on television.

The witness acknowledged that his office has jurisdiction over the crime scene located at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. But his team only arrived on November 24, 2009 because he called for back-up security, believing that since it was already nighttime, it would be very dangerous to proceed to the crime scene.

The witness and his team were in SOCO police SOP uniform. The SOCO vehicle they rode on was a marked vehicle, that had blinkers and a siren. Only the CIDG personnel were in civilian clothes, notwithstanding that they were still on official duty.

The witness knew, at the time he saw them at the coffee shop, that Datu Andal, Sr., and Datu Unsay, were public officials.

The duty of witness and his team was to simply augment RCLO 12, which first responded to the site. When they arrived at Sitio Masalay, he saw the RCLO 12 composed of members of the team of Khu, as well as armies, PNP personnel, members of the media and broadcasting, and relatives of victims.

RCLO 12 was already doing SOCO processing work. Witness and his team did the fingerprinting but RCLO 12 was already processing it in the sense that they were taking photographs, making sketches, and making measurements. The witness and his team made sure that the entire scene of the crime was left with all possible evidence for case gathered and that its integrity was kept intact.

The Report submitted by witness is in compliance with the requirements of Camp Crame. His report is independent to that made by the RCLO 12. But his report augmented the latter. Both witness' team and the RCLO 12 made sure that evidence was completely preserved and gathered. Witness and his team complied with its function as a unit of

the Philippine National Police to avoid lapses and preserve evidence in the crime site.

In the processing of the crime site, it was not just the SOCO who was processing but other people as well. However, it was not a standard operating procedure for SOCO to allow civilians inside the crime site. The crime site is supposed to be entered, touched, measured, and recorded only by SOCO operatives because it is a police matter.

As a Senior Police Officer of the unit, the witness will not allow an untrained non-police personnel to do SOCO work including unearthing bodies from a gravesite because they are not competent to do so especially in this case where the backhoe operator comes from a province, the head of whom is one of the private complainants.

Witness himself supervised people and also helped retrieve cadavers because there was no available personnel to do it. Witness was directed by Sr./Supt. Willy Dangane that he could help in retrieving the bodies although not part of the former's job.

In Maguindanao PPO, the witness observed that there were some unusual movement of troops in the ARMM area as well as chaotic circumstances, but he did not put these matters in an affidavit.

The Spot Report dated November 24, 2009 was prepared in the office in Cotabato. Witness checked the report before it was sent to headquarters. Witness was not the one who prepared the Spot Report.

His SOCO team left the crime site on November 25, 2009 but went to stay overnight at Isulan. On November 26, 2009, the team did not pass through the same route in returning to the office in RCLO ARMM because of security reasons, there were so many uniformed personnel roaming around, and the witness was not certain if they were members of a legitimate law enforcement group.

On November 26, 2009, his SOCO team arrived in the headquarters. The team was intact at this time because in order to gather data from all members, they had to stay first in their office. Witness ordered his men to make the After-Activity Report dated November 26, 2009 before dismissing them. Witness was not the one who made the After-Activity Report.

Testimony of P/Insp. Aldrin Forro

When presented on the witness stand on October 26, 2011, P/INSP. ALDRIN FORRO[180] testified that he was a photographer assigned to the Crime Laboratory Office in ARMM since 1996. Presently, he is assigned to the PNP Crime Laboratory Logistics Management Division as Document Officer. He had been the photographer for almost 20 crime scenes.

The witness recalled that in the afternoon of November 23, 2009, P/Supt. Igmedio Garcia instructed for the deployment of the SOCO team of ARMM, which included the latter, P/Chief Insp. Dimaandal, P/Sr. Insp. Pacete, SPO4 Pubag, SPO4 Sanchez, P/Insp. Forro, P/Insp. Nitron, P/Officer Jowie Lebanan, and PO2 Jestter Togle. During the briefing, the task assigned to him was to photograph all the pieces of physical evidence with evidentiary value in the crime scene.

On November 24, 2009, at 10:00 a.m., they arrived at the location of the crime scene at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. The witness recalled that the crime site was located at the inner most portion dead end of the road going to the place. He observed soil disturbances as there was a sign of at least three (3) soil excavations at the crime site. He then saw cadavers, vehicles, and cadavers inside the vehicles.

At this point, the defense counsels stipulated that the witness would be able to corroborate the conditions of the crime scene. The witness, for his part, said that he photographed relevant and material evidence seen at the crime scene. He took ***69 pictures (Exhs. "Quintuple U-1" to "Quintuple U-69"),*** and SPO4 Pubag has with him the negatives of the photos.

On continuation with his direct testimony on November 16, 2011, the witness said that he saw at the crime site personal belongings of the victims, vehicles, a backhoe, and empty cartridge cases. He specifically saw lying on the ground 27 cadavers, who sustained multiple wounds and bruises. He saw five (5) vehicles and one (1) backhoe. The vehicles had suspected bullet holes on different portions. The backhoe was parked at the elevated portion of the gravesite. It is colored yellow, Komatsu brand with markings Datu Andal H. Ampatuan, Sr., Province of Maguindanao.

He began to take photographs of the evidence especially the cadavers at 10:30 a.m. and finished at about 5:00 p.m. Thereafter, he helped his SOCO teammates in digging out more cadavers from the gravesite. Then, they went to Isulan to take a rest until the morning of

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[180] Witness P/Insp. Aldrin Forro testified on October 26, 2011 and November 16, 17, and 23, 2011.

November 25, 2009. On the latter date, the SOCO ARMM team returned at 9:00 a.m. to the gravesite at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. He took photographs of some pieces of evidence left at the crime site. They closed the crime scene at about 3:00 p.m. of that day. Then, they returned to their office in Cotabato City.

The witness left the pictures of the crime scene he took on November 24 and 25, 2009 in their ARMM office at Cotabato City for he was reassigned to Basilan.

When cross-examined on November 17, 2011, the witness clarified that the photographs he identified starting from Quintuple U-1 to Quintuple U-69 were according to the sequence that they were taken. He particularized that the numbers found with the cadavers contained in six (6) of his pictures had been placed by a member of SOCO Region 12. He brought with him a total of 180 shots (negatives), and he presented 69 positive prints to the Court.

As a member of the SOCO team for a long time, he explained that the crime scene must not be touched and moved especially when crime scene processing is being done. He said that on November 24, 2010, he saw several persons in the crime scene: the media, the personnel of the Philippine Army, as well as civilians walking around the site. Some of those in the crime site were there to identify their relatives. The members of the Philippine Army were already there at the time that the SOCO arrived at the gravesite.

The witness admitted that the one operating the backhoe was a private individual not from SOCO ARMM or SOCO Region 12, for they do not have enough personnel. He also affirmed that only few of the pictures he had taken were properly tagged at the time. The pictures he took likewise did not indicate clearly from which grave sites were the cadavers taken. Moreover, contrary to preservation, the cadavers were laid on the ground without these being placed inside body bags.

The witness narrated that his team, SOCO ARMM, augmented SOCO Region 12. Thereafter, members from CHR Manila arrived. According to him, the pictures that he took represented the untouched scene prior to the diggings conducted by CHR Manila and SOCO Region 12.

Witness admitted to not having prepared an official report of what he had done because there were already reports and photographs by SOCO Region 12. After a week, he was relieved and re-assigned to Basilan Provincial Capitol.

He also maintained that he did not have a copy of the negatives of the photos. Although he was the one who actually had it developed on November 26, 2009. He submitted all of the photographs to his Regional

Chief, P/Supt. Garcia. His last count of the number of photographs was over 100 pieces.

The witness also testified that after identifying the photos and taking a look at them again, he is certain that they were exactly the same photographs that he had taken. He is sure because he still remembers what were depicted in the photographs. If the 111 remaining photos will be shown to him, he would still be able to recognize it as well.

He remembered that their Regional Chief, P/Supt. Garcia had a short briefing with Chief of SOCO Region 12 P/Chief Supt. Regis and they agreed that the SOCO Region 12 will process the cadaver lying on the ground and inside the vehicle and SOCO ARMM will be the one to dig up the cadavers on the hole. There was a delineation of responsibility among them. His responsibility was clearly to process the remaining cadavers that will still be dug up. This briefing was conducted at the crime site upon arrival. When he arrived there, he saw the cadavers lying on the ground and those inside the vehicles were already processed. He also saw that photographs had already been taken. He saw that personal effects were gathered, and photographs taken. He saw empty shells and photographs being taken, and the vehicles that had bullet holes with photographs being taken.

The witness explained in detail the contents of the photographs he took on November 24 and 25, 2009.

During the re-direct examination on November 17, 2011, the witness clarified that the person operating the backhoe is not a member of the SOCO team. He was allowed or authorized to operate the backhoe even if he was not a member or part of the team because PNP does not have a backhoe operator. The backhoe operator was authorized by ground commander, P/Supt. Felicismo Khu.

He further explained that the personnel from the Philippine Army were inside the crime scene because they were assisting in lifting up the cadavers because he and his team were not able to dig and lift up the cadavers in order for the cadavers to be identified. Regional Chief Igmedio Garcia and the ground commander authorized the Philippine Army to help in digging up the cadavers.

According to the witness, they used the backhoe from Sultan Kudarat for no one from the local government unit of Maguindanao responded to help them. The cadavers were not brought inside body bags for they did not have any available cadaver bag or body bag issued by the PNP.

In the evening of November 23, 2009, they did not immediately proceed to the crime scene because they were waiting for security

personnel from ARMM Maguindanao. The Regional Director of PNP ARMM was P/Supt. Maguid. SOCO Region 12 made the tagging of the cadavers. From their team, it was PO1 Jowie Lebanan who made the tagging on the cadavers.

On re-cross examination on November 23, 2011, the witness clarified that it was their Regional Chief who asked the assistance of a heavy equipment from the LGU and no one acted. Witness does not have any document to prove this.

In one of the pictures, employees of a funeral parlor, were performing the activity even if the processing of evidence at the crime site, was still going on.

There are 14 Regional Crime Laboratories in the country with a minimum of 10 members, which could have been tapped for help in digging the grave site and carrying the cadavers instead of the members of the Philippine Army. The latter are not trained like the members of SOCO team for purposes of conducting the digging, as exemplified by an army personnel with a cigarette in his mouth while conducting the digging. They do not have any standard operating procedures in digging cadavers.

Testimony of SPO4 Alejandro P. Ubag

SPO4 ALEJANDRO P. UBAG[181] was presented on the witness stand on November 09, 2011. He testified that he was a sketcher assigned to the Crime Laboratory Office in ARMM since 1996. He prepared sketches at the crime scene that is to be used as evidence and description of location. He made more than 100 sketches already prior to November 2009.

In the Maguindanao massacre site, he prepared five (5) rough ***sketches (Exh. "(11) H-1" and sub-marking to "(11) H-5"; "(11) I")*** in connection with that SOCO operation, which he described in open court. Then, he prepared a ***final sketch (Exh. "11 J"),*** which he also explained in open court.

After preparing sketches, he submitted the same to the headquarters.

On cross-examination on November 09 and 10, 2011, the witness explained that the date stamped on the final sketch was the time that he started preparing it. He finished the final sketch on the computer on November 26, 2009. The information came from his personal knowledge, while the measurements and dimensions came from

[181] Witness SPO4 Alejandro P. Ubag testified on November 09 and 10, 2011.

the team measurer. The names of the victims had been verified with PO1 Lebanan.

The witness said that he alone had access to the computer he used to prepare the final sketch. He also made a list of the names of the cadavers but had thrown it away knowing that his SOCO team had a designated recorder.

On further cross examination, the witness admitted that there were elements in the final sketch that were absent from the five (5) rough sketches. He signed the final sketch without the signature of his superior officer or of the measurer of the team.

On re-direct examination on November 10, 2011, he confirmed that there really is a discrepancy in the positions of the cadavers because the rough sketch is only temporary so it could be adjusted when made final sketch because witness was there. There were also inaccuracies in the measurement of the grave sites.

On re-cross examination, he maintained that correct positions of all these victims are indicated in the final sketch, as witness had seen them in the crime site.

Testimony of PO1 Jowie Marie Lebanan

P01 JOWIE MARIE LEBANAN[182] testified on September 29, 2011, that in the afternoon of November 23, 2009, while at the Regional Crime Laboratory Office (RCLO) ARMM, she told Regional Chief (RC) P/Supt. Igmedio Garcia that there were rumors about an ambush which the latter denied.

When the television news reported the incident, they prepared for their assignment. Her team included P/Supt. Igmedio L. Garcia, PCI Tomas A. Dimaandal, PSI Alfredo Pacete, P/Insp. Aldrin F. Forro, P/Insp. Chester Nitron, SPO4 Alejandro Pubag, SPO3 Eriel G. Sanchez, PO2 Jester M. Togle, and PO1 Jasmal K. Sinarimbo. They were tasked to augment SOCO 12 for processing of the crime scene. En route thereto on November 24, 2009, they had to pass by the Maguindanao Police Provincial Office (PPO) as the crime site was their area of responsibility. As such, the team had to make a report or at least have the latter accompany them to the crime scene.

At Maguindanao PPO, Regional Chief (RC) P/Supt. Igmedio Garcia asked the OIC, the accused P/Supt. Sukarno Dicay for back-up. However, Dicay told them to wait for a while for their PNP. They did not see however,

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[182] Witness PO1 Jowie Marie Lebanan testified on September 29, 2011, October 05 and 06, 2011.

any PNP in the area, so the team waited. For his actuation, she noted that Dicay was passive with the request ("parang wala lang").

After 30 minutes, Dicay and his personnel told them that their back-up was in the market terminal in Poblacion, Shariff Aguak, Maguindanao. Thereafter, Dicay led them to the terminal where they waited for the back-up. During this time, she observed that the terminal had private vehicles instead of public vehicles. She took pictures of the scene showed in open court. The picture captured the vehicle of DRDO P/Supt. Macapantar, SPO3 Eriel G. Sanchez, P/Insp. Chester Nitron (fingerprint examiner), and guy with a cigarette from the CIDG ARMM. These pictures were taken through her camera phone.

Despite the fact that no back-up had arrived, per instruction of the OIC CIDG ARMM, P/Chief Insp. Honorico, the team proceeded to the crime site and arrived thereat at around 10:00 a.m. Those who joined them (SOCO ARMM) included the Philippine army, CIDG ARMM, and the SOCO 12. Meanwhile, Dicay was left in the cafeteria of the market terminal together with some senior police officers of PRO ARMM, that included Marohomsalik Macapantar and Alex Lineses, and some civilians.

As the assigned recorder, she took notes of the crime scene as a whole. These notes were contained in her ***field notes (Exh. "(11) F" to "(11) F-4")*** shown in open court. She also took ***pictures (Exh. "(11) F-20" to "(11) F-22").***

On October 05, 2011, the witness further testified that some parts of her field notes were sourced from her temporary field notes ***(Exh. "(11) F-5" to "(11) F-8")*** . Temporary field notes are called as such because the details, names and numbering of the items were not in sequence. These temporary field notes indicate signatures (of the victim's mother positively identifying her son), times and date, recovery of the bodies, and count of the number of victims.

On the second day, November 25, 2009, the witness converted these temporary field notes to the *Tabulated Field Notes* so that the entries therein were organized. Thereafter, the temporary notes were kept in her SOCO office. There were some erasures because the details came on different times. She detailed that gravesite number 1 had cadavers 1 to 22; gravesite 2 had cadavers 23 to 46; gravesite 3 had cadavers 53 to 57. There were also notations about the crushed vehicles recovered from the gravesite.

The witness also prepared a ***Spot Report (Exh. "(11) F-9" to "(11) F-12")*** and ***After Activity Report (Exh. "(11) F-13" to "(11) F-17")***. The Sport Report contained some entries sourced from the field notes – specifically the tabulated part. The SOCO ARMM Team (her team), recovered cadavers 53 to 57 in gravesite 3. They stopped at 57 since

they already saw the grass, which was not subject of excavation. Thus, they concluded the investigation on November 25, 2009. The day after, they headed back to RCLO ARMM.

In the office, the witness helped in the Spot Report and After Activity Report, recorded fingerprints, and other data. These matters conducted were in the ***Log Book (Exh. "(11) F-18") and Fax Message (Exh. "(11) F-19")*** for the conduct of SOCO. In one such fax message, there was a memo from the SOCO ARMM Team asking for back-up.

On cross examination on October 05, 2011, the witness testified that Dicay was wearing only a sando with a bolster (*sic*) in his body in the Maguindanao PPO but clarified that he was not aware that he was already placed in a restricted capacity, and that the head of the said PPO was a certain Police Officer Maguid. On the way to the market terminal, Dicay did not change his outfit despite the presence of high-ranking officers.

The witness claimed to have never reported or documented the passive attitude of Dicay. She also did not document that they waited at the terminal and waited for the back-up to no avail. She also admitted that there were variances between the temporary field notes and the tabulated field notes.

She had a tickler where the events, although unreported to her superiors, were jotted down. She did not bring the tickler in open court. Although she saw no back-up convoy, she admitted that there were persons in fatigue uniform aboard a police car, who went ahead of them.

On re-direct examination on October 06, 2011, the witness explained that there were variances between the temporary and tabulated field notes because new information arrived during the course of the processing. As for the details that she missed, that was the reason that she kept the temporary field notes. She also said that she was not aware of Dicay's restricted capacity because he acted like he was still the Provincial Director of Maguindanao PPO.

On re-cross examination, the witness said that although she was not the photographer, she can take pictures in order to aid her in the recording.

Testimony of SPO4 Jessie Garcia

On September 12, 2013, instead of presenting SPO4 JESSIE GARCIA, the parties[183] stipulated on the following, viz: **1)** that SPO4

[183] The prosecution and defense counsels, Attys. Philip Fortun, Manuel, Jr., Real and Marohombsar.

Garcia of the PNP Crime Laboratory, Region 12, was in the crime site conducting forensic investigation on December 01, 2009, **2)** he was called by SI Ronnie Rosero of the CHR to bag and tag pieces of evidence recovered by the CHR team on December 01, 2009, **3)** among the pieces of evidence that SPO4 Garcia had bagged and tagged for the CHR Team was what appears to be dentures (Exhibit "13 S"), **4)** said exhibit was turned over by SPO4 Garcia to SI Ronnie Rosero of CHR, **5)** the former is the person appearing in the photographs marked as Exhibits "(13) Q-1", "(13) Q-2", and "(13) Q-3".

Responders from the NBI

Testimony of Manuel M. Fayre, Jr.

On July 05, 2012, presented on the witness stand was MANUEL M. FAYRE, JR., who has been connected with the NBI for 12 years. In order to abbreviate the proceedings, both the prosecution and the defense counsels[184] entered into the following stipulations, viz: **1)** that the witness is a Supervising Agent, Executive officer for Administration of the NBI agent on November 23, 2009, **2)** He was one of the operatives ordered by Director Mantaring on said date to conduct an investigation involving the Maguindanao massacre, **3)** that prior thereto, witness was with the team from Manila together with the Medico legal who coordinated with Regional Office 12 headed by Regional Director Mantaring, **4)** On November 25, the operatives of the NBI proceeded to General Santos City to conduct investigation, **5)** that after coordinating with the Philippine Army, they proceeded to Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao, **6)** upon arrival at the place, the team witnessed the on-going retrieval operation being conducted by the SOCO, CIDG, PNP and some elements of the Phil. Army, **7)** during the ocular inspection, photographs were taken by the witness, **8)** that in the course of the investigation, the team was able to take the statements from the relatives of the victims, Jovelyn Duhay Villacastin and Noemi Parcon, **9)** the team was able to secure from Atty. Nena Santos the Complaint-Affidavit of Datu Esmael "Toto" Mangudadatu, the Joint Affidavit of Datu Ibrahim "Jong" Mangudadatu, Datu Freddie Mangudadatu and Datu Sajid "Dodong" Mangudadatu, **10)** while retrieval operation was still on-going, 52 cadavers were retrieved and 5 of whom remain unidentified, **11)** as a result of the investigation, the witness prepared the Initial Report dated November 25, 2009, **12)** on November 26, 2009, accused Datu Andal "Unsay" Ampatuan, Jr. was turned over by Sec. Dureza to the NBI, **13)** the witness together with the other NBI operatives executed a Joint Affidavit of Arrest dated November 26, 2009, which he can identify, affirm and confirm its due execution, and **14)** the witness will be able to identify accused Datu Unsay as the same accused

[184] Atty. Sigfrid Fortun, Atty. Manuel, Jr., Atty. Real, Atty. Golla, Jr., Atty. Lutella and Atty. Marohombsar.

in this case who was turned over by Sec. Dureza to the NBI on November 26, 2009.

The witness testified that in connection with these cases, he prepared on November 25, 2009 an Initial Report in The Farm, Koronadal City. He also exhibited in open court the ***pictures (Exhs. "A-7" to "A-49")*** he took on that day – from the case conference to the actual visit of the site.

Prior to the preparation of the report, they were tasked by Department of Justice Undersecretary Blancaflor to The Farm, wherein they met Sec. Devanadera, Chief Prosecutor Zuño, Usec Blancaflor and Atty. Nena Santos was also present. While they were in The Farm, they had a case conference relative to these cases and then they were shown by Atty. Nena Santos a video footage of the scene of the crime sometime taken on November 23, 2009.

The witness and the others inquired from Atty. Santos, as counsel of the Mangudadatus, the official statement of the family. Atty. Santos told them that everything has already been prepared, about the statement and she showed them the statement of Datu Toto and also his three (3) brothers. They were then asked by Sec. Devanadera to prepare their ***Initial Report (Exh. "A")*** for her consumption and for the consumption of GMA. After the preparation, they left the place and retired for the night.

On November 26, 2009, the witness and his companions proceeded to General Santos City per order of the NBI Director. Upon arrival thereat, Director Mantaring, Director Ed Villarta, and Director Manapsal, Chief of General Santos City, were already there. All of them had a conference. Their Director asked them what already happened to their investigation and they told him that as of that date, they only secured two (2) statements from the Mangudadatus although they already had taken statements of other immediate family members of the victims when they were still in Koronadal. After the conference, they were to immediately proceed to General Santos City Airport because Sec. Dureza will be bringing with him Datu Unsay.

The witness also testified that at noon of November 26, 2009, Secretary Dureza arrived at General Santos Airport with Datu Unsay using a military helicopter. The two (2) arrived with Atty. Sayadi and Datu Saudi Ampatuan. Sec. Dureza turned over the living person of Mayor Unsay to Sec. Devanadera who in turn ordered their Director then Atty. Nestor Mantaring to place Datu Unsay under arrest. Atty. Mantaring ordered their team leader, Ric Diaz, to effect the arrest after reading his constitutional rights. Diaz effected the arrest, he told them to prepare the necessary documents for the inquest proceedings.

Thereafter, they prepared their inquest documents: statements of the Mangudadatu brothers and the Joint Affidavit of the Mangudadatu brothers, the temporary autopsy report of the Medico Legal of NBI, and their initial report. Then they prepared the ***Joint Affidavit of Arrest (Exhs. "A-1")*** executed by five (5) members of their group and at the same time the inquest transmittal letter to the DOJ Panel of Prosecutors.

Since the inquest proceedings cannot proceed right away because they were still waiting for Atty. Fortun's arrival, they waited for him and when they arrived, the Inquest proceedings took place right away. Atty. Fortun arrived around 3:00 p.m. Before his arrival, there were so many people in the airport but the family of the victims, especially Datu Toto and his brothers Ibrahim, Freddie and Sajid, arrived there in General Santos Airport. After the arrival of Atty. Fortun, he talked to his client and the panel of prosecution, the Inquest proceedings took place after at the VIP Lounge, General Santos Airport.

After the Inquest, they brought Datu Unsay to Manila on the same day. At around 7:00 p.m., they arrived in Manila. They then proceeded to the Head Office at NBI, Taft Avenue, Manila. The witness thereafter identified the photos appended to his Initial Report.

On cross examination, the witness explained in detail the aforesaid pictures. He also said that the bases of the Initial Report were the materials that he gathered from the NBI Regional Office, and those that he investigated on his own and the affidavits which he obtained from the Mangudadatus. The list of 52 cadavers and five (5) unidentified remains were taken from the funeral parlors where the bodies were brought. Some of the names came from reconciling the list of names that they acquired from the funeral parlors and the list from the PNP. Witness believed that although not under oath, these were all correct, since he would make the submission before his superiors.

According to the witness, the NBI did not conduct any manhunt operation to look for Datu Unsay. He affirmed that during the turnover of the accused, Atty. Diaz read to Datu Unsay his constitutional rights.

At the time Datu Unsay was arrested, witness did not see him committing an offense or had just committed an offense or a prisoner who had escaped from a penal establishment or a place where he was serving final judgment. At the time he was put under arrest, there was no complaint filed against him. He does not know if at the time he was put under arrest whether the arrest was lawful or whether he voluntarily surrendered.

The witness recalls that there was a panel of prosecutors in a long table in the VIP lounge. There were about five (5) prosecutors there all

from General Santos City in Koronadal. It was only at that point that Datu Toto and his brothers submitted their affidavits. Witness saw these complainants take their oath in respect to the execution of the Joint Affidavit and solo affidavit. This is also the reason why the rubber stamp imprint on the last page of each of these affidavits bear the marking November 26 and signed by Provincial Prosecutor Jamora of General Santos City.

The witness admitted that he did not correct the date of his report from November 25, 2009 to November 26, 2009 even if he incorporated the statements found in the affidavit of Datu Toto executed on the latter date.

He revealed that aside from the Initial Report, they also have a final report. The final report was not submitted as it was internal for the NBI, not for the Court's consumption.

On re-direct examination, the witness said that since their complete set of inquest documents were all turned over to the prosecuting panel during the inquest, they expected that it should have been already incorporated with the documents the prosecutors have today.

On re-cross examination, the said that he does not have the transmittal letter of the inquest documents signed by Atty. Nuguid.

Testimony of Atty. Ricardo Diaz

ATTY. RICARDO DIAZ, JR. took the witness stand on January 05, 2010. He testified that he worked as Director II, Chief of the Counter Terrorism Unit of the National Bureau of Investigation (NBI). He recalled that on November 25, 2009, the NBI Director sent him to Maguindanao to help in the investigation and to provide forensic assistance in the Maguindanao Massacre case.

The witness gathered the following pieces of evidence, viz: medico-legal documents, autopsies, pictures with video footage, and five affidavits of witnesses, ***Joint Affidavit (Exh. A-1)***. These five affidavits are as follows: (1) Joint Affidavit of Arrest of Special Agents Manuel Fayre, Jr., Madrino de Jesus, Ariel Jonathan Contreras, SRA Czar Eric Nuqui, and Agent Eduardo Ramos, Jr.

While the witness was on the stand, the parties stipulated on the existence of the following documents collected by their team: the ***Complaint-Affidavit of Datu Esmael "Toto" Gaguil Mangudadatu subscribed on November 28, 2009 (Exh. "A-2"); Affidavit of Basil T. Laguia subscribed on November 28, 2009 (Exh. "A-3"); Joint Affidavit of Datu Ibrahim "Jong" G. Mangudadatu, Datu Freddie***

"Ogie G. Mangudadatu and Datu Zajid "Dodong" G. Mangudadatu subscribed on November 28, 2009 (Exh. "A-5"); and Affidavit of Judge Mamasalang subscribed on November 26, 2009 (Exh. "A-6").

The witness narrated that in the afternoon of November 26, 2009, accused Datu Unsay arrived at the General Santos City Airport with Secretary Dureza. The latter presented the former to DOJ Secretary Devanadera. Thereafter, he and the other NBI agents effected his arrest.

At 3:00 p.m., Datu Unsay's counsel arrived. Inquest proceedings then ensued for an hour. At 7:00 p.m., Datu Unsay was brought to the NBI office in Manila, where he was booked and fingerprinted.

After the arrest of the accused, he continued to investigate. His investigation resulted to the submission to the Secretary of Justice of the December 11, 2009 ***Referral Letter (Exh. "B")*** containing 21 additional ***affidavits (Exhs. "B-1" to "B-21", including Exhs. "B-3-A", and "B-7-A")***. He particularly supervised the taking of sworn statements of four witnesses: Vice Mayor Rasul Sangki, Kenny Dalandag, Noh Aquil (the Barangay Kagawad), and Salhar Birwar (the Barangay Chairperson). The then counsel of the accused stipulated on the existence of the 21 additional affidavits which were submitted to the witness by their agents in Koronadal and some were taken by the CIDG, executed by the following, viz: Esmael "Toto" Mangudadatu, Rasul Sangki y Mabang, Kenny Dalagdag, Noh Aquil y Sapal, Salha Birwar, Bukah Sakilan Ali, Zaldy Raymundo, Eloy Sisay, Efren Macanas, Sr., Pedro Fudolig, Jesus Pelein, Rolly Stephen Gempesao, Jimmy Coronel, Emilio Isita, Cpl. Michael Roy Dulce, Primar Areola, Ramonita Salaysay, Dodi Tagabunlang Lupogan, and Gemma Palabrica.

Testimony of Elmer Nelson Piedad

ELMER NELSON PIEDAD[185] took the witness stand on March 31, and April 06, 2011. After his qualifications had been explained, the Court considered him as an expert in the field of ballistics. He testified as to the procedures and chain of custody observed in conducting ballistics examination.

According to the witness, in 2009, he received in his office the Request of Medico-legal officers Dr. Ricardo Rodaje, Dr. Reynaldo Romero and Dr. Ruperto Sombilon to conduct ballistic examination on the fragments and slugs recovered from the **cadaver of victims Genalin Mangudadatu, Gina dela Cruz, Marife Cordova, Marites Cablitas, Bai Eden Mangudadatu, Lailani Balayman, Rosell Morales, and Bienvenido Legarta.** The purpose of the ballistic examination is to

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[185] Witness Elmer Nelson Piedad testified on March 31, 2011 and April 06, 2011.

determine the caliber and type of firearm from which the evidence bullets were fired, and whether the bullets were fired from one gun.

Thereafter, he checked the specimens cited in the Request, examined the bullets, and labeled them accordingly. The findings are found in his ***Findings and Conclusions (Exhs. "Nona W" to "Nona W-7").***

Save for three badly deformed bullets, his examination revealed that most of the slugs from the 10 victims were 5.56mm copper jacketed bullets, which were fired from a 5.56mm firearm with riflings twisting to the right. A 5.56mm caliber is an armalite type of firearm different from a shotgun and M-14 firearm.

No cross examination was conducted by the respective counsels of the accused.[186]

Testimony of Antonio F. Estabillo

ANTONIO F. ESTABILLO, JR. took the witness stand on October 25, 2012. By way of stipulation, he testified that he was a government photographer at the Photography and Publication Division of the NBI since 1990. Specific to the instant crimes, he took pictures of the examination of the cell phone on October 27, 2011.

He was likewise present on November 03, 2011 and he, together with Mr. Panlaqui, was instructed by Agent Paruli to take pictures of the cellphone, which was the same as the one emanating from Gemma Oquendo and marked as Exhibit UUUUUU. During this examination, members of the NBI Team, Atty. Paruli, Sherwin Uy, DOJ representatives, ASP Grace Ruiz, Atty. Gemma Oquendo, Paula Garcia and a lady companion of Atty. Gemma Oquendo were present.

He captured 58 shots, consisting of 26 messages and two (2) shots front and back of the phone in the presence of the NBI team and the DOJ. These representatives requested for copies of the picture.

After he took the pictures, he submitted the rolls of film to the Printing Section in the Photography & Publication Division. Then, he gave 30 copies to Atty. Gemma Oquendo and Atty. Paruli. Afterwards, he returned to his office and turned over the negatives and Request form to the records custodian. He can identify these 30 pictures taken during the examination of Atty. Cynthia Oquendo's phone on November 03, 2011.

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[186] Atty. Philip Fortun, Atty. Paris Real, Atty. Andres Manuel, Jr., Atty. Laguindab Marohombsar and Atty. Marlon Pagaduan.

Testimony of Jed Sherwin Uy

When presented on the witness stand on October 24, 2012, JED SHERWIN UY testified that he worked as the Computer Forensic Analyst of the NBI who extracted data from Atty. Cynthia Oquendo's phone and SIM card. Since 2009, he has been the computer forensic analyst of the NBI tasked to examine desktop, laptops, servers, cell phones and storage devices.

The witness narrated that on October 27, 2011, he received a ***letter request (Exh. "Sextuple W-8")*** from the Secretary of Justice to extract or transcribe text messages and call logs stored on the subject cellphone. Together with the letter of the Secretary was the plastic pouch containing the cellphone. In examining the same, he was also assisted by a photographer and videographer, who were Mr. Estabilo and Mr. Panlaqui respectively. His findings were contained in his ***Investigative Notes (Exh. "Sextuple W-9" and "Sextuple W-10")***.

He first physically examined the phone and, in the course, thereof, noted the following: there was an "IMEI" mark at the back of the phone, there was a Talk N Text SIM Card 0307082177146541 MIU 0203, the phone was a Sony Ericsson P1i colored silver with detached black sidings. It has a qwerty keypad. It has these identifying marks: SN: CB5A0PE44V and 35703301775592-7.

Then, he connected the phone to the forensic computer, but he was only able to get from the SIM details such as make, model, the IMEI, software version, resolution, serial number and IMSI. He was not able to extract the text messages and call logs. The screen only yielded "connector not running error." As a result, the NBI decided to seek help from the US Homeland Security Investigation.

On November 03, 2011, NBI resumed investigation. Specifically, it took photographs of the text messages which were received and sent on November 23, 2009. The photos were taken in order to preserve the text messages in case the equipment coming from the USA will not push thru. These photos were taken by Mr. Estabillo, the official photographer of the NBI, under the supervision of Mr. Uy. The taking of pictures was witnessed by representatives from the DOJ (Pros. Grace Ruiz, Atty. Gemma Oquendo, and Ms. Paula Garcia) and the NBI Team (Agent Paruli, Jed Sherwin Uy, Mr. Estabillo and Mr. Panlaqui). All in all, 30 photos were taken – including the contacts "AO" and "honeykoks."

On December 05, 2011, representatives from the US Homeland Security Investigation arrived with the equipment – the Universal Forensic Extraction Device Cellebrite. Using the said device operated by him, they were able to extract the text messages. Afterwards, the data was stored

in a ***USB flash drive (Exh. "Sextuple W-11")***, and printed into two hard copies.

Text messages were sent to "AO" under cell number 09194260989. The message at 10:39 a.m. was: *"Christian grtngs! no: Kidnap mi with tatay, dahan mo, pls advise client ampatuan. Tama na, pls, we myt get killed they r firing. pls. send to tom."* The message at 10:42 a.m. was: *"tru nt jok. pls."* The message at 10:58 a.m. was: *"loc. Nlf hq nascom 12. pls."* The message at 11:14 a.m. was: *"Mnlf hq 12 sh aguak daghan na patay. dadulo mi. igna tom."*

Text messages were received from "AO" under cell number +639194260989. The message at 10:56 a.m. was: *"Asa location nyo?"* An incoming phone call was received from "AO" at 10:47 a.m., and 11:09 in the morning. Outgoing phone calls were made to "AO" at 11:11 a.m.

They were also able to extract missed calls, images, and phone contacts. After obtaining these data, he sealed the USB flash disk containing the soft copy of the report with a yellow sticker affixed with his signature. During this time, the following persons were present: DOJ representatives (Pros. Grace Ruiz, Atty. Gemma Oquendo, Ms. Paula Garcia); NBI Team (Agent Paruli, himself, Mr. Joseph David the videographer); and Homeland Security Agents (Asst. Eric McLaughlin and Special Agent Leonard Mancuso).

On cross-examination*,* the witness maintained that he did not write Investigative Notes or take videos of the proceedings while he took pictures of the messages on November 03, 2011. He used MOBILedit Forensic and UFED Cellebrite to extract the messages. The latter's license expired, while the former was incompatible with a Sony Ericsson P1i phone. Thus, they had to seek assistance from the US Homeland Security.

Among those who signed the documents were Atty. Abdul Dimaporo (agent at the Desk Investigation Division of the NBI), Edgar Panlaqui (Photography Division), Antonio Estabillo, Jr. (Photography Division), Migdonio Congzon (Head Agent and Chief of the Computer Crimes Unit) and Palmer U. Mallari (Chief of the Technical Division).

In explaining the chain of custody of the evidence, the witness narrated that on October 27, 2011, at 3:00 p.m., the pouch containing the cellphone was given to him by Pros. Grace Ruiz with a yellow marking on a piece of paper. He was briefed then that the phone could be used as evidence in this case and that the phone was recovered from the body of one of the victims; and it was soaked with blood at the time it was recovered. He did not sign any acknowledgment receipt. On the same day, he returned the items to Pros. Ruiz and Atty. Oquendo. He had them sign his Investigative Notes as proof that he returned the items, and to prove that they witnessed the proceeding. He also did not have Pros.

Ruiz and Atty. Oquendo sign an acknowledgment receipt of the Investigative Notes.

According to the witness, the pouch was something that can be opened without having to break the container. When he opened the pouch on December 05, 2011, he did not have to break the container as well. And in between these periods, he did not know who handled the cellphone. He likewise returned the phone on December 05, 2011, but it was already placed together with a USB inside the plastic container.

He failed to ask Pros. Ruiz to sign any receipt for the USB flash drive. There are also other matters that transpired on October 27, 2011 and December 05, 2011 that he did not write in his Investigative Notes (i.e. that he received the phone, and that he removed and reinserted the SIM and battery of the phone).

Despite seeing on October 27, 2011 the marking "Exhibit UUUUUU", and inferring that the evidence was already in court, he still examined the phone without the presence of any court personnel. There was also no court personnel on December 05, 2011. Despite that the phone was extracted on November 23, 2009, its battery was charged when it was examined on October 27, 2011. He also did not coordinate the extraction with representative from Sony Ericsson and Talk n' Text.

On re-direct examination, the witness clarified that any person can do the extractions from downloadable programs from CD suites and from the internet. Although he would not know whether the contents of the phone were deleted or manipulated when he received the same from Pros. Ruiz, the contents were nevertheless secured by the Hash Value generated in the extraction report. These hash values reflect an algorithm that changes in case there is an insertion of data. Thus, the hash value proves the integrity of the data extracted.

Responders from the CHR

Testimony of Ronnie Rosero

RONNIE ROSERO[187] took the witness stand on August 14, 2013. He testified that he was a Special Investigator III of the CHR and had worked thereat for the past 25 years as Special Investigator, assigned at CHR-National Capital Region. He is currently assigned as the officer-in-charge of the Assistance and Witness Protection Division of the CHR.

On November 23, 2009, he was part of the team that conducted a fact-finding investigation in the Maguindanao Massacre, as ordered by Chairperson Leila de Lima for the purpose of determining whether human

[187] He testified on August 14, 2013, September 11 and 18, 2013.

rights violations were committed against the victims. The team was composed of the witness. Dr. Jay Jimenez, and Special Investigator Marlon Poblador. They formally started the investigation on November 25, 2009 and ended on December 06, 2009.

On December 01, 2009, his fact-finding mission began in Sitio Masalay, Salman, Ampatuan, Maguindanao. On that day, they started at 10 a.m. and he was joined by the following team members: Dr. Jimenez, SI Marlon Poblador, two (2) forensic experts (Dr. Jose Pablo Baraybar who was the Director of the Columbian Anthropologists; and Mr. Christopher Cobb-Smith); SOCO Region 12 members; CHR investigators; lawyers; NGO; Center International Law members. The members of the SOCO were there for the proper disposition of physical evidence that might be recovered in the crime scene.

After referring to his report, the witness further testified that the following objects were retrieved in the crime site: two (2) SIM card cases, two (2) live ammos of 5.56mm, one (1) slug of 5.56mm, 17 empty shells of M16, one (1) belt buckle, one (1) eyeglass frame and one (1) set of ***dentures (Exh. "(13) S")***.

He and Atty. Risalyn Esnani found the dentures sprinkled with dirt in the upper portion of the massacre site. He then made a ***sketch (Exh. "(13) P")*** in open court of the location where he found the denture. Thereafter, he placed a marking beside the denture and labeled it as "Massacre CHR Fact Finding Mission."

Dr. Jimenez took the ***dentures' photographs (Exh. "(13) Q, Q-1, Q-2, Q-3"***, using his own camera, under the supervision of the witness. Then, for proper processing of the evidence, they called the attention of the SOCO that he found a piece of denture.

Subsequently, they conducted the proper measurement of the evidence and placed the denture in a brown envelope; marked, and then sealed it. SPO4 Jesse Garcia from SOCO Region 12 bagged, marked and sealed the evidence. As proof, the latter took photographs while he was processing the evidence. All of these were done under his direction.

After the bagging of the evidence, the denture was personally delivered to him upon the advice of the forensic expert to be shown later to the relatives of the victims. The denture was then given to Dr. Jay Jimenez, a member of the CHR team as he will establish the ownership of the dentures.

The ***Investigation Reports (Exhs. "(13) R"*** **and** ***"(13) T")*** were reduced into writing.

The denture was exhibited in open court. As described by the Assisting Interpreter of the Court: "the denture presented by the witness appears to be a denture of upper mandible part with 4 complete incisors with a gap on its immediate left and another false tooth next to it. There is a stainless wire bracket at the right side thereof. The denture is set on a pink material which appears to be stained with black specks scattered thereon. The teeth appear to be generally white with yellowish tinge."

When cross-examined on September 11, 2013, the witness affirmed that he did not find any cadaver of victim Reynaldo Momay in the site. He was also not aware whether the SOCO made a report regarding the dentures that he (his CHR team) turned over to them.

His after-mission report did not include the following items he recovered from the grave site: hair clippings, film negatives, and ID of Ernie Ibañez. He simply focused on the dentures, upon expert's advise that it has remarkable value. No person from his office tried to locate the person of Ernie Ibañez. His testimony before the Court also contained matters inconsistent with his After-mission report.

Aside from his bare statement, the witness admitted that he has no proof that his After-mission report was received by the CHR. There were other persons, who do not have any relation at all to the processing of the crime, who were present in the grave sites, i.e. there were AFP and CAFGU who, after arriving first at the site, contaminated it. He did not check whether the people in the grave site, or those who were present before in the site, had dentures themselves.

Despite having made several investigations, it was only on December 01, 2009 that they saw the dentures. Aside from a picture, he did not have any evidence that he turned over the denture to the SOCO, i.e. he did not have a blotter. The witness also stated that there are disparities in the pictures.

On re-direct examination on September 11 and 18, 2013, the witness testified that he did not turn over the dentures to the SOCO upon the advice of forensic experts that such would be very useful in identifying unidentified victims as there were cadavers who were still unidentified.

On re-cross examination on September 18, 2013, the witness testified that despite thorough efforts, they failed in finding the body of Momay. He also has not seen any report made by the two foreign experts commissioned by the CHR. The ID card recovered in the crime site was not included in his reports.

Testimony of Dr. Joseph Andrew T. Jimenez

DR. JOSEPH ANDREW T. JIMENEZ took the witness stand on August 14, 2013. The parties stipulated on his testimony that he worked as a Medico-Legal Officer IV of the CHR, who was part of its fact-finding team that conducted investigation immediately after the Maguindanao massacre on November 23, 2009. Thereafter, the witness prepared his After-mission Report.

According to the witness, on December 02, 2009, they proceeded to the house of Reynaldo Momay where they met his daughter Reynafe Castillo, his live-in partner Marivic Bilbao, and the person who made his dentures, Mr. Patricio Abellar. The latter examined the dentures and told him that he indeed made it for Mr. Momay in 2008. Miss Bilbao also manually examined it and declared that it belonged to Mr. Momay.

After their investigation in Maguindanao, the dentures were left to the custody of their Regional Office in Cotabato; particularly, the Officer-in-Charge of Region 12, Atty. Christina Haw-Tay Jovero.

The dentures stayed in the custody of CHR-12 Office until June 04, 2013 when Atty. Christina Jovero personally transmitted it and turned the custody over to the Forensic Office of the Commission on Human Rights in Manila on June 04, 2013, which the CHR, Manila Office received on June 05, 2013 based on the Memorandum signed by Atty. Jovero with the subject "Unearthed Remains from Maguindanao massacre site. The Memorandum actually turned over two items: Identification Card of a certain Ernie Ibañez, which appears to be an Iglesia Ni Kristo identification and one (1) set of dentures.

The exhibit which had been marked as Exhibit "(13) S" contained in a plastic container with a brown bag is the same material as the dentures transmitted to the CHR, Manila Office on June 05, 2013. This was exhibited in open court.

Testimony of Atty. Christina Haw-Tay Jovero

ATTY. CHRISTINA HAW-TAY JOVERO took the witness stand on August 14, 2013. The parties stipulated on her testimony that she was the Officer-in-Charge of CHR, Regional Sub-office, Cotabato City. In that capacity, she and her administrative officer alone had access to the steel cabinet that stored the dentures allegedly owned by victim Richard Momay.

The set of dentures stayed in the custody of CHR-12 Office until Atty. Christina Jovero personally transmitted it and turned the custody over to the Forensic Office of the Commission on Human Rights in Manila on June 04, 2013, which the CHR, Manila Office received on June 05,

2013 based on the ***Memorandum (Exh. "(13) U")*** signed by Atty. Christina Haw-Tay Jovero with the subject "Unearthed Remains from Maguindanao massacre site. The Memorandum actually turned over two (2) items: Identification Card of a certain Ernie Ibañez, which appears to be an Iglesia Ni Kristo identification and one (1) set of dentures.

The exhibit which had been marked as Exhibit "(13) S" contained in a plastic container with a brown bag is the same material as the dentures transmitted to the CHR, Manila Office on June 05, 2013. This was exhibited in open court.

Medico-Legal Officers

Testimony of P/C Insp. Dr. Raymond B. Cabling

When first presented on the witness stand on March 16, 2011, P/C INSP. DR. RAYMOND B. CABLING[188] testified that at present, he is the Provincial Chief of Saranggani Provincial Crime Laboratory Office and a Medico-legal Officer of Region 12. He conducted eight (8) autopsies on the bodies recovered from Sitio Masalay. After hearing his qualifications, to which he was interpellated, the court considered him as an expert witness.[189]

He further testified that he is also a member of the SOCO of Region 12 that processed the crime scene. In the afternoon of November 23, 2009, while at the Regional Crime Laboratory Office, his Regional Chief Pamfilo Regis received a directive contained in a ***Memorandum from the Directorate for Integrated Police Operations (Exh. "Quntuple T-1-A").*** Thereafter, they proceeded to the crime scene; but they first stopped by the 61st Infantry Brigade for their security composed of army soldiers in a small truck. They also passed by the Provincial Crime Laboratory Office to get additional personnel. To depict the scene of the crime, the witness took photos ***(Exhs. "Quintuple T-2" to "Quintuple T-8" and sub-markings, and "Quintuple T-35" and sub-markings, "Quintuple T-9" to "Quintuple T-24" and sub-markings, "Quintuple T-29", "Quintuple T-30", and "Quintuple T-34", "Quintuple T-25" to "Quintuple T-28", "Quintuple T-31" to "Quintuple T-33", "Quintuple T-36" to "Quintuple T-39", and "Quintuple T-43-45", "Quintuple T-40", "Quintuple T-41" to "Quintuple T-42", "Quintuple T-46" to "Quintuple T-52" and sub-markings, "Quintuple T-53" to "Quintuple T-58" and sub-markings, "Quintuple T-59" to "Quintuple T-70" and sub-marking, "Quintuple T-71" to "Quintuple T-98" and sub-marking, "Quintuple T-99" to "Quintuple T-129")***. The pictures, and their corresponding explanations, were presented: rough road, backhoe,

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[188] Witness P/C Insp. Dr. Raymond Cabling testified on March 16 to 17, 2011, May 04 to 05, 2011, and May 11, 2011.
[189] TSN, March 16, 2011, p. 41.

excavation, vehicles, dead bodies, close-up shots of wounds and extremities, splatters, etc. The veracity of these photos were tested through cross and re-direct examinations. From the crime scene, he conducted eight autopsies at Collado Funeral Morgue, Tacurong City. He started the autopsies in the evening of November 24, 2009.

The victim Andres Teodoro sustained 14 gunshot wounds. The wounds were ante-mortem, five of which were fatal. The wounds were in his chest region and lower back. The witness opined that based on the extent of the injuries, high powered firearms were used. The documentation of his examination included the following: ***Autopsy Report (Exh. "NN") Anatomical Sketch (Exh. "NN-3" to "NN-5"), and Consent for Autopsy (Exh. "NN-2"); as well as photographs (Exhs. "Sextuple Y-278 Teodoro" to "Sextuple Y-279 Teodoro").***

The victim Abdillah Ayada sustained seven (7) ante-mortem gunshot wounds; three of which were fatal. The wounds were located in the head and trunk. Given the nature of the wounds, the witness assessed that the victim was attacked from the back or side. The wounds were caused by high powered firearms. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "OO") Anatomical Sketch (Exh. "OO-3" to "OO-5"), and Consent for Autopsy (Exh. "OO-2").***

The victim Wilhelm S. Palabrica sustained eight (8) ante-mortem gunshot wounds; three of which were fatal. The wounds were under his head and neck, trunk, and extremities. One of the wounds had an avulsion, which meant that a bone was fractured and taken off from the skull. According to the witness, the victim was shot from behind or from his side. Based on their extent, the wounds were caused by a high powered firearm. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "PP") Anatomical Sketch (Exh. "PP-3" to "PP-5"), and Consent for Autopsy (Exh. "PP-2"); as well as photographs (Exhs. "Sextuple Y-280 (W. Palabrica)").***

The victim John Caniban suffered from eight (8) ante-mortem gunshot wounds; four of which were fatal. The wounds were under his head and neck, and mostly in his trunk and extremities. According to the witness, the witness was shot from behind or from his side. At times, the victim may have been rolling or was lying down while being shot. Based on their extent, the wounds were caused by a high-powered firearm. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "RR") Anatomical Sketch (Exh. "RR-3" to "RR-5"), and Consent for Autopsy and Certification of Identification (Exh. "RR-2"); as well as photographs (Exhs. "Sextuple Y-281 (Caniban)").***

The victim Mercy Palabrica sustained 10 ante-mortem gunshot wounds; four of which were fatal. The wounds were under her head and neck, and mostly in her trunk and extremities. According to the witness, the witness was shot from various positions: from the back, while rolling or lying down, and while the assailant was in front of her. Based on their extent, the wounds were caused by a high-powered firearm. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "SS") Anatomical Sketch (Exh. "SS-3" to "SS-5"), Certificate of Identification (Exh. "SS-2"), Memorandum Requesting Ballistic Examination (Exh. "SS-6"), Memorandum for Turn-Over of Evidence (Exh. "SS-7"); as well as photographs (Exhs. "Sextuple Y-282 (M. Palabrica)" and "Sextuple Y-283 (M. Palabrica)").***

The victim Eduardo Lechonsito suffered from eight (8) ante-mortem gunshot wounds; one of which was fatal. The fatal wound was a head shot that the victim sustained from his left side and caused by a high-powered firearm. The gunshot wound was extensive, and it fractured the mandible or jaw of the victim. The witness also found soot or unburnt gunpowder, which signified that the attack was made in a near distance: it could have been inflicted less than 10 mm. from the victim. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "TTT") Anatomical Sketch (Exh. "TTT-3" to "TTT-5"), Consent for Autopsy and Certificate of Identification (Exh. "TTT-2"), and Memorandum Requesting Ballistic Examination (Exh. "TTT-6"); as well as photographs (Exhs. "Sextuple Y-284" & "Sextuple Y-285 (Lechonsito)" and sub-marking).***

The victim Fernando Razon sustained 10 ante-mortem gunshot wounds; one of which was fatal. The fatal wound was in the head that the victim sustained while the assailant was in front of the victim. Based on their extent, the wounds were caused by a high-powered firearm. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "VVV") Anatomical Sketch (Exh. "VVV-3" to "VVV-5"), Consent for Autopsy and Certificate of Identification (Exh. "VVV-2"), and Memorandum Requesting Ballistic Examination (Exh. "VVV-6"); as well as photographs (Exhs. "Sextuple Y-286 (F. Razon)").***

The victim Daryll Vincent delos Reyes suffered from six (6) ante-mortem gunshot wounds; two (2) of which were fatal. The fatal wounds were found in his trunk and extremities. At the time that he was shot, the muzzle of the gun could be somewhere at one side of the victim but on the lower part of the victim. The firearm used, according to the witness, was a high powered one. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "XXX") Anatomical Sketch (Exh. "XXX-2" to "XXX-4"), Consent for Autopsy and Certificate of Identification (Exh. "TTT-2"), and***

Memorandum Requesting Ballistic Examination (Exh. "TTT-6"); as well as photographs (Exhs. "Sextuple Y-287 (Delos Reyes)").

When cross-examined on May 05 and 11, 2011, the witness testified that he used his personal camera to take all 129 photographs, which he shot himself. These photos were integrated in the SOCO report. He was only able to photograph 46 out of the 57 cadavers because he had to perform an autopsy.

As basis of confirming the identification of the victims, they held a personal viewing and asked for identification cards. Their team did not take fingerprints. He did not take personal notes of the crime scene but only took photos. The witness admitted that from November 24 to 26, 2009, he had a hectic schedule, and barely slept, which circumstances may account for some of the typographical errors in his reports.

The witness maintained that he did not: know the sequence of the gunshot wounds as sustained by the victims; know whether the firearms had silencers, automatic or semi-automatic; use x-rays and microscopes; examine the victims' hands to check whether they discharged firearms themselves, or check signs of struggle; utilize PNP/NBI/military assistants but only asked the aid of at least five assistants (embalmers) from the funeral parlor; disinfect the cadavers nor put them in coffins; they were just placed on the ground; have any idea whether the team secured exhumation permits, exhumation court order, exhumation consent; or prepared exhumation reports; collect official IDs or DNA specimen in order to have proof that the relatives were indeed related to the cadavers. He only remembered seeing cedulas; have any documentation to determine where the clothings of the cadavers went; indicate in the medico-legal reports that there were blood/body fluids from the cadavers.

The witness also admitted that there were typographical errors in his reports and discrepancies in his certificates. Even though there were two other photographers in the team, he still took pictures to complement the SOCO members given the magnitude of the crime scene.

On re-direct examination conducted on even date, the witness maintained that his misgivings and omissions in terms of procedure do not affect the cause of death for all eight (8) cadavers: multiple gunshot wounds.

Testimony of P/C Insp. Dr. Dean C. Cabrera

P/C INSP. DR. DEAN C. CABRERA[190] was presented on the witness stand on December 02, 08, 09, 15, 16, 2010 and January 13, 2011. He testified that he is a Medico-legal Officer at the PNP Crime

[190] Witness P/C Insp. Dean C. Cabrera testified on December 02, 08, 09, 15, and 16, 2010; January 13, 19, and 20, 2011.

Laboratory, who conducted 12 autopsies on the bodies recovered from Sitio Masalay. After hearing his qualifications, the Court considered him as an expert witness.[191]

On November 25, 2009, he was at Subere Funeral Homes, Koronadal City. He was briefed by Dr. Cabling to conduct autopsy based on the ***Memorandum (Exh. "Quintuple T-1")*** addressed to the Medico Legal Section of RCLO-12. He matched his assignment with the list handed by Dr. Cabling with the cadavers in the funeral parlor. Before he started each of the examinations, he asked for identification and consent from the relatives of the deceased. After verifying the identity, he personally took pictures of the cadavers. Then, he went ahead with the external examination, followed by the internal examination.

According to the witness, the victim Francisco Ian Subang, Jr. sustained 18 injuries, most of which were from gunshot wounds (GSW) at the head, thorax, and abdomen. He depicted that the assailant who were possibly two or more were behind the victim, when the latter was killed. There were wounds depicting that the victim had already fallen on the ground face down at the time of the shots. He documented his findings in his ***Medico-Legal Report (Exh. "V V"),*** **and** ***Anatomical Sketches (Exh. "V V-4").*** He also identified the ***autopsy pictures (Exhs. "Sextuple Y-1-F. Subang", "Sextuple Y-1b" and "Y-2a", "Sextuple Y-9a", "Sextuple Y-6a to Y-6b" and "Y-7a", "Sextuple Y-8a",*** **and** ***"Sextuple Y-17", et sequentia).***

The victim Noel Decena sustained 14 GSWs in the trunk and extremities. The witness described that there were two or more assailants, who may either be at the front or back of the victim. He documented his findings in his ***Medico-Legal Report (Exh. "WW"),*** **and** ***Anatomical Sketches (Exh. "WW-5").*** He also presented the ***Consent for Autopsy of the victim (Exh. "WW-4"),*** and identified the ***autopsy pictures (Exhs. "Sextuple Y-21-N. Decena", et sequentia; "Sextuple Y-29a", "Sextuple Y-21a, Y-22a, 23a, 23b, 24a and Y-26a",*** **and** ***"Sextuple Y-31 N. Decena", et sequentia).***

The victim Rahima Palawan sustained four (4) GSWs in the trunk with two or more assailants. The witness also conducted a genital examination on the victim which yielded **positive for the presence of semen.** This leads to the conclusion that there was sexual abuse or sexual contact. He documented his findings in his ***Medico-Legal Report (Exh. "YY"), Anatomical Sketches (Exh. "YY-6"), and Seminal Examination Reports (Exhs. "YY-4" and "YY-5".*** He also presented the ***Consent for Autopsy of the victim (Exh. "YY-3"),*** and identified the ***autopsy pictures (Exhs. "Sextuple Y-34-R. Palawan", et***

[191] TSN, December 2, 2010, p. 125.

sequentia, "Sextuple Y-41a, Y-49a, Y-50a and Y-51a"; "Sextuple Y-35"; and "Sextuple Y-52", et sequentia).

The victim Leah Dalmacio sustained nine (9) GSWs in the head, trunk, and extremities with two or more assailants. Her ring finger (4th digit of the left hand) was also amputated ante mortem. The witness posited that she suffered from extreme pain. The witness also conducted a genital examination on the cadaver that yielded **positive for semen**. For him, there was basis to conclude that the victim experienced sexual abuse or sexual contact. He documented his findings in his ***Medico-Legal Report (Exh. "AAA"), Anatomical Sketches (Exh. "AAA-7"), and Seminal Examination Reports (Exhs. "AAA-4" and "AAA-5".*** He also presented the ***Consent for Autopsy of the victim (Exh. "AAA-6"),*** and identified the ***autopsy pictures (Exhs. "Sextuple Y-56-L. Dalmacio", et sequentia, "Sextuple Y-56a-c and Y-60a", "Sextuple Y-62a, Y-63a-c, Y-64a-c, Y-65a-c, Y-66a-b", "Sextuple Y-67a",*** **and** ***"Sextuple Y-68", et sequentia).***

The victim Jephon Cadagdagon sustained two (2) GSWs in the head and trunk with two (2) assailants who attacked him while he was lying face down. The witness documented his findings in his ***Medico-Legal Report (Exh. "DDD"),*** **and** ***Anatomical Sketches (Exh. "DDD-3").*** He also identified the ***autopsy pictures (Exhs. "Sextuple Y-74-J. Cadagdagon", et sequentia, "Sextuple Y-74a-b and Y-77a",*** **and** ***"Sextuple Y-82-J. Cadagdagon", et sequentia;).***

The victim McDelbert Areola sustained 12 GSWs in the head, truck and extremities and two (2) shrapnel wounds with two (2) or more assailants while the latter was lying face down. The witness documented his findings in his ***Medico-Legal Report (Exh. "EEE"),*** **and** ***Anatomical Sketches (Exh. "EEE-4"),*** and also identified the ***autopsy pictures (Exhs. "Sextuple Y-85-M. Areola", et sequentia, "Sextuple Y-85a", "Sextuple Y-86a",*** **and** ***Sextuple Y-91-M. Areola", et sequentia;).***

The victim Romeo Cabillo sustained 28 GSWs in the trunk and extremities and two (2) contusions. The witness posited that the GSWs were distant shots coming from two (2) or more assailants. He documented his findings in his ***Medico-Legal Report (Exh. "FFF"),*** **and** ***Anatomical Sketches (Exh. "FFF-4a" to "FFF-4c").*** He also presented the ***Consent for Autopsy of the victim (Exh. "FFF-5"),*** and identified the autopsy pictures ***(Exhs. "Sextuple Y-94-R. Cabillo", et sequentia, "Sextuple Y-96a-b, Y-99a-g", "Sextuple Y-96c-e",*** **and** ***"Sextuple Y-99h")***

The witness Junpee Gatchalian sustained eight (8) GSWs in the head, trunk, and extremities with two (2) or more assailants. He documented his findings in his ***Medico-Legal Report (Exh. "GGG"),***

and *Anatomical Sketches (Exh. "GGG-5").* He also presented the ***Consent for Autopsy of the victim (Exh. "GGG-4"),*** and identified the ***autopsy pictures (Exhs. "Sextuple Y-105-J. Gatchalian", et sequentia, "Sextuple Y-108a-c, Y-111a-b", and "Sextuple Y-112-J. Gatchalian", et sequentia).***

The victim Arturo Betia sustained 12 GSWs in the head, trunk, and extremities with possibly two (2) or more assailants based on the injuries he sustained. He documented his findings in his ***Medico-Legal Report (Exh. "HHH"),* and *Anatomical Sketches (Exh. "HHH-5").*** He also presented the ***Consent for Autopsy of the victim (Exh. "HHH-4"),*** and identified the ***autopsy pictures (Exhs. "Sextuple Y-115-A. Betia", et sequentia, "Sextuple Y-115a-b", and "Sextuple Y-118-A. Betia", et sequentia).***

On November 26, 2009, the witness proceeded to Collado Funeral Homes in Tacurong City to autopsy the rest of the cadavers.

The victim Victor Nuñez (who was earlier claimed as Reynaldo Momay) sustained 12 GSWs. The witness posited that the victim died in a violent manner. He documented his findings in his ***Medico-Legal Report (Exh. "SSS"),* and *Anatomical Sketches (Exh. "SSS-4").*** He also presented the ***Consent for Autopsy of the victim (Exh. "SSS-5"),*** and identified the ***autopsy pictures (Exhs. ""Sextuple Y-121-V. Nuñez", et sequentia, "Sextuple Y-126a, Y-128a-b and Y-137a", and "Sextuple Y-129a-c, Y-130a-b, Y-131a-b, Y-133a, Y-136a-b, Y-137b-c").***

The victim Cecil Lechonsito sustained seven (7) GSWs with possibly two (2) or more assailants. While some were distant shots, one of the wounds was a contact shot, wherein the wounding firearms was directly in contact with that part of the body. The shot entered the victim's tongue sustained while the assailant was in front of the victim. The witness also conducted a genital examination on the victim which yielded **positive for the presence of semen**. He documented his findings in his ***Medico-Legal Report (Exh. "UUU"), Anatomical Sketches (Exh. "UUU-4")* and *Seminal Examination Reports (Exhs. "UUU-7" and "UUU-8").*** He also presented the ***Consent for Autopsy of the victim (Exh. "UUU-9"),*** and identified the ***autopsy pictures (Exhs. "Sextuple Y-138-C. Lechonsito", et sequentia, "Sextuple Y-146a-e, Y-148a-b", "Sextuple Y-146f-g", and "Sextuple Y-138a, Y-139a and Y-142a").***

The victim Lindo Lipugan sustained eight (8) GSWs in the trunks and extremities and two (2) contusions. The witness documented his findings in his ***Medico-Legal Report (Exh. "WWW"), and Anatomical Sketches (Exh. "WWW-4").*** He also identified the ***autopsy pictures (Exhs. "Sextuple Y-149-L. Lupogan", et***

sequentia, "Sextuple Y-156a-b, Y-153a and Y-150a",* and *"Sextuple Y-149a and Y-153b").

When cross examined on January 19 and 20, 2011, the witness admitted that he did not present as evidence the draft notes and sketches he prepared prior to the making of the Medico-Legal Reports. He also testified to the limitations of his examination. He did not have a microscope, field test kit for acid phosphatase and retractable probe tracks, and x-ray. Nor were UV lights used during the examination. Since he did not visit the crime site, he did not know the location of the cadavers he autopsied.

It was clarified that the pants and undergarments of the women were still on them. However, they were somehow pushed down due to the distention of the abdomen, and the slippage of the skin. The clothes of the victims were not examined for holes, for human blood, for dirt (as far as those soiled clothes) and the like. Not all the cadavers had body bags, which could have preserved any evidence.

On re-direct examination on January 20, 2011, the witness explained that there will be no difference as to the presentation of the notes with the non-presentation thereof since his findings were incorporated in the reports. The use of retractable wound tracks was immaterial. According to him, the collection of tissues is not a standard test for PNP Medico Legal Officers; it is done on a case to case basis. Although the clothes were not examined, such omission is already standard with PNP Medico Legal Officers; anyway, he would be able to produce the same report. Finally, the witness testified that he did not go to the crime scene due to the security risks.

On re-cross examination, the witness said that he did not relay to the prosecutors that he deleted some of the pictures he submitted to them.

Testimony of PSI Dr. Felino M. Brunia, Jr.

PSI DR. FELINO M. BRUNIA, JR. [192] **gave his direct testimony on February 09, 10, 16, 17, and 23, 2011.** He is a Medico-legal Officer at the PNP Crime laboratory, Camp Crame, Quezon City, who conducted 14 autopsies. After hearing his qualifications, to which he was interpellated, the Court considered him as an expert witness.[193]

According to the witness, Dr. Cabling gave him a list of cadavers and division of workload. As authorized by a ***Memorandum (Exh.***

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[192] Witness Dr. Felino M. Brunia, Jr., testified on February 09, 10, 16, 17, and 23, 2011.
[193] TSN, February 9, 2011, pp. 140-141.

"Nona X"), he performed the autopsies from November 25 to 26, 2009, at Subere Funeral Homes and Southern Funeral Homes, Koronadal City.

According to the witness, the victim Napoleon Salaysay suffered from 6 GSWs with more than one assailant who fired at him, using a high powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "ZZ") and Anatomical Sketch (Exh. "ZZ-4" to "ZZ-6").***

The victim Anthony Ridao sustained a headshot and five (5) GSWs in the head, trunk, and extremities with more than one assailant who fired at him, using a high powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "XX") and Anatomical Sketch (Exhs. "XX-4" to "XX-6").***

The victim Meriam Calimbol sustained one (1) GSW, which the witness declared as her cause of death (COD). She was shot by a high powered firearm, more than 24 inches away from her body. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "BBB"), Anatomical Sketch (Exhs. "BBB-3" to "BBB-5"), and Memorandum on Turn Over of Evidence (Exh. "BBB-6").***

The victim Hannibal Cachuela sustained 10 GSWs in the head, trunk, and extremities with more than one assailant who fired at him using a high powered firearm, in varying positions. Some of the wounds indicated that the victim was at prostrate position and also in a face-up lying down position when shot by a high powered firearm. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "CCC") and Anatomical Sketch (Exhs. "CCC-5" to "CCC-7").***

The victim Rey Merisco sustained nine (9) GSWs in the head and trunk with more than one (1) assailant who fired at him, using a high powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "III") and Anatomical Sketch (Exhs. "III-4" to "III-6"); as well as photographs (Exhs. "Sextuple Y-234" to "Sextuple Y-236").***

The victim Joel Parcon sustained three (3) GSWs in the head and trunk with more than one (1) assailant who fired at him from behind using a high powered firearm. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "JJJ") and Anatomical Sketch (Exhs. "JJJ-5" to "JJJ-7"); as well as photographs (Exhs. "Sextuple Y-237" to Y-238").***

The victim Jose Joy Duhay sustained seven (7) GSWs in the head, trunk and extremities, one of the head wounds almost blew the top of his head off. Based on the location of the wounds, more than one (1)

assailant fired at the victim, using a high powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "KKK") and Anatomical Sketch (Exhs. "KKK-5" to "KKK-7"); as well as photographs (Exhs. "Sextuple Y-239" to "Sextuple Y-241" and sub-markings).***

The victim Ronie Perante sustained five (5) GSWs in the head, trunk and extremities, all of which were fatal with more than one (1) assailant who fired at him using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "LLL") and Anatomical Sketch (Exhs. "LLL-5" to "LLL-7") as well as photographs (Exhs. "Sextuple Y-242" to "Sextuple Y-243").***

The victim Rubello Bataluna sustained eight (8) GSWs in the head, trunk and extremities with a lacerated wound in the forehead caused by a blunt object. According to the witness, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "MMM") and Anatomical Sketch (Exhs. "MMM-5" to "MMM-7"); as well as photographs (Exh. "Sextuple Y-244").***

The victim Benjie Adolfo sustained 15 GSWs in the head, trunk and extremities with more than one (1) assailant who fired at him using a high-powered firearm, in varying positions. The documentation of the witness' examination included the following: ***Medico-Legal Report (Exh. "NNN") and Anatomical Sketch (Exhs. "NNN-5", "NNN-2", and "NNN-3"); as well as photographs (Exh. "Sextuple Y-245").***

The victim Henry Araneta sustained three (3) GSWs, and based on the location of the wounds, more than one (1) assailant fired at him, using a high-powered firearm, in varying positions. The documentation of the witness' examination included the following: ***Medico-Legal Report (Exh. "OOO") and Anatomical Sketch (Exhs. "OOO-3" to "OOO-5"); as well as photographs (Exhs. "Sextuple Y-246" to "Sextuple Y-247").***

The victim Ernesto Maravilla, Jr. sustained 13 GSWs, one of which was a headshot, and based on the location of the wounds, more than one (1) assailant fired at him, using a high-powered firearm, in varying positions. The documentation of the witness' examination included the following: ***Medico-Legal Report (Exh. "PPP") and Anatomical Sketch (Exhs. "PPP-5" to "PPP-7") "); as well as photographs (Exhs. "Sextuple Y-248" to "Sextuple Y-2479").***

The victim Jolito Evardo, Jr. sustained five (5) GSWs, and based on the location of the wounds, more than one (1) assailant fired at him using a high powered firearm, in varying positions. The documentation of the

witness' examination included the following: ***Medico-Legal Report (Exh. "QQQ") and Anatomical Sketch (Exhs. "QQQ-3" to "QQQ-5"); "); as well as photographs (Exhs. "Sextuple Y-250" to "Sextuple Y-251").***

The victim Daniel Tiamzon sustained three (3) GSWs, which was his COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "RRR") and Anatomical Sketch (Exhs. "RRR-3" to "RRR-5").***

On cross examination on February 17 and 23, 2011, the witness maintained that he no longer required consent for autopsy from the victims' relatives because this is a case involving violent deaths. He also did not account for the clothes of the cadavers, which were thrown into a trash bag. Neither was he able to take the photos of the victims, including their entry and exit wounds. For him, his notes and diagrams would compensate. He admitted that there were discrepancies between the Anatomical Sketches and the Medico-Legal Report. He also admitted that he was not the one who prepared the Death Certificates, but he supplied the information regarding the COD. In his report, the witness said that he did not use the following: atomic absorption analysis, scanning electron microscope, sodium rodoni test.

In analyzing the gunpowder burns, the witness merely used the PNP Crime Lab Test, the Gunpowder Residue Test. But during the autopsy, he only relied on a visual inspection. However, gunpowder residues maybe embedded on the skin, which would make it not detectable by the naked eye. In determining the weapon used, the extent of the damages can be also caused by a low powered firearm. The extent of damages to those wounds that were not photographed, and the possible conclusion that these wounds were caused by high powered firearm cannot be determined. The witness said that in determining whether the wounds were ante-mortem or not, there is no need for a microscope; the early stage of decomposition does not make the examination of the wounds difficult.

Testimony of Dr. Reynaldo Romero

DR. REYNALDO ROMERO[194]was presented on the witness stand on January 27, February 02, 03 and 09, 2011. He is a Senior Medico-legal Officer of the NBI who conducted 10 autopies. After hearing his qualifications, to which he was interpellated, the Court considered him as an expert witness.[195] Per ***Special Order from the NBI (Exh. "Nona***

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[194] Witness Dr. Reynaldo Romero testified on January 27, February 02, 03 and 09, 2011.
[195] TSN, January 27, 2011, p. 26.

W"), he performed the autopsies on November 25, 2009 at Allen Memorial Home, Koronadal City.

The witness testified that the first victim he autopsied was Bai Eden Mangudadatu *y* Gaguil. She sustained 10 GSWs which was her COD, and she also suffered from multiple fractures. According to the witness, based on the location of the wounds, more than two (2) assailants fired at the victim, using a high-powered firearm, and positioned at the back of the deceased. **There was a gunshot wound in her genitalia,** the genital examination yielded a negative result for the presence of human semen. The documentation of his examination included the following: ***Autopsy Report (Exh. "V") Anatomical Sketch (Exh. "V-9" and "V-10"), NBI Disposition Forms (Exhs. "V-8" and "V-13"), Certificate of Identification of a Dead Body (Exh. "V-11"), and Certificate of Post Mortem Examination (Exh. "V-14"); as well as photographs (Exhs. "Sextuple Y-159" to "Sextuple Y-165", "Sextuple Y-159-A").***

The victim Bai Farina Hassan y Mangudadatu sustained nine (9) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than two (2) assailants fired at the victim, using a high powered firearm, and positioned at the back of the deceased. The genital examination yielded a negative result for the presence of human semen. The documentation of his examination included the following: ***Autopsy Report (Exh. "W") Anatomical Sketch (Exh. "W-8" to "W-10"), Certificate of Identification of a Dead Body (Exh. "W-12"), and Certificate of Post Mortem Examination (Exh. "W-11"); as well as photographs (Exhs. "Sextuple Y-166-Farinah Hassan" to "Sextuple Y-171-Farinah Hassan", "Sextuple Y-167-a-Farinah Hassan", "Sextuple Y-167-b-Farinah Hassan", and "Sextuple Y-170-c-Farinah Hassan", "Sextuple Y-169-a-Farinah Hassan", "Sextuple Y-167-b-Farinah Hassan", "Sextuple Y-170-a-Farinah Hassan", "Sextuple Y-170-b-Farinah Hassan", and "Sextuple Y-171-a-Farinah Hassan", "Sextuple Y-170-e-Farinah Hassan").***

The victim Surayda Bernan y Gaguil sustained six (6) GSWs, which was her COD. One of the wounds revealed that the muzzle of the gun was in firm contact on the chin area of the victim when it was fired. According to the witness, based on the location of the wounds, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "X") Anatomical Sketch (Exh. "X-8" and "X-9"), Certificate of Identification of a Dead Body (Exh. "X-10"), and Certificate of Post Mortem Examination (Exh. "X-11"); as well as photographs (Exhs. "Sextuple Y-172" to "Sextuple Y-176-Bernan", "Sextuple Y-172-a", "Sextuple Y-***

173-a", "Sextuple Y-174-a", "Sextuple Y-175-a", and "Sextuple Y-176-a-Bernan", and "Sextuple Y-172-a")

The victim Wahida Kalim y Ali sustained six (6) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than two assailants fired at the victim, using a high-powered firearm, and positioned at the back of the deceased. The documentation of his examination included the following: ***Autopsy Report (Exh. "Z"), Anatomical Sketch (Exh. "Z-8"), Certificate of Identification of a Dead Body (Exh. "Z-9"), and Certificate of Post Mortem Examination (Exh. "Z-12"); as well as photographs (Exhs. "Sextuple Y-177-Kalim" to "Sextuple Y-181-Kalim", and "Sextuple Y-180-a", "Sextuple Y-181-a", "Sextuple Y-181-b", "Sextuple Y-181-c", and "Sextuple Y-181-d").***

The victim Rowena Ante y Mangudadatu sustained four (4) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "AA"), Anatomical Sketch (Exh. "AA-8" to "AA-9"), Certificate of Identification of a Dead Body (Exh. "AA-10"), and Certificate of Post Mortem Examination (Exh. "AA-13"); as well as photographs (Exhs. "Sextuple Y-182" to "Sextuple Y-187")***

The victim Faridah Sabdullah y Gaguil sustained three (3) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "CC"), Anatomical Sketch (Exh. "CC-8"), Certificate of Identification of a Dead Body (Exh. "CC-9"), and Certificate of Post Mortem Examination (Exh. "CC-12"); as well as photographs (Exhs. "Sextuple Y-188" to "Sextuple Y-195", and "Sextuple Y-195-a", "Sextuple Y-192-a", "Sextuple Y-193-a", "Sextuple Y-192-b", and "Sextuple Y-191-a")***

The victim Pinky Balayman sustained five (5) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "FF"), Anatomical Sketch (Exh. "FF-8" to "FF-9"), Certificate of Identification of a Dead Body (Exh. "FF-10"), NBI Disposition Form (Exh. "FF-13") and Certificate of Post Mortem Examination (Exh. "FF-17"); as well as photographs (Exhs. "Sextuple Y-196" to "Sextuple Y-200", and "Sextuple Y-196-a", "Sextuple Y-197-a", "Sextuple Y-197-b", "Sextuple Y-200-a", and "Sextuple Y-200-b")***

The victim Lailani Balayman sustained four (4) GSWs. According to the witness, based on the location of the wounds, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The genital examination yielded a negative result for the presence of human semen. The documentation of his examination included the following: ***photographs (Exhs. "Sextuple Y-201" to "Sextuple Y-210-Lailani Balayman", and "Sextuple Y-201-a", "Sextuple Y-201-b", "Sextuple Y-205-a", "Sextuple Y-206-a", "Sextuple Y-207-a", "Sextuple Y-208-a", "Sextuple Y-209-a", "Sextuple Y-210-a-Lailani Balayman".)***

The victim Rosell Morales sustained 12 GSWs, which was his COD. According to the witness, based on the location of the wounds, more than one (1) assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "HH"), Anatomical Sketch (Exh. "HH-8", "HH-9", "HH-10"), Certificate of Identification of a Dead Body (Exh. "HH-11"), NBI Disposition Form (Exh. "HH-14") and Certificate of Post Mortem Examination (Exh. "HH-18"); as well as photographs (Exhs. "Sextuple Y-211" to "Sextuple Y-221-Rosell Morales", and "Sextuple Y-211-a to b", "Sextuple Y-212-a to g", "Sextuple Y-214-a", "Sextuple Y-215-a to b", "Sextuple Y-217-a to b", "Sextuple Y-218-a to c", "Sextuple Y-219-a", and "Sextuple Y-221-a to b")***

The victim Bienvenido Legarta sustained seven (7) GSWs, which was his COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "JJ"), Anatomical Sketch (Exh. "JJ-6"), Certificate of Identification of a Dead Body (Exh. "JJ-7"), NBI Disposition Form (Exh. "JJ-10") and Certificate of Post Mortem Examination (Exh. "JJ-13"); as well as photographs (Exhs. "Sextuple Y-222" to "Sextuple Y-223", and "Sextuple Y-223-a to b", "Sextuple Y-224-a to b", "Sextuple Y-225-a", "Sextuple Y-226-a to b", "Sextuple Y-227-a to b", "Sextuple Y-228-a", "Sextuple Y-229-a", "Sextuple Y-230-a", and "Sextuple Y-232-a to b").***

When cross-examined on February 09, 2011, the witness affirmed that he did not see the crime scene. Neither did he use a microscope, x-ray, electro microscopy with energy dispersive analysis and atomic absorption spectrophotemetry, or infrared photography. In fact, he did not photograph all the wounds. He also did not gather the soil from the victim clothes.

Testimony of Dr. Ricardo M. Rodaje

DR. RICARDO M. RODAJE[196] was presented on the stand on February 03, 2010. He is a Medico-legal Officer of the NBI, Region XII, and was presented as an expert witness.

The witness first conducted an autopsy on victim Atty. Concepcion Brizuela. Thereafter, he autopsied Bai Genalin "Gigi" Mangudadatu. He was able to identify her through the personal viewing of the relatives and through the name tag. Then, he obtained the consent of her relatives in consideration of the tradition that forbids males to autopsy female muslims. He documented his examination in his ***Autopsy Report (Exh. "R" to "R-5"), Certificate of Post Mortem Examination (Exh. "R-6")*** and through photos ***(Exh. "S" to "S-6")***.

At the start of the examination, the body was in an early state of decomposition and bloated with a foul-smelling odor. There was a postmortem superficial desquamation.

According to the witness, the victim suffered 17 GSWs, which was the cause of her death. These wounds were caused by a high-powered firearm given the devastating effects to the body. The distance between the gun and its target was more than 24 inches; and the victim was either in a standing or lying position. From the various gunshot wounds, it is evident that the victim died in a cruel, brutal and treacherous manner. The shots were intended to kill her, and she suffered the most painful death.

Aside from multiple GSWs, Bai Gigi had three incised wounds caused by sharp edged instruments. These were located at the navel and groin area. The wounds were inflicted while she was still alive.

On cross-examination, the witness testified that the victim's clothes were not kept intact. They were already cut up in order to autopsy the bloated body. But if the clothes were presented, these would bore the incisions as well. He further said that based on the Genital Findings report, the victim was not sexually assaulted.

On **re-direct examination,** the witness said that by the state of her clothes, it can already be seen that multiple GSWs were inflicted on her.

The witness was recalled for direct examination on February 24, 2011; and March 09, 2011. He stated that he autopsied 8 more victims at Allen Funeral Homes, who all died of a violent death. In connection with the autopsies he conducted, he prepared Certificates

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[196] Witness Dr. Ricardo M. Rodaje testified on February 03, 2010; February 24, 2011; and March 09, 2011.

of Post-Mortem examination and Death Certificates to attest to the COD of the victims.

The victim Atty. Concepcion Brizuela sustained four (4) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. He documented his examination in his ***Autopsy Report (Exh. "U"), Certificate of Identification of a Dead Body (Exh. "U-1"), Anatomical Sketch (Exh. "U-3")*** and ***Certificate of Post-Mortem Examination (Exh. "U-4") as well as photographs (Exhs. "Sextuple Y-265 Brizuela").***

The victim Mamotabai Mangudadatu sustained 10 GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "Y-M. Mangudadatu"), Anatomical Sketch (Exh. "Y-3"), Certificate of Identification of a Dead Body (Exh. "Y-1"), and Certificate of Post Mortem Examination (Exh. "Y-4"); as well as photographs (Exhs. "Sextuple Y-266").***

The victim Raida Abdul sustained one (1) GSW, which was her COD. The assailant was at the back of the victim. The muzzle of the firearm, which was a high-powered firearm based on the devastating effects, was more than 24 inches away from the victim. The documentation of his examination included the following: ***Autopsy Report (Exh. "BB"), Anatomical Sketch (Exh. "BB-3"), Certificate of Identification of a Dead Body (Exh. "BB-1"), and Certificate of Post Mortem Examination (Exh. "BB-4"); as well as photographs (Exhs. "Sextuple Y-267 Abdul").***

The victim Gina dela Cruz suffered from three (3) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "EE"), Anatomical Sketch (Exh. "EE-3"), Certificate of Identification of a Dead Body (Exh. "EE-1"), NBI Disposition Form (Exh. "EE-4") and Certificate of Post Mortem Examination (Exh. "EE-5"); as well as photographs (Exhs. "Sextuple Y-268-Dela Cruz" and "Sextuple Y-269-Dela Cruz").***

The victim Marife Cordova y Montaño sustained five (5) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "GG"),***

Anatomical Sketch (Exh. "GG-3"), Certificate of Identification of a Dead Body (Exh. "GG-1"), NBI Disposition Form (Exh. "GG-4") and Certificate of Post Mortem Examination (Exh. "GG-5"); as well as photographs (Exhs. "Sextuple Y-270" to "Sextuple Y-271").

The victim Eugene Demillo y Pamansag sustained four (4) GSWs, which was his COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "II"), Anatomical Sketch (Exh. "II-3"), Certificate of Identification of a Dead Body (Exh. "II-2"), and Certificate of Post Mortem Examination (Exh. "II-4"); as well as photographs (Exhs. "Sextuple Y-272" to "Sextuple Y-274").***

The witness Marites Cablitas sustained nine (9) GSWs, which was her COD. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm, in varying positions. The documentation of his examination included the following: ***Autopsy Report (Exh. "KK"), Anatomical Sketch (Exh. "KK-3"), Certificate of Identification of a Dead Body (Exh. "KK-2"), NBI Disposition Form (Exh. "KK-4") and Certificate of Post Mortem Examination (Exh. "KK-5"); as well as photographs (Exhs. "Sextuple Y-275" to "Sextuple Y-277").***

When cross examined on March 10, 2011, the witness said that for all the victims he examined, there was no spermatozoa found in the vaginal canal. None of them appeared to have been abused sexually.

He admitted that he did not use the following in his autopsy: x-ray, microscope, infrared photography, video, atomic absorption spectrophotometry, electron microscopy with energy dispersive analysis, and ultraviolet rays. He also did not preserve the clothes of the victims, collect blood samples, preserve hair samples, collect tissues and organisms.

According to Dr. Rodaje, there were no defense wounds in the bodies of the victims. The clothings with the soil on them can help in the investigation; but he never bothered to preserve the clothes.

In identifying the bodies, he did not require any other competent evidence of identity and relationship from the relatives. After extraction of the slugs and fragments, he carefully washed these with water, placed them in a ziplock and encased inside a white envelope, and then labeled. Although he saw undigested particles in the stomach, he did not further examine these ingested items.

Testimony of Dr. Tomas A. Dimaandal, Jr.

On April 06, 2011, DR. TOMAS A. DIMAANDAL, JR.[197] was presented on the witness stand. He was a Medico-legal Officer of the PNP Crime Laboratory, ARMM, who conducted three (3) autopsies. After hearing his qualifications, to which he was interpellated, the Court considered him as an expert witness.[198]

The witness testified that victim Alejandro Reblando sustained eight (8) GSWs, which caused his death. The witness said that the wound in the trunk of the victim was sustained while the latter was lying on the ground. The documentation of his examination included the following: ***Medico-Legal Report (Exh. "QQ", "QQ-1", "QQ-2", "QQ-3", and "QQ-9"), Anatomical Sketch (Exh. "QQ-4" to "QQ-6"), and PNP Laboratory Request Form (Exh. "QQ-7" to "QQ-8").***

The victim Atty. Cynthia Oquendo-Ayon sustained 12 GSWs, as well as hematoma caused by a blunt object. There was even gunshot wound around the victim's genitalia. The documentation of the witness' examination included the following: ***Medico-Legal Report (Exh. "UU") Anatomical Sketch (Exh. "UU-5"), Consent for Autopsy and Certification of Identification (Exh. "UU-1"), and PNP Laboratory Request Form (Exh. "UU-9").***

The victim Catalino Oquendo, Jr. sustained 12 GSWs. He also had hematoma, lacerations, and abrasions. The documentation of his examination included the following: ***Autopsy Report (Exh. "TT") Anatomical Sketch (Exh. "TT-3"), and Consent for Autopsy and Certification of Identification (Exh. "TT-5").***

On cross examination on April 07, 2011, the witness testified that he had visited the site, but cannot remember the position of the three (3) particular cadavers.

He admitted that there are no photographs which could have collaborated his findings. Thus, his findings are only depicted by anatomical sketches. He did not use microscopes, x-rays, videos and infrared photography. Neither could he tell the sequence of the infliction of the wounds. He also cannot tell with certainty the exact location of the victims and the assailants.

The witness also testified that he had no written order (only verbal) to conduct the autopsies. There was no consent for the embalming of Reblando. Neither did he ensure that the person who identified the cadavers were actually related to them. He likewise admitted that there

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[197] Witness Dr. Tomas A. Dimaandal, Jr. testified on April 06 and 07, 2011.
[198] TSN, April 06, 2011, pp. 58-59. His expertise was likewise made a subject of stipulation by three defense counsels, namely: Atty. Fortun, Atty. Marohombsar and Atty. Pagaduan.

were disparities between his medico-legal reports and the anatomical sketches.

On re-direct examination, the witness said that he is not accustomed to bring cameras during autopsies.

Testimony of Dr. Ruperto J. Sombilon, Jr.

DR. RUPERTO J. SOMBILON, JR.[199] was presented on the witness stand on February 23, 2011. He is a Medico-legal Officer of the NBI who conducted two (2) autopsies on the cadavers at Allen Funeral Homes, General Santos City per the ***Special Order of Director Mantaring (Exh. "Nona Y")***. After hearing his qualifications, to which he was interpellated, the Court considered him as an expert witness.[200]

The witness testified that the victim Norton Edza sustained 14 GSWs, which was his COD. Based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm. The assailant was behind the victim when the latter was shot. The documentation of the witness' examination included the following: ***Autopsy Report (Exh. "LL"), Anatomical Sketch (Exh. "LL-4"), Certificate of Identification of a Dead Body (Exh. "LL-7", "LL-8", "LL-9"), NBI Disposition Form (Exh. "LL-10" and "LL-11") and Certificate of Post Mortem Examination (Exh. "LL-5"); as well as photographs (Exhs. "Sextuple Y-252(EDZA)" to "Sextuple Y-259(EDZA)")***

The victim Rasul Daud sustained six (6) GSWs, three (3) contusions, one (1) avulsion, and rib fractures. According to the witness, based on the location of the wounds, more than one assailant fired at the victim, using a high-powered firearm. The assailant was behind the victim when the latter was shot. The documentation of the witness' examination included the following: ***Autopsy Report (Exh. "MM"), Anatomical Sketch (Exh. "MM-5"), Certificate of Identification of a Dead Body (Exh. "MM-8"), NBI Disposition Form (Exh. "MM-10") and Certificate of Post Mortem Examination (Exh. "MM-6"); as well as photographs (Exhs. "Sextuple Y-260(Daud)" to "Sextuple Y-264(Daud)").***

On cross examination on February 24, 2011 and March 09, 2011, the witness stated that he did not visit the crime site, nor did he see its terrain. When he conducted the autopsy, the cadavers were no longer clothed. It would have been ideal to preserve the same to make the report more accurate.

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[199] Witness Dr. Ruperto J. Sombilon, Jr. testified on February 23 and 24, 2011; and March 09, 2011.
[200] TSN, February 23, 2011, pp. 125-126. His expertise was likewise made a subject of stipulation by some of the defense counsels, namely: Atty. Marohombsar and Atty. Fortun.

He also did not use an x-ray, magnifying glass, infrared photos and videos. Hence, his appreciation of the ante-mortem character of the wound was only based on a visual assessment and the incisions he made. The witness clarified that there is a possibility that there could have been one assailant.

Testimony of PSI Jasper P. Magana

PSI JASPER P. MAGANA[201] was presented on the stand on January 26 and 27, 2011. He is a Forensic DNA Analyst of the PNP Crime Laboratory, DNA Analysis Section, Camp Crame, Quezon City, who examined three earlobes and blood specimens obtained from the site in order to identify three unknown male cadavers. After hearing his qualifications, including his ***Personal Data Sheet (Exh. "ZZZZ-3")***, to which he was interpellated, the Court considered him as an expert witness.[202]

The witness testified about the procedures, protocols, custody, and findings pertinent to the DNA Analysis examination that he conducted. The DNA samples he examined came from the relatives of victims Victor Nuñez, Hannibal Cachuela, and Daniel Tiamzon. For purposes of his tesmony, he identified the following documents: ***Request Letter for DNA Analysis (Exh. "ZZZZ-2"), Activity Logbook with Results (Exh. "ZZZZ-4"), Laboratory Report ("ZZZZ-5"), DNA Sample Information Sheets (Exh. "ZZZZ-6", "ZZZZ-6a", "ZZZZ-6b"), and Evidence Turn-over Forms (Exh. "ZZZZ-7", "ZZZZ-8", and "ZZZZ-9").***

He was subjected to cross, re-direct, and re-cross examinations.

Other Witnesses

The following witnesses testified on various aspects of the incidents of the crimes charged. They are grouped as follows:

Expert Witness

36. Abdulrazak Salim – He is an Imam and Aleem from Kayaga, Pandag, Maguindanao, knowledgeable about Islamic faith and traditions.

Local Government Unit Witnesses

37. Entang Pinagayao - He is the Supervising Administrative Officer of the General Services Office, and custodian of all records of the properties of the Provincial Government of Maguindanao.

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[201] Witness PSI Jasper P. Magana testified on January 26 and 27, 2011.
[202] Tsn, January 26, 2011, p. 24.

38. Engr. Abdulrakman Asim - He was then the OIC Provincial Engineer of Maguindanao, who testified about the map of Maguindanao.

39. Faisal Ungkakay - He was then the OIC Register of Deeds of the Province of Maguindanao, who testified about the land titles.

40. Grace D. Mempin – She was then the Information Technology Officer III of the Land Transportation Office (LTO), East Ave., Quezon City, who testified about the registration of the vehicles.

41. Gerry Atanoso - He worked as a photographer at the Provincial Planning Office of the Provincial Capitol of Sultan Kudarat, who took the video of the massacre site.

42. Atty. Makmod Mending – The parties stipulated on the two documents he would be testifying on i.e., the appointments of Sajid and Akmad "Tato" Ampatuan both dated January 26, 2009.

43. Malumpil Utto - He was then the Provincial Assessor of Maguindanao, who identified several tax declarations.

44. Atty. Udtog Tago - He was then the Provincial Election Supervisor of Maguindanao.

Arresting Officers

45. P/Supt. Leo Quevedo - The Deputy Chief of the Criminal Investigation and Detection Division, CIDG, Camp Crame. He received in his office the following accused: Chief Insp. Sukarno Dicay, P/Supt. Abusama Maguid, SPO2 Badawi Bakal, and accused members of the 1508th SPO1 Eduardo H. Ong, PO3 Felix Enate, PO2 Saudiar Ulah, PO2 Hernanie Decipulo, PO2 Narkouk Mascud, PO1 Esmael Guialal, and PO3 Rasid Anton.

46. P/Supt. Jacinto Malinao, Jr. – He was then the Chief Intelligence and Investigation Branch, NCR-CIDG, Camp Crame, before whom accused PO1 Esprilieto Lejarso, PO1 Herich Amaba, PO1 Pia Kamidon, PO2 Hamad Nana and PO1 Arnulfo Soriano had subscribed the affidavits which they executed.

47. PO1 Ibrahim Baliwan - A member since 2004, of the PNP, 15th CIDU-CIDG, ARMM, specifically assigned as an Intelligence Officer. He was the arresting officer of accused Mama Habib. The parties stipulated on his testimony.

48. Maldan Dawain Makaram - He is presently assigned at Maguindanao Provincial Public Safety Company since November 5, 2012.

He was the arresting officer of accused Saudi Mukamad. The parties stipulated on his testimony.

49. Cpl. Charles Ray Pajartin - A member of the Philippine Army, 45th Infantry Battalion, who was the arresting officer of accused Tammy Masukat.

50. P/Insp. Charlie Mang-osan - A member of the PNP, 15th RCIDU-CIDG, ARMM, specifically assigned at the Investigation Division. He was the arresting officer of accused Bong Andal.

51. SPO1 Riel Anthony C. Sanchez - He is a police officer assigned with the Anti Fraud and Commercial Crimes Division (AFCCD), PNP, CIDG, Camp Crame, Quezon City. He is the arresting officer of Datu Ulo Ampatuan.

52. P/C Insp. Rodolfo Gonzales - He is the arresting officer of Warden Legawan.

53. PO3 Nijel Orfrecio – He is the arresting officer of Dexson Saptula, a.k.a. Mohammad Adam.

54. PO1 Oliver Araneta - He is the arresting officer of Abas Anongan alias Abas Andongan alias Abas Gani Abutasil Tammy Masukat.

55. P/S Insp. Melecio Mina – He is the arresting officer of Talembo "Tammy" Masukat.

56. P/S Insp. Jake D. Pedro – He is the arresting officer of Anwar Masukat.

57. P/Supt. Benjamin Silo – He is the arresting officer of Sajid Guiamadel alias Arnel B. Abdullah alias Iden.

58. P/Supt. James Allan Logan - He is the police officer that kept the documents relating to the arrest of Sahid Guiamadel.

59. Sgt. Michael Piosca – He is the arresting officer of Malaguial S. Tanuri.

60. P/Supt. Rodolfo Inoy & PCI Joffel Remudaro – They are the arresting officers of Denga Mentol alias Ronnie Ofong.

61. Alvin Leong de Quia - He is one of the witnesses who informed the police officers of the identity of Denga Mentol alias Ronnie Ofong.

62. Buhari Manangca Anducan – He is one of the witnesses who informed the police officers of the identity of Denga Mentol alias Ronnie Ofong.

63. PO3 Johnisid Bantulo – He is the warrant officer of Denga Mentol alias Ronnie Ofong.

64. Robert Moda Salucan – He claimed to be a neighbor of the accused Ronnie Ofong in Brgy. Batutuling, Glan, Saranggani.

65. SPO2 Celestino P. Reyes, Jr. – He is the arresting officer of PO1 Jonathan Engid.

Testimony of Other Witnesses

Expert on Islamic Faith

Testimony of Abdulrazak Salim

ABDULRAZAK SALIM was presented on the stand on December 18, 2013. He is an *Imam* (*a Muslim religious leader*) or *Aleem* [203] from Kayaga, Pandag, Maguindanao. After hearing his qualifications, to which he was interpellated, the Court considered him as an expert witness.[204]

The witness testified that the basis of the Islamic faith, culture, and tradition is the Quran and Hadith. The teachings of the Quran and Hadith are as follows: "Worship Allah, give respect to fellowmen, and give them your good behavior. One will not be labeled as a religious until he or she gives respect to others."

The witness explained that *Kanduli* is practiced by Muslims in different events such as weddings, receiving graces, when someone passes the board examinations, and for the burial of the dead. Its essence is for thanksgiving through prayers.

The *kanduli* for the dead refers to the event where the relatives gather together to share food as they bid goodbye to their dead. It is conducted on the 3rd, 7th, 40th, 100th day and first death anniversary of the deceased person. The bereaved family usually has a slaughtered cow, carabao, goat, chicken, and vegetables. The usual attendees include the relatives and the elders or the *pandita*. There are usually 40 guests with panditas doing the following four (4) specific duties commanded by Mohammad: bathe the dead, clothe it, offer prayer, and bury the deceased properly. According to Mohammad, the dead should be buried

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[203] One who has graduated studies in Arabic and has sufficient knowledge as regards the policies of Islam, TSN, December 18, 2013, p. 38.
[204] TSN, December 18, 2013, pp. 61 and 63.

within 24 hours from death. It is the Imam who buries the dead. But the prayers must be offered by everyone.

According to the witness, the family of the dead person spends for the kanduli. They also shoulder the burial, the purchase of the burial ground, and fees to those who offer prayers and who bathe the deceased. The fee or *katumbas* given to these persons depends on the economic and social stature of the deceased person – people of influence have higher contributions, while those of the small stature require small contributions.

To account for this, they memorialize in a list all those who dug the burial grounds, those who offered prayers, those who bathe the dead etc. so that things that are due to them should be given properly. As for those who died from the hands of another person, all the expenses are listed as these will be taken from the family who caused the death. This practice is called *diyat* or blood money.

The witness further discussed that there are three modes of killing: A'md or deliberate death, Sibhol Am'd or appears-to-be-deliberate; and Khatol Am'd or the sinful way of killing. The blood money depends on the mode of killing.

Blood money can cure the first two types of death, and in which case, the bereaved family can ask from the powerful said payment. But the third type of death cannot be compensated by blood money. In the first two types of killing, blood money refers to the offering for the life of the one who killed, so that he will not be killed. In the third kind, the life of the one who killed cannot be salvaged.

On cross examination, the witness affirmed that the mayor in his residence is Bai Jihan Mamalinta Mangudadatu, the wife of Toto Mangudadatu's brother.

He said that the *kanduli* is not practiced by all Muslims but only by certain tribal Muslims in Maguindanao. Each family conducts their own kanduli. Hence, it is not possible that all 20 simultaneously dead people will give one kanduli.

The witness maintained that in Muslim tradition, they do not keep receipts. They can keep receipts if the deceased person died of natural causes, but if killed, they do not keep receipts. Likewise, autopsies are not allowed under the Muslim tradition, save for court proceedings. Hence, it is also possible for them to keep receipts for the purpose of court proceedings. But the bereaved family is *not required* to keep receipts to show expenses.

On re direct examination, the witness said that the siblings or the parents of the deceased usually keep the list of expenses of the deceased. The attendees of a Kanduli for a person of high stature number between 700 to 1,000 attendees; in contrast, those of lower stature would only have 300.

Local Government Witnesses

Testimony of Entang Pinagayao

ENTANG PINAGAYAO gave his direct testimony on January 25, 2012. He is the Supervising Administrative Officer of the General Services Office and custodian of all records of the properties of the Provincial Government of Maguindanao. The parties stipulated on the identification, due execution and authenticity of the following documents:

1. Equipment Status Report as of June 30, 2009 ***(Exhs. "Decuple C-1" to "Decuple C-2");*** Equipment Status Report as of December 31, 2009 **(*Exhs. "Decuple C-3" to "Decuple C-4");*** Equipment Status Report as of March 31, 2010 ***(Exhs. "Decuple C-5" to "Decuple C-6");*** Invoice dated October 29, 2002 issued by Marubeni Corporation Singapore in the name of the Province of Maguindanao, Shariff Aguak, for one unit of Komatsu Excavator Model PC300-7 ***(Exh. "Decuple C-7")***

2. Bill of Lading No. ESLIOMA009 dated October 22, 2002 issued by Eastern Shipping Lines for the Province of Maguindanao for one-unit Komatsu Hydraulic Excavator Model PC300-7 bound for Manila under C-HH02 DV78-0010/0004000 made in Japan ***(Exh. "Decuple C-8")***

3. Affidavit of Ownership executed by Engr. Norie K. Unas, Provincial Administrator in the Province of Maguindanao dated Sepember 08, 2004 ***(Exh. "Decuple C-9")***

4. Pictures of the Komatsu Excavator belonging to the Provincial Government of Maguindanao **(*Exhs. "Quintuple V-1" to "Quintuple V-4")***

5. Certificate of Registration No. 77491585 (Prime Mover) under the ownership of the Provincial Government of Maguindanao ***(Exh. "Decuple C-10")***

Finally, the parties stipulated that the vehicle Komatsu PC300-7 with Chassis 40272 is in the possession of the CIDG General Santos City.

Testimony of Abdulrakman Asim

ENGR. ABDULRAKMAN ASIM appeared in court on June 14, 2012. He testified that he worked as Engineer III of the Provincial Engineering Office of Maguindanao in 1998, and now OIC Provincial Engineer of Maguindanao.

Part of his duties and responsibilities as OIC Provincial Engineer is to exercise technical supervision over all engineering offices of component cities and municipalities including the preparation and updating of provincial, city, municipal and barangay maps of Maguindanao. His office prepared the Provincial Map of Maguindanao under his supervision based on the existing official record on file.

The parties stipulated that he can identify the ***Provincial Map of Maguindanao (Exh. "(12) J")*** which his office prepared under his supervision and he can also identify in the said map the geographical location of the national highway connecting the province to other nearby provinces such as Sultan Kudarat and Province of Cotabato.

He can also identify the following, viz:

1. the location of municipalities in the Province of Maguindanao in relation to the national highway such as Municipalities of Ampatuan, Datu Abdullah Sangki, Datu Unsay, Shariff Aguak, Datu Hofer, Parang, Mamasapano and Buluan,

2. the location of Barangays Salman, Kauran, Matagabong, and Saniag in the Municipality of Ampatuan in said map,

3. the location of Barangays Poblacion, Satan, Bagong and Labo-labo in the Municipality of Shariff Aguak in said map,

4. the location of Barangays Meta, Maitumaig and Iganagampong in the Municipality of Datu Unsay in said map,

5. the location of Barangay Limpongo in the Municipality of Datu Hofer in said map, and

6. the location of Cotabato City.

The witness can identify the signatures in said map including that of Elmer T. Barnedo, Draftsman I, and the one who prepared it, and checked by Jaypee P. Piang, Engineer IV; the witness Abdulrakman Asim as Provincial Engineer who noted the map as well as Gov. Mangudadatu who approved it.

Testimony of Faisal Ungkakay

FAISAL UNGKAKAY appeared in court on December 12, 2012. He testified that he is the OIC Register of Deeds of the Province of Maguindanao. His duties include the following: to immediately register instruments presented for registration in his office; to see to it that documents presented for registration shall bear documentary and science taxes; to perform ministerial functions in relation to his office and other functions necessary in relation to his office.

The parties stipulated on the following, viz: his office is the legal custodian of all land titles in the Province of Maguindanao. As such, he can identify and authenticate all 16 land titles on record. He signed at the back of the said titles particularly the Memorandum of Encumbrances as directed by the Court of Appeals. He can identify the signature of Abdullah P. Tending, Records Officer of the Registry of Deeds in the Province of Maguindanao. The 16 TCTs are as follows:

1. TCT No. T-27460, a land situated in Bagong, Shariff Aguak, Maguindanao, owned by Andal Ampatuan, Sr.; ***(Exh. "Octuple I-1").***

2. TCT No. T-27461, a land situated in Bagong, Shariff Aguak, Maguindanao, owned by Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-2").***

3. TCT No. T-29328, a land situated in Brgy. Bagong, Timbangan, Shariff Aguak, Maguindanao, owned by Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-3").***

4. TCT No. T-29331, a land situated in Brgy. Bagong, Shariff Aguak, Maguindanao, owned by Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-4").***

5. TCT No. T-12762, a land situated in Poblacion, Municipality of Maganoy, Province of Maguindanao, owned by Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-9").***

6. TCT No. T-29216, a land situated in Bo. Poblacion, Maganoy, Shariff Aguak, Maguindanao, owned by Hon. Gov. Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-10").***

7. TCT No. T-29217, a land situated in Bo. Poblacion, Maganoy now Shariff Aguak, Maguindanao, owned by Hon. Gov. Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-11").***

8. TCT No. T-31487, a land situated in Poblacion, Shariff Aguak, Province of Maguindanao, owned by Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-12").***

9. TCT No. T-31841, a land situated in Poblacion, Shariff Aguak, Province of Maguindanao, owned by Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-13").***

10. TCT No. T-31842, a land situated in Poblacion, Municipality of Shariff Aguak, Province of Maguindanao, owned and registered under the name Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-14").***

11. TCT No. T-31844, a land situated in Poblacion, Municipality of Shariff Aguak, Province of Maguindanao, registered under Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-15").***

12. TCT No. T-31845, a land situated in Poblacion, Municipality of Shariff Aguak, Province of Maguindanao, owned and registered under Datu Andal S. Ampatuan, Sr.; ***(Exh. "Octuple I-16").***

13. TCT No. T-27572, a land situated in Poblacion, Shariff Aguak, Maguindanao, owned and registered under Datu Andal Uy Ampatuan, Jr.; ***(Exh. "Octuple I-5").***

14. TCT No. T-29054, a land situated in Poblacion, Shariff Aguak, Maguindanao, owned and registered under Datu Andal Uy Ampatuan, Jr.; ***(Exh. "Octuple I-6").***

15. TCT No. T-29055, a land situated in Poblacion, Shariff Aguak, Maguindanao, owned and registered under Datu Andal Uy Ampatuan, Jr.; and ***(Exh. "Octuple I-7").***

16. TCT No. T-19060, a land situated in Poblacion, Municipality of Maganoy, Province of Maguindanao, owned and registered under Datu Andal Uy Ampatuan, Jr. ***(Exh. "Octuple I-8").***

Testimony of Grace R. Mempin

GRACE R. MEMPIN appeared in court on November 14, 2012. She is the Information Technology Officer III of the Land Transportation Office (LTO), East Ave., Quezon City. The parties stipulated on the existence of the documents issued by the LTO, including ***Certificates of Registration of the Vehicles, Official Receipts, Plates, Verification Slips, Screen Shots, and other official***

documents related to the vehicle marked as Exhs. "(13) F-3-A" to "(13) F-3-Q"; "(13) F-5-A" to "(13) F-5-S"; "(13) F-6-A", to "(13) F-6-P"; "(13) F-7" to "(13) F-7-F"; "(13) F-8" to "(13) F-8-F"; "(13) F-9-A" to "(13) F-9-M"; "(13) F-10" to "(13) F-10-I"; "(13) F-11-A" to "(13) F-11-L"; "(13) F-12-A" to "(13) F-12-K"; "(13) F-13" to "(13) F-13-N"; "(13) F-15-A" to "(13) F-15-P"; "(13) F-16-A" to "(13) F-16-D"; "(13) F-17-A" to "(13) F-17-J"; "(13) F-18"; "(13) F-19" and "(13) F-19-A"; "(13) F-20"; "(13) F-20-A" up to "(13) F-20-G"; "(13) F-20-J" up to "(13) F-20-L"; and "(13) F-21") of the following vehicles written hereunder, viz:

No.	Plate No.	Registered Owner	COR No.	OR No.
1	MVW-884	Lorena Kamensa Mangudadatu	17985565	355623236
2	MVW-789 (LFV-233)	Thong D. Ante	17957968	320684803
3	LGH-247	Khadafeh Mangudadatu	74532776	653999522
4	MVW-885 (LFR-165)	Lorena Kamensa Mangudadatu	17986948	355626121
5	MCB-334	Marvin Roy Pascual	82278887	463123520
6	SHE-239	Autonomous Region of Muslim Mindanao Government	14271574	495789991
7	SHE-415	Office of Vice-Governor, Provincial Government of Maguindanao	1466871-0	582663874
8	SJA-336	Philippine National Police, Camp Crame, Quezon City	6568524-4	610887874
9	SFN-962	City Government of Naga, Camarines Sur	Confirmation No. 42689518, File No. 1308218627	67434423
10	CLE-374	Catherine Yusup	MV File No. 0368-686	

11	SGL-834	LGU Tacurong, Tacurong, Sultan Kudarat, Region 12	1425549-6	427491304
12	LGJ-859	Eden Guira	8462205-3	688973806
13	UTG-234	Clarissa Escuadro	08966571	10506716

The parties also stipulated on the existence and authenticity of the plates of the four motor vehicles, even if these do not appear in the computers of the LTO.

No.	Plate No.	Registered Owner	COR No.	OR No.
1	SGJ-234	PNP, Camp Crame	XPG Control No. OH10807329727 MVCO	626943096
2	SER-428 (Prime Mover)[205]	Provincial Government of Maguindanao, Buluan	1529340414	28885833
3	SHS-675	PNP, NHQ, Camp Crame	4556069-0	421917226
4	SHS-667	PNP, NHQ, Camp Crame	4556051-3	421136026

Finally, the parties stipulated on the existence and authenticity of the verification slips by the LTO issued by Leda Z. Jose, consisting of two (2) pages, which enumerate six (6) vehicles with their corresponding plate numbers and issuing agency; as well as the computer print-out of the 13 vehicles consisting of 13 pages.

Testimony of Gerry Atanoso

When presented on the witness stand on January 20, 2010, GERRY ATANOSO testified that he worked as a photographer at the Provincial Planning Office of the Provincial Capitol of Sultan Kudarat. In the morning of November 24, 2009, Governor Zuharto Mangudadatu, introduced him to NBI Director Celso Ginga and directed him to go to Sitio Masalay to take video footages of the massacre site. For this purpose, he used the government-issued ***Sony 3CCD Handycam Progressive Scan Video Camera (Exh. "F" to "F-7")*** and one Mini-DV tape (90 minutes).

[205] According to the prosecution, this has already been identified by Engr. Entang Pinagayao, TSN (Vol. 34), dated November 14, 2012, p. 36.

Upon reaching Masalay, the witness saw the backhoe of Maguindanao, a large vehicle beside it, and several parked vehicles. The side of the backhoe was marked: "Acquired under the administration of Hon. Datu Andal Ampatuan, Sr., Governor, and the Sangguniang Panlalawigan Members of Maguindanao."

The witness also saw dead bodies scattered beside the vehicles, and several people digging around the area. After a while, the backhoe of Sultan Kudarat arrived to further exhume the dead bodies. He took the video footage of the scene and the excavation of the bodies although the recording was not continuous. He stopped at 5:00 pm for his 90-minute tape ran out already. Thereafter, he returned to his office together with the NBI. He burned the video footages to two (2) copies and gave the same to NBI Director Ginga and Governor Zuharto Mangudadatu.

On November 25, 2009, the witness went to Masalay and recorded the exhumation of the dead bodies by the backhoe. He also recorded (not continuous) the footage using the same camera and one Mini-DV tape (90 minutes). He burned two copies, which he gave to the same persons.

The witness identified the November 24, 2009 and November 25, 2009 ***Mini-DV Tapes (Exhs. "E" to "E-2", "G" to "G-2")***, which he labeled himself. These tapes were kept at his office in Sultan Kadarat from the time of the recording until the time he testified. He identified and demonstrated the use and operation of the Sony 3CCD Handycam.

Subsequently, the tapes were played. During the screening, he stated his location and identified what was captured in the tapes i.e. soldiers, cameramen, the secretary of Governor Teng, the excavation, a backhoe, several vehicles, markings of the backhoe, members of the SOCO, dead bodies (including those of media men Andy Teodoro and Henry Araneta of DZRH), banana leaves and red plastics that covered the dead bodies, General Co and Col. Dangane (they supposedly headed the search), a red Vios buried in the excavation (with plate no. SGL 834, labeled "For official use only"; the inside of the said vehicle had the ID of Joy Duhay), a white vehicle, a vehicle of UNTV, a Tamaraw FX ("dinikdik", with plate number UTG 234), people from the funeral parlor who helped with the dead bodies, an Isuzu vehicle marked with "Venus Transportation Cooperative", with plate no MVW 789, a vehicle with plate no MVW 884, Andrew Hornales, a vehicle with plate no LGH 247 and a vehicle with plate no MCB 335, with label "BI BI WIT, BALITA, DZRH."

On cross-examination, the witness said that Gov. Teng, whose wife is related to the Mangudadatu, personally directed him to record the video footage. He claimed that he did not have a travel order when he testified and did not bring with him purchase orders to prove that he used fresh government-issued tapes. The tapes remained in his custody,

despite learning earlier on January 04, 2010 that he will be testifying on the 20th.

Testimony of Atty. Makmod Mending

ATTY. MAKMOD MENDING did not appear in Court at the scheduled hearing on December 13, 2012. Nevertheless, the parties entered into stipulations regarding ***appointment papers (Exhs. "Septuple X-1" and "Septuple X-2")***: (1) Appointment dated January 26, 2009 of OIC Provincial Governor Datu Sajid Islam Ampatuan signed by Datu Zaldy Ampatuan; and (2) Appointment dated January 26, 2009 of OIC Provincial Vice-Governor Datu Akmad M. Ampatuan signed by Datu Zaldy Ampatuan.

Testimony of Malumpil M. Utto

MALUMPIL M. UTTO appeared in Court on December 13, 2012. The parties stipulated on his testimony that he is the Provincial Assessor of the Maguindanao Province. As such, his office assesses real properties, and he approves transfers and encumbrances of real properties. In said capacity, he identified the following ***Tax Declarations (Exhs. "(13) H-1" to "(13) H-5"):***

1. Tax Declaration (TD) No. 0066; Owner – Andal, Sr., Address – Poblacion

2. TD No. 0137; Owner – Bai Laila Uy Ampatuan, Address – Poblacion I, Shariff Aguak

3. TD No. 0004; Owner – Andal, Jr.

4. TD No. 0133; Owner – Bai Laila Uy Ampatuan, Address – Poblacion I, Shariff Aguak

5. TD No. 0185; Owner – Leila Uy Ampatuan, Address – Poblacion Shariff Aguak

Testimony of Atty. Udtog Tago

ATTY. UDTOG M. TAGO was presented on the witness stand on June 06, 2012. To abbreviate the proceedings, the parties stipulated that he is the Provincial Election Supervisor of Maguindanao Province. In 2001 national and local elections, from the ***Certified List of Elected Provincial Candidates (Exh. "(12) A")*** obtained by said witness which he will be able to identify, the following members of the Ampatuan were elected and proclaimed: Ampatuan, Andal Sr. as Governor of Maguindanao; Ampatuan, Saudi as Mayor of Municipality of Datu Piang; Ampatuan, Akmad as councilor of Shariff Aguak; and Ampatuan, Norodin as first councilor of Mamasapano for the year 2001.

Immediately upon receipt of the request from the Department of Justice, the witness communicated with the COMELEC main office regarding the ***Certified List of Elected Provincial Candidates in the Province of Maguindanao for 2004, 2007 and 2010 elections (Exhs. "(12) B", "(12) C", and "(12) D", respectively).***

The Certified List of Elected Provincial Candidates is incomplete because these are the only documents that were transmitted to the main office of COMELEC from the local offices of the Provincial Election Office in Maguindanao. Specifically, it does not include Buluan, Datu Abdullah Sangki and Ampatuan municipalities.

Immediately upon assuming office in May 2011, the witness requested that the Office of the Provincial Election Supervisor be transferred from Shariff Aguak to Cotabato City for several reasons.

Arresting Officers

Testimony of P/Supt. Leo Quevedo

When presented on the witness stand on July 06, 2011, P/SUPT. LEO QUEVEDO[206] who was then the Deputy Chief of the Criminal Investigation and Detection Division, CIDG, Camp Crame, testified that his boss, Atty. Ericson Velasquez told him to prepare their unit for the eventual investigation of the Maguindanao massacre, and some of the witnesses will be flown to Manila. On November 26, 2009, these witnesses namely: Chief Insp. Sukarno Dicay, P/Supt Maguid, P/Insp. Diongon and SPO2 Bakal had arrived. Diongon who was his under classman in PNP Academy told him that he will give his statement after he had rested.

The following day, Diongon gave the witness a ***letter (Exh. "Decuple G")***, addressed to him, and informing him of what he knew

[206] Witness P/Supt. Quevedo testified on July 06 and 07, 2011; July 02, 2014.

about the massacre. Likewise, Police Chief Inspector Sukarno Dicay gave him his letter ***(Sinumpaang Salaysay) (Exh. "Decuple H")*** narrating the incident in Maguindanao. Both handwritten narrations were presented in Court. After receiving the same, he instructed them to get a lawyer of their choice since they will be interrogated. He also informed them of their rights. The two responded that they do not have any lawyer and that they wanted the CIDG to provide them with one.

The witness reported the matter to Col. Velasquez, who in turn looked for an assisting lawyer in the person of Atty. Alfredo Villamor. Thus, on November 29, 2009, Diongon and ***Dicay (Exh. "Decuple I")*** were able to execute an affidavit. These affidavits which were shown in Court, were executed in the presence of: the witness, Velasquez, the lawyer and their staff.

The witness also testified that some of the members of the 1508th Police Mobile Group appeared in their office and executed their affidavits. These members included SPO1 Eduardo H. Ong, PO3 Felix Enate, PO2 Saudiar Ulah, PO2 Hernanie Decipulo, PO2 Narkouk Mascud, PO1 Esmael Guialal and PO3 Rasid Anton. Said affidavits were all shown in Court: ***Ong (Exh. "Decuple F"), Enate (Exh. "Decuple J"), Ulah (Exh. "Decuple K"), Decipulo (Exh. "Decuple L"), Mascud (Exh. "Decuple M"), and Guilalal (Exh. "Decuple N").*** Aside from them, Police Sr. Inspector Abdulgapor Abad had likewise executed an affidavit ***(Exh. "Decuple O").***

On cross examination on July 07, 2011, the witness said that the affiants then had no standing warrants of arrest. They were merely in the custody of PNP at *Kiangan* hall. They were considered as restricted personnel. However, there was no order issued by the commander of the 1508th for them to be restricted. At that time, the affiants were not considered as suspects. Neither were they considered under custodial investigation, but they were informed of their Miranda Rights.

The affiants had access to telephones/cellphones to contact their relatives in order to assist them in securing a lawyer. He only met for the first time the counsels who helped in the execution of the affidavits. There was also no request made by any of the affiants/restricted personnel for time to look for counsel. At that time, there was only one lawyer available and hence, they no longer looked for another lawyer since Atty. Villamor who is known to his boss was already in their office.

In executing the affidavits, there were Investigators who took the statement. In turn, the Investigators conferred with him. He thus supervised the investigation, looked into the questions and also propounded questions himself. Logistically, in a 4 x 5 meter room, there were computer terminals near each other where he can see and supervise two investigators and their corresponding affiant. The two investigators

were at arm's length apart; and he simultaneously supervised the questions. The Investigators and witnesses to the execution appeared in the affidavits as also multi-tasking at that time.

He administered the oaths to the affiants as part of their mandate in the CIDG. Nevertheless, he advised them that the sworn statements must be subscribed before the DOJ, and hence, he did not assert himself to administer the oath. However, all the affidavits save for that of Abad's, were not received by the DOJ.

The witness maintained that the letters do not contain the exact time that they were prepared. There were photographs that were captioned "Identified CVOs in the abduction leading to the November 23, Massacre in Maguindanao." These photos came from Chief of Intelligence, which belongs also to the CIDG. He also relayed that Diongon and Dicay were not asked whether they have given earlier statements to any commander.

The witnesses were free to roam the compound, and they can exchange stories on what they knew about the incident. They can also talk to other colleagues and senior officers.

On July 02, 2014, the witness was recalled for additional direct examination. The parties stipulated on the following, viz:

1. That on February 16, 2013, the witness was the Regional Chief of the Criminal Investigation and Detection Group, ARMM, stationed at Pedro Colina Hill, Cotabato City;

2. That in the afternoon of said date, Talembo "Tammy" Masukat was turned over to the Regional Office of the CIDG-ARMM by Maguindanao Police Office Personnel, PNP Special Action Force, 44th Special Action Company, and Philippine Army 45th Infantry Brigade Personnel;

3. That the witness had executed a ***Return of Warrant of Arrest (Exh. "(16) I"),*** and existence of its attachments such as the ***warrant of arrest (Exh. "(16) J"), Spot Report (Exh. "(16) K"), Booking and Information Sheet (Exh. "(16) L"), the computer generated photograph of Talembo "Tammy" Masukat (Exh. "(16) M") and the mug shots (Exh. "(16) M-1" to "M-4", Sinumpaang Salaysay of Abdillah Andal and Saudi Andal (Exh. "(16) N"),*** and the ***pictures (Exh. "(16) O"),*** of witnesses during the verification and confirmation of suspect's identity, and issuance of the ***Commitment Order dated February 19, 2013 involving a certain Talembo***

"Tammy" Masukat alias Talembo Kahar Abdulrakman (Exh. "(16) P").

The witness also testified that at 2:00 p.m. on said date, a certain Tammy Masukat was brought to his office by the Maguindanao Special Action group led by Col. Rodel Jocson, Capt. Male from the 45th Infantry Battalion and personnel from SAF-Special Action Force. After the turn-over and blotter, the accused identified himself as Talembo "Tammy Masukat". Thereafter, his rights were read to him. He was then asked if he has a counsel of his choice. The witness' office conducted further investigation. On the following day, two (2) persons arrived narrating that they knew Tammy Masukat very well.

According to the witness, Abdillah Andal stated that Masukat was the driver of Governor Andal Ampatuan, Sr. for 35 years and if ever the latter needs something, he personally contacts Tammy Masukat. Since the witness has a copy of the warrant of arrest issued by the Honorable Court, he served the said warrant of arrest to Talembo "Tammy" Masukat. He identified Tammy Masukat in open court who identified himself as Talembo Kahar Abdulrakman.

When cross-examined, the witness said that he was present at the time the affidavits of Capt. Male and Cpl. Pajartin were executed, and he actually heard when they mentioned Talembo alias Tammy as the one they were accusing at the time that they prepared it. The basis of his claim that Talembo Abdulrakman happens to be that of Talembo Masukat was the affidavit of Abdillah and Saudi.

Testimony of P/Supt. Jacinto R. Malinao, Jr.

When presented on July 13, 2011, P/SUPT. JACINTO R. MALINAO, JR., then the Chief Investigation Officer, Intelligence and Investigation Branch of NCR-CIDG, Camp Crame, on the second semester of 2009, testified that in November 2009, he was instructed to join the investigating team that conducted the investigation on the Maguindanao massacre. He was to assist the CIDG since during that time, 41 members of the Maguindanao PNP arrived in Manila. In particular, they will split the group into 2 (20 and 21). The 20 will be supervised by him, and the rest, by Col. Velasquez.

He then led the 20 to his office. He briefed and billeted them. The 20 also wrote their names and designations. Since it was already 10:00 p.m., he advised them that they were to resume the talks the next day. The following day, Day 1, he visited the personnel. Majority of them approached him and claimed that they had no fault. As response, and since he had prior knowledge that said personnel were members of the checkpoint operation, he told them to contact their lawyers if they have

something to say. It took him two (2) to three (3) days to convince them to give their statement.

The following day, December 04, 2009, the witness checked up on them. The group reiterated that they did not commit any fault and that they will only tell the truth. After hearing their reply, he called Senior Insp. Atty. Trinidad in the Legal Division of the CIDG and informed him that some members of the Maguindanao PNP were willing to give their accounts of the incident. Atty. Trinidad replied that they will look for a lawyer. By lunch time, he met the counsel, Atty. Pagaduan.

Thereafter, the Maguindanao PNP were brought to the investigation sections. Only five (5) voluntarily gave their accounts. These were Amaba, Lejarso, Ong, Kamidon and Nana. They then started the investigation with two (2) of his Investigators (Koronadal and Macatangay) taking the statement of the five (5) PNCOs. One after another, statements were taken. The Investigator keyed in the statements, and beside him were the PNCO and Atty. Pagaduan. Subsequently, the statements were printed, brought to his office together with the PNCO and Atty. Pagaduan. Then, the statements were subscribed before him, after affirming the contents and voluntary execution of the document. He then signed the document in their presence. After all of these steps were undertaken, the statements were submitted to PS/Supt. Ericson Velasquez of the CIDG.

The witness identified Lejarso's ***sworn statement (Exh. "Decuple X"), Amaba's sworn statement (Exh. "Decuple Y"),*** **and** ***Nana's sworn statement (Exh. "Decuple Z").***

Before the witness left for home, he visited the Maguindanao PNP. At that point, PO1 Ebus approached him. The latter said that he did not commit any crime or fault, and that he will help in the investigation. In reply, he told him to consolidate his thoughts and look for a lawyer. On December 05, 2009, Ebus was not able to get a lawyer. Hence, he told Ebus that he will contact the headquarters to get a lawyer.

Atty. Pagaduan arrived the next day. He introduced the lawyer to Ebus and left them to talk. After a few minutes, Atty. Pagaduan told him that they can start taking Ebus' statements. In turn, he instructed Koronadal or Macatangay to reduce Ebus' statements into writing. The document was printed and brought to his office together with Ebus and Atty. Pagaduan. He then verified the voluntariness of the execution of the document and had the same signed. The document was finally sent to CIDG Sr. Supt. Ericson Velasquez.

On cross examination, the witness said that on November 30, 2009, the Maguindanao PNP members were flown to Manila because of their link to the Maguindanao massacre. Hence, they were billeted in the

2nd floor of his office, where the only ingress and egress was the ground floor door manned by a duty officer.

On December 01, 2009, the Maguindanao PNP were not investigated; but there were a few interviews in the nature of a general inquiry conducted by him. He did so despite being a 4th year law student about to take the bar. He also did not inform the Legal Division of the CIDG that he made general inquiries. These restricted personnel had access to internet. They can also watch television. (At that time, some of the Ampatuans were already arraigned, and news flash then was the Maguindanao massacre).

From December 02 to 03, 2009, they did not conduct any kind of investigation with the PNP. These men also did not step-out of their temporary lodging. He did not provide several lawyers as options. Instead, the Legal Division only provided one (Atty. Pagaduan).

According to the witness, on December 04, 2009, the five (5) PNCOs were not interviewed, but already investigated in a Police Custodial Investigation since the statements centered on the incident and that the statements had Miranda warnings. The Maguindanao PNP were free to discuss with one another, including their testimonies. They were not isolated to prevent interference with each other's testimony.

Although he was not sure about the chronology, he remembered that testimonies were given one after another. After one was finished, the affiant may mingle with one another.

Testimony of PO1 Ibrahim Baliwan

PO1 IBRAHIM BALIWAN was presented on the witness stand on September 25, 2013. To abbreviate the proceedings, the prosecution and counsel of accused Mama Habib entered into the following stipulations:

1. That since 2004, the witness has been a member of the PNP, 15th RCIDU CIDG, ARMM, as an Intelligence Officer;

2. In the afternoon of July 25, 2013, the witness together with PO2 Sahabudin A. Caug, effected the arrest of accused Mama Habib by virtue of standing warrant of arrest issued by this Court;

3. After the arrest of accused Mama Habib, he was brought at the office of 15th RCIDU, at PC Hill Cotabato City, for processing and documentation where the accused admitted his identity as the same Mama Habib;

4. In the course of identification, pictures of accused Mama Habib were taken, booking sheet, among other documents, was prepared by the 15th RCIDU and the affidavit of arrest was executed by witness PO1 Baliwan together with PO2 Sahabudin A. Caug;

5. The ***Affidavit of Arrest (Exh. "(14) G" with sub-markings)*** can be identified by the witness together with his name and signature, and he can affirm and confirm the due execution thereof;

6. The witness was present at the time PO2 Sahabudin A. Caug signed said Affidavit of Arrest; and

7. If the witness will be asked to identify accused Mama Habib in the court room, he will be able to identify him as the same Mama Habib who was arrested on July 25, 2013.

Testimony of Corporal Charles Ray H. Pajartin

CPL. CHARLES RAY H. PAJARTIN was presented on the witness stand on May 28, 2014. The prosecution and counsel of accused a certain Talembo alias Tammy Masukat stipulated on the following:

1. The existence of the ***Joint Affidavit (Exh. "(15) I" with sub-markings)*** which the witness had executed and will be able to identify, confirm and affirm the contents thereof as well as his signature thereon;

2. That the witness arrested a certain Talembo alias Tammy on February 16, 2013 as stated in the Joint Affidavit dated February 18, 2013, and that he can identify him as the same person who is in the Courtroom; and

3. That the witness is a bonafide member of the 45th IB, 5th ID, Philippine Army, stationed at Gallant Hill, Brgy. Satan, Datu Unsay, Maguindanao as a Fire Team leader. The prosecution presented the witness' ***identification card (Exh. "(15) J").***

On cross examination, the witness maintained that the only name he stated in his affidavit was Talembo alias Tammy. He did not know that a certain Tammy Masukat has a reward on his head for ₱300,000.00.

The witness admitted that they have not conducted any paraffin test for purposes of determining whether there were silver nitrates that

were left on the hands of these persons that will prove that they actually fired a gun.

Testimony of P/Insp. Charlie I. Mang-osan

P/INSP. CHARLIE I. MANG-OSAN[207] was presented on the witness stand on September 25, 2013. The prosecution and counsel of accused Bong Andal stipulated on the following:

1. That witness is a member of the PNP, 15th RCIDU, CIDG, ARMM, specifically assigned at the Investigation Division;

2. That in the morning of November 24, 2012, the witness, together with other arresting officers, effected the arrest of accused Bong Andal by virtue of a standing warrant of arrest issued by this Court;

3. After the arrest of accused Bong Andal, he was brought to the office of 15th RCIDU, at PC Hill, Cotabato City, for processing and documentation where the accused admitted his identity as the same Bong Andal;

4. In the course of the identification, pictures of Bong Andal were taken as part of the processing of 15th RCIDU, and after the investigation, an ***Affidavit of Arrest (Exh. "(14) H")*** was executed and signed by the witness;

5. That the witness can confirm and affirm the due execution of said affidavit;

6. The witness can identify the accused Bong Andal in the Court room, and that he is the same Bong Andal who was apprehended on November 24, 2012.

The witness was recalled for direct examination on January 08, 2014. He testified that on March 25, 2012, he was assigned at the Criminal Investigation and Detection Group, Autonomous Region in Muslim Mindanao (CIDG, ARMM) as a Provincial Police Officer of Maguindanao province with P/Sr. Supt. Leo Quevedo as his immediate supervisor. On said date, the witness said that he was at their Regional office located at PC Hill, Cotabato City, when from their Intelligence Officer, an information was relayed that there was a certain Ipi Ampatuan who was admitted at the Notre Dame Hospital.

Thereupon, his team consisting of five (5) members, proceeded to the hospital with the warrant of arrest issued by this court. Upon arrival

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[207] Witness P/Insp. Charlie I. Mang-Osan testified on September 25, 2013 and January 08, 2014.

thereat, the mother of Datu Ipi, Bai Zahara Ampatuan, recognized them as members of CIDG, she asked for consideration that they wait first for the lawyers to come before serving the warrant.

The witness acceded to her request and waited for their lawyers: Atty. J.M. Estoniel, Atty. Jose Emilio S. Valentin and Atty. Noor Hafizullah Abdullah. As proof that said lawyers arrived in the hospital, the witness showed to the court the warrant of arrest which they received and signed. However, the mother of Datu Ipi appealed to them again and requested that his arrest be effected after his operation. The police officers granted her request. Then, the witness instructed two (2) of her personnel to monitor and secure the hospital with the other law enforcement agents therein; while he and two (2) of his companions went back to report to their Regional Chief. While therein, the witness prepared a ***Spot Report dated March 25, 2012 (Exh. "(14) W" with sub-marking),*** signed also by Leo Estavillo Quevedo.

The witness further testified that they returned the next day to continuously monitor Datu Ipi. Since he was still in the ICU, they did not formally serve the warrant. The day after, they returned and that was the time that they were able to serve the warrant in the following manner: (1) they informed Datu Ipi of their authority as police officers, and asked his identity if he is the certain Ipi on the warrant of arrest; (2) after the subject nodded, the witness informed him of his Miranda rights; and (3) finally, he was placed under arrest. In open court, the witness identified the ***Alias Warrant of Arrest dated April 21, 2010 (Exh. "(14) X" with sub-marking)***, together with the signatures therein.

Thereafter, they headed back to the office and prepared the ***Return of warrant dated 27 March 2012*** signed by Leo Estavillo Quevedo (which he identified in open court) and booked Datu Ipi.

During the witness' direct examination, the parties stipulated as follows: if the witness will see the accused, he will be able to identify him, as the same accused to whom the warrant of arrest was served on March 25, 2012, and confirmed that he is the same Datu Ipi Ampatuan.

When cross-examined, the witness testified that prior to March 25, 2012, he did not know whether or not Datu Ipi was brought to Notre Dame Hospital.

He said that he arrived in the hospital at 6:00 p.m. Although he saw Col. Mayoralgo Dela Cruz of the 1st Mechanized Brigade in Shariff Aguak, he did not talk to him. He only conversed with the mother of Datu Ipi who never relayed to him that it was Col. Dela Cruz who brought her son to the hospital. He also affirmed discrepancies attended his testimony such as the time of the actual arrest. He also did not state in the return

of the warrant and spot report that he informed the subject of his Miranda Rights.

Although there was a directive from the Court to transfer Datu Ipi from Notre Dame Hospital to Davao Doctor's Hospital, he was not transferred. He was not told by the personnel who brought Datu Ipi to Manila on March 31, 2012 (these were P/Insp. Mangelen Abubakar and Captain Mina) that they were ordered to bring him straight to the hospital from the airport.

Testimony of Maldan Makaraw

On June 05, 2014, P/SUPT. MALDAN MAKARAW was presented on the witness stand. In order to abbreviate the proceedings, the prosecution and counsel of accused Saudi Mukamad entered into the following stipulations:

1. The witness is presently assigned at Maguindanao Provincial Public Safety Company since November 05, 2012;

2. The witness together with the elements of the Maguindanao Provincial Public Safety Company implemented the Warrant of Arrest issued by this Honorable Court and arrested the accused on April 26, 2014 near the boundary of Barangay Matanog, Maguindanao and Barangay Matimus, Kapatagan, Lanao del Sur;

3. The witness turned over the accused to P/Sr. Supt. Rodelio Balza Jocson, Chief of the Maguindanao Police Provincial Office, in Shariff Aguak;

4. The witness was present during the investigation in connection with the arrest of the accused; and

5. The witness can identify the accused Saudi Mukamad as the same person arrested, named and charged in the Informations.

He also identified the following documents: ***Warrant of Arrest issued by this Honorable Court dated April 21, 2010 (Exh. "(15) X"), Return of the Warrant of Arrest dated May 2, 2014 (Exh. "(15) Y"), Booking Sheet (Exh. "(15) Z"), Mug Shots (Exh. "(16) A" with sub-markings), Request for Medical Examination dated April 26, 2014 (Exh. "(16) B"), and Affidavit of Apprehension dated April 26, 2014 (Exh. "(16) H").***

Testimony of SPO1 Riel Anthony C. Sanchez

SPO1 RIEL ANTHONY C. SANCHEZ was presented on the witness stand on December 12, 2013. He testified that he is a police

officer assigned with the Anti Fraud and Commercial Crimes Division (AFCCD), PNP, CIDG, Camp Crame, Quezon City. On August 28, 2012, they conducted a police operation for the arrest of Datu Ulo Ampatuan specifically, they were to serve his ***Warrant of Arrest (Exh. "(14) J")*** issued by this court for the Maguindanao Massacre case.

According to the witness, in the morning, they were briefed with the information coming from the Confidential Informant as received by his co-worker, SPO1 Angeles. Thereafter, his Commanding Officer composed a team from the Detective Special Operations Division, which included him, PCI Manuel Cube, SPO1 Angeles, SPO1 Pancha, P/Insp. Macachor, SPO1 Lizardo, PO3 Mendez, P/Insp. Fajardo and PO3 Manresa. In that meeting the following documents were prepared: Pre-Operations Clearance, Coordination Form, Warrant of Arrest and a picture of Datu Ulo.

Thereafter, they proceeded to Las Piñas, the identified location of Datu Ulo. According to the information, the Informant, PO2 Cagnayon (PNP member assigned at the Muntinlupa Police Station), and Datu Ulo were all in a house. Then, they conducted another briefing of the specific tasks of the team members. The witness, P/Insp. Macachor, SPO1 Lizardo, SPO1 Angeles, PO3 Mendez and PO2 Cagnayo were to enter the room. They were also informed that Datu Ulo had long curly hair at that time (the picture showed that he was then bald).

Subsequently, they went to 12 Montinola cor. Ylana Street, Prumdy Village, Las Piñas City. Aside from the team members, they were joined by PO2 Cagnayo, GMA 7 media, and the informant. Inside the room, he saw Datu Ulo with his wife. Upon seeing him, they identified themselves as PNP CIDG members. They informed him of his arrest, nature of his arrest and his constitutional rights. Datu Ulo was shocked because of the team.

Aside from placing him under arrest, the witness and PO3 Lizardo noticed a bag with protruding firearms. Next, they went for the bag located beside the bed, two (2) meters from Datu Ulo, and saw a sub-machine gun, caliber 45 pistol, magazines and ammunitions. He subsequently asked for their documents, but Datu Ulo did not reply to his query. They then told Datu Ulo that they will be seizing the firearms for verification before the FED, and that he will still be given time to produce their documents.

The verification yielded that these firearms were registered to Anwar Ampatuan, Sr. (pistol) and Zaldy Ampatuan (sub-machine gun). Thus, they filed a case for illegal possession of firearms before the Las Piñas Prosecutor's Office.

After arresting Datu Ulo, they submitted the ***Return of the Warrant of Arrest (Exh. "(14) L")*** before this court. He also executed a ***Joint Affidavit (Exh. "(14) K").*** The parties stipulated that the witness can identify Datu Ulo and that he was the same person they arrested on August 28, 2012.

Testimony of P/C Insp. Rodolfo Gonzales

P/C INSP. RODOLFO S. GONZALES appeared in court on May 21, 2014. The parties stipulated on the following:

1. The witness was an active duty police officer prior to the incident in question;

2. The issuance of the warrant of arrest for Warden Legawan for these 58 cases;

3. The fact of arrest by the witness of said Warden Legawan on May 7, 2014 around 8:30 p.m. in the vicinity of Bicutan exit, Taguig City, by virtue of the warrant of arrest; and

4. The documentation of the arrest on record includes the following: ***Personal Data Sheet (Exh. "(15) E"), Warrant of Arrest (Exh. "(15) F"), Return of Warrant of Arrest (Exh. "(15) G"), Booking Sheet (Exh. "(15) H"), and Joint Affidavit of Arrest (Exh. "(15) I").***

Testimony of PO3 Nijel Orfrecio

PO3 NIJEL ORFRECIO appeared in court on May 14, 2014. The parties stipulated on the following:

1. The witness is a member of the PNP and was assigned at the 15 RCIDU stationed at PC Hill, Cotabato City. He and his team members led by P/Chief Insp. Jovit L. Culaway, implemented the warrant of arrest issued by this Honorable Court dated April 21, 2010 against Dexson Saptula;

2. They implemented the Warrant of Arrest in a banana plantation located at Barangay Tukanalugong, Datu Abdullah Sangki, Maguindanao on November 09, 2013;

3. The arrest of accused Dexson Saptula was done in an orderly manner and the latter was apprised of his rights under the law when he was arrested;

4. The witness can identify accused Dexson Saptula a.k.a. Mohammad Adam as the same person he and his team members arrested on November 09, 2013 and the accused in these cases.

5. He can also identify the ***Joint Affidavit of Arrest (Exh. "(15) D"), Warrant of Arrest (Exh. "(15) A"), Return of the Warrant of Arrest (Exh. "(14) Z"), Booking Sheet (Exh. "(15) B"), Spot Report (Exh. "(15) C"),*** and the photos.

Testimony of PO1 Oliver Araneta

When presented on the witness stand on May 28, 2014, PO1 OLIVER ARANETA testified that he is a police officer presently stationed at Camp Brig. Gen. Salipada Pendatun, Parang, Maguindanao. His duties include the implementation of a warrant of arrest.

He personally knew Abas Anongan alias Abas Andongan alias Abas Gani Abutasil because the latter became a police asset from 2007 to 2009.

During his tour of duty on January 24, 2014, he and several police officers arrested said accused at 1:15 a.m. at Brgy. Limpongo, Datu Hoffer, Maguindanao.

At the time of arrest, the accused was sleeping. The police officers woke him up. Then, he was handcuffed, was apprised of his rights, and was told that he was arrested because of the warrant of arrest issued by Regional Trial Court, Branch 221 in connection with the Maguindanao massacre case.

They brought the accused at the CIDG Office in Cotabato. They prepared a **Booking Sheet (Exh. "(15) L").** for him, took his fingerprints and **mug shots (Exh. "(15) M"),** executed a **Joint Affidavit of Arrest (Exh. "(15) K")** and signed an **Accomplishment Report (Exh. "(15) N");** they also had the persons who identified him sign the **Affidavits of Identification (Exhs. "(15) O" and "(15) P")**.[208]

The witness verified the identity of the accused by securing a copy of his **Birth Certificate (Exh. "(15) Q")** and the latter's photocopy of his **passport (Exh. "(15) R").**[209]

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[208] TSN, May 28, 2014; identified and marked in pp. 33-41; 47-48.
[209] TSN, May 28, 2014; identified and marked in pp. 41-43.

On February 24, 2014, at about 10:00 a.m., they brought the accused to this Court as shown in the ***Return of the Warrant of Arrest (Exh. "(15) S")*** in relation to the ***Warrant of Arrest (Exh. "(15) W").*** He was then brought to Bicutan, Taguig based on the ***Commitment Order (Exh. "(15) V").*** He was brought to the Jail Warden per ***Certificate of Detention (Exh. "(15) T")*** and ***Certificate of Appearance (Exh. "(15) U").***

In open court, the witness identified the person he was referring to as Abas Anongan, Abas G. Andongan, Abas Gani Abutasil alias Abas Gani Abutazil. When asked, said person identified himself as Abas J. Abutasil.

Testimony of P/S Insp. Melecio Mina

P/S INSP. MELECIO MINA was presented on the witness stand on August 14, 2014. He testified that since 2001, he is the Chief of the Complaint Referral and Monitoring Center of the CIDG of the PNP. On February 17, 2013, he was already assigned at the CIDG, ARMM, and designated as the Chief of the Intelligence and Investigation Branch.

He identified the ***Sinumpaang Salaysay of Abdillah Andal and Saudi Andal (Exhs. "(16) R" and "(16) S"),*** and maintained that he was present during its execution.

The witness also testified that he knew Tammy Masukat as the latter was brought by the members of the Maguindanao PNP and the 45th I.B. last February 16, 2013 at his office. Subsequently, the witness identified the accused in open court.

On cross examination, the witness clarified that the affiants had identified accused Tammy Masukat only at his office. He was also part of the arresting team that brought the accused in Metro Manila, notwithstanding that he knew about the pendency of the Habeas Corpus case in Cotabato.

Testimony of P/S Insp. Jake D. Pedro

P/S INSP. JAKE D. PEDRO was presented on the witness stand on December 10, 2014. The parties stipulated on the following:

1. The witness is a member of the PNP and was assigned at the Regional Intelligence Unit 12 at the time of the arrest of Anwar Masukat, and was the team leader of the said arresting party;

2. The witness arrested Anwar Masukat on October 21, 2014, in Sitio Teneb, Brgy. Mendopok, Maitum, Saranggani Province, in service of the Warrants of Arrest issued by this Court dated April 21, 2010, July 21, 2010 and May 22, 2013;

3. After the arrest, the accused was brought to Maitum Police Station on the said date and thereafter to the Office of the Regional Intelligence Unit 12 of Saranggani Province on October 21, 2014, and then to Camp Crame, Quezon City.

The parties likewise stipulated on the authenticity of the following documents: ***(unsigned) PNP Personal Data Sheet of Anwar Masukat (Exh. "(17) K" with sub-markings), Excerpt of Police Blotter of Maitum Municipal Police Station (Exh. "(17) L"), and PNP Arrest and Booking Sheet (Exh. "(17) M").***

Testimony of P/Supt. Benjamin Silo

P/SUPT. BENJAMIN SILO appeared in court on February 25, 2015. The parties stipulated on the following:

1. That witness was appointed Chief of Investigation Division of the CIDG, PNP in Camp Crame sometime in February 2012 and he held said post until June 2014;

2. Sometime in October 2013, Director Francisco Uyami referred to him the case of Sajid Guiamadel alias Arnel B. Abdullah alias Iden for investigation; and

3. The witness would testify that the documents regarding the arrest of said accused are in the custody of Police Supt. Jaime Allan Logan of the OMD CIDG, as Head Secretariat of CIDG, Maguindanao, Special Investigation Task Force.

Testimony of P/ Supt. James Allan Logan

P/ SUPT. JAMES ALLAN LOGAN, was presented in court on March 11, 2015. The parties stipulated on the following:

1. The witness is a Police Superintendent with the PNP presently assigned with the CIDG Operations Management Group, Management Division, Camp Crame, Quezon City, which is in custody of certain documents in connection with the arrest of accused Sahid Guiamadel; and

2. The existence and due execution of the following documents: ***letter to the Provincial Prosecutor of Sultan Kudarat dated April 1, 2012 issued by Jose Teody Condesa (Exh. "(17) P"); Affidavit executed by one PO3 Edgar M. Dingcong dated March 3, 2012 (Exh. "(17) Q" as to its existence only); Affidavit consisting of one page executed by one Rogelio Gargaran y Villaflor dated May***

21, 2012 (Exh. "(17) R" as to its existence only); and "Manifestation" filed before Provincial Prosecution Office of Sultan Kudarat consisting of two pages, signed by one Elmer Lamintao (Exh. "(17) S").

Testimony of Sgt. Michael Piosca

SGT. MICHAEL PIOSCA, was presented in court on October 28, 2015. He represented himself as the arresting officer of Malaguial S. Tanuri, and executed a Judicial Affidavit (Exh. "(18) C") which he identified in open court as well as its attachments, viz: Affidavit of Arrest (Exh. "(17) B"), alias Warrant of Arrest (Exh. "(17) U") and picture (Exh. "(17) Y"). He also identified the accused in open court who when asked gave his name as Juhari Montok Malaguial.

In his Judicial Affidavit, the witness stated that he is a bonafide member of the Philippine Army, assigned at the Military Intelligence Battalion 6ID, PA, Datu Odin Sinsuat, Maguindanao, with a rank of Sergeant.

On August 23, 2015, at about 1:30 p.m., his battalion received a tip that accused Malaguial S. Tanuri was sighted at Brgy. Poblacion, Datu Abdullah Sangki, Maguindanao. Thereafter, a team of operatives was formed. They proceeded to a checkpoint where the accused may pass.

At about 4:00 p.m. of that day, while at Brgy. Poblacion, the witness saw a motorcycle with a side car with a driver matching the description of the accused. He flagged the vehicle; and after confirming the identity of the driver with the picture of the accused in his possession, he arrested him. The witness effected the warrant of arrest, frisked him, and informed the accused of his constitutional rights. Thereafter, they brought Malaguial S. Tanuri to CIDG Central Mindanao.

When cross-examined, the witness affirmed that he was assigned in Maguindanao for the last five (5) years; yet, he does not have any information against the said accused, and that his knowledge was only acquired through a tip from an informer.

The witness maintained that the identity of the informer is confidential; and the latter could not execute an affidavit to identify the arrested person. The tip came through a phone call that he received himself but he does not know the informer. He did not inquire whether the informer was the sister of Juhari Montok Malaguial.

On re-direct examination, the witness clarified that he arrested the accused based on the picture that he held, which pertained to the "Wanted Maguindanao Massacre Suspects."

On re-cross examination, the witness affirmed that the exhibit of "Wanted Maguindanao Massacre Suspects" was a newly printed document.

Testimonies of P/ Supt. Rodolfo Inoy and PCI Joffel Remudaro

P/ SUPT. RODOLFO INOY AND PCI JOFFEL REMUDARO, were scheduled to appear in court on July 07, 2016. In view of their absence, the parties instead stipulated on the following:

1. Police Supt. Rodolfo Inoy is presently assigned as Company Commander of Sarangani Provincial Public Safety Company (SPPSC); while Police Chief Insp. Joffel T. Remudaro is the Chief Intelligence Branch of Sarangani Police Provincial Office, Kawas, Alabel, Sarangani;

2. They are police officers who led the joint elements of SPPSC Intel Branch, Regional Intelligence Unit 12, who carried out the operation resulting to the successful arrest of Denga O. Mentol a.k.a. Ronnie Ofong in the morning of November 17, 2015 at Purok Cabangcalan, Barangay Batutuling, Glan, Sarangani;

3. The arrest mission was carried out after the real identity of Denga Mentol a.k.a. Ronnie Ofong was ascertained through their informers, namely, Alvin Leong De Guia and Buhari Manangca Anducan; and

4. The witnesses can identify the ***Joint Affidavit of Arrest (Exh. "(18) F" with sub-markings)***, and they will be able to identify Denga O. Mentol a.k.a. Ronnie Ofong as the person they arrested.

Testimony of Alvin Leong de Quia

ALVIN LEONG DE QUIA appeared in court on August 10, 2016. To abbreviate the proceedings, the parties entered into the following stipulations:

1. The witness can identify his Joint Affidavit including his signature thereon;

2. The witness made an in-depth verification about the personal activity of Denga Mentol a.k.a. Ronnie Ofong, until such time that he was convinced that he is among those accused in these cases, and his picture was published along with some other wanted persons;

3. He can identify accused Denga Mentol a.k.a. Ronnie Ofong as the same person he informed on which led to the arrest of the accused;

4. In the witness' ***Joint Affidavit (Exh. "(18) G"),*** he will correct the date of arrest from November 18, 2015 to November 17, 2015; and

5. The witness has no personal knowledge and is not an eyewitness of the crime subject of these cases.

The witness further testified that at the Municipality of Glan, Sarangani, he saw the pictures of the accused as regards the Maguindanao massacre and after that he reported the matter to Police Chief Insp. Joffel Tacorda Remudaro because he knows the person. The true name of the latter is Ronnie Yama Ofong and according to the list of accused in the Maguindanao massacre, his name is Denga Mentol. He came to get in contact with Police Officer Remudaro thru the Chief Intel of Glan, PO3 Rey Autor and when he transferred to PPSC he also came in contact with Police Remudaro.

On cross examination*,* the witness said that although he made an in-depth verification, he did not state in his affidavit the details.

Testimony of Buhari Manangca Anducan

BUHARI MANANGCA ANDUCAN appeared in court on August 10, 2016. The parties stipulated on the following:

1. The witness can identify his Joint Affidavit including his signature thereon;

2. The witness made an in-depth verification about the personal activity and identity of Denga Mentol a.k.a. Ronnie Ofong, and before the arrest, he relayed the information to Police Chief Insp. Joffel Remudaro;

3. He can identify accused Denga Mentol a.k.a. Ronnie Ofong as the same person he informed on which led to his arrest and the same person in court;

4. The date of arrest instead of November 18, 2015 is November 17, 2015; and

5. Buhari Manangca Andukan is not present or he is not an eyewitness in the massacre subject of these cases and has no personal knowledge thereof.

The witness further testified that he informed Tong Balugto, a personnel of Chief Insp. Remudaro, that Denga Mentol and Ronnie Ofong are one and the same person.

On cross examination, the witness admitted that someone coached him in preparing his affidavit. The document is in English, which the witness could not understand but the affidavit was read to him in Visayan.

The witness narrated that he came to know about the accused after he saw him in the picture presented by Tong Balugto that said person is in the wanted list. He also affirmed that in his sworn statement, he said that he had an in-depth verification but without stating the details.

Testimony of PO3 Johnisid Bantulo

PO3 JOHNISID BANTULO, appeared in court on August 17, 2016. The parties stipulated on the following:

1. On November 17, 2015, the witness is the Warrant Subpoena Police Non-Commission Officer who is assigned at Alabel Municipal Police Station, Alabel, Sarangani Province;

2. On said date, accused Ronnie Yama Ofong a.k.a. Denga Mentol Y Oman, was brought by Supt. Rodolfo Inoy, Jr. who is the Group Director of Philippine Public Safety Company to Alabel Municipal Police Station, Alabel, Sarangani Province. And After conferring with their Chief of Police, Chief Insp. Arnold Montesa, said accused was detained thereat; and

3. Thereafter, the witness prepared a ***Booking Sheet and Arrest Report (Exh. "(18) H"), accused' fingerprint card (Exh. "(18) I"),*** and took the ***mug shot (Exh. "(18) I-1")*** and attached the same to said card;

4. He can identify accused Denga Mentol a.k.a. Ronnie Ofong as the same person who was brought to the police station on November 17, 2015; and

5. He can affirm and confirm that he was the one who executed his ***Judicial Affidavit (Exh. "(18) K" with sub-markings).***

On cross examination, the witness claimed that he was not the one who personally arrested the accused. He only knew Ronnie Ofong as Denga Mentol because he was brought to his station by Senior Supt. Inoy and told him that he was Denga Mentol. He relied on said information and he no longer inquired as to the true identity of the

accused. He merely asked the latter's name when he was about to make the Booking Sheet.

Testimony of Robert Moda Salucan

ROBERT MODA SALUCAN, appeared in court on August 17, 2016. The parties stipulated that there was a petition for habeas corpus filed by Ronnie Yama Ofong alias Denga Mentol at the Regional Trial Court, Branch 38, Alabel, Sarangani Province, and that he is not an eyewitness of the crime subject of these cases.

The witness also testified that he executed a document which he later identified as his ***Judicial Affidavit*** in relation to the case filed by said accused ***(Exh. "(18) L" with sub-marking).***

The witness narrated that he is a neighbor of Ronnie Ofong in Brgy. Batutuling, Glan, Sarangani. When the latter worked in Shariff Aguak, the accused changed his name to Denga Mentol. Hence, Ronnie Ofong and Denga Mentol are the same. He knew him as one of the suspects when he was arrested by the police on November 17, 2015, and he had seen his picture in the list of suspects.

On cross examination, the witness testified that on December 17, 2015, he filed his Judicial Affidavit. He admitted that he did not actually witness the apprehension of a certain Ronnie Yama Ofong alias Denga Mentol on November 17, 2015. He based this statement in his Judicial Affidavit because the accused passed by his house (where people usually pass) on the day of his arrest. He denied having been told by the police officer of this fact.

The witness also testified that the accused was not arrested in front of his house. He said that they were neighbors for more or less five (5) years and he always co-mingle with the accused. He also incorrectly wrote in his sworn statement that the accused worked in Shariff Aguak. At most, he only knew that the accused once worked in Shariff Aguak.

The witness affirmed that he was not able to know whether the accused changed his name from Ronnie Ofong to Denga Mentol when the witness was in Shariff Aguak. He also has no proof that the accused changed his name from Ronnie Ofong to Denga Mentol.

Nonetheless, the witness maintained that he only chanced upon the picture of the accused when he went at the post of the police station in their town. He maintained that nobody asked him to go to the police station and look at the picture.

On re-direct examination, the witness affirmed his Judicial Affidavit.

Testimony of SPO2 Celestino P. Reyes, Jr.,

SPO2 CELESTINO P. REYES, JR. appeared in court on June 19, 2017. He identified his ***Judicial Affidavit (Exh. (19) G"), Warrant of Arrest (Exh. "(18) U"), extract copy of Police Blotter (Exh. "(18) V"), Referral Form (Exh. "(18) W"), Medical Certificate form F-MC2 (Exh. "(18) X"), Medical Certificate from Kidapawan Medical Specialists Center (Exh. "(18) Y"), Discharge Instructions (Exh. "(18) Z"), Joint Affidavit of Arrest (Exh. "(19) A"), PNP General Hospital Medical Certificate (Exh. "(19) B") Physical Examination of the PNP Headquarters Crime Laboratory (Exh. "(19) C"), PNP Arrest and Booking Sheet (Exh. "(19) D"), Fingerprint card (Exh. "(19) E"), and mug shots (Exh. "(19) F").***

The witness narrated that he is presently assigned at the Case Monitoring Team at the PNP Intelligence Group, Camp Crame, Quezon City. On February 28, 2017, he, SPO4 Rey D. Sano, and SPO2 Errol Angelo C. Naulgan, as well as some other officers were in Pikit, Cotabato, in order to effect the arrest of PO1 Jonathan Engid. Prior thereto, they received information that the accused was in Barangay Batulawan, Pikit, Cotabato.

They found him on that day at Crossing Batulawan. They saw him talking with a woman. When they introduced themselves as police officers, the latter ran away. Hence, they chased and caught him. Thereafter, the witness said that they informed the accused of his constitutional rights.

Subsequently, they brought the accused to Crozado Clinic and Hospital in Pikit, then to Kidapawan Medical Specialist Hospital in Kidapawan City. After his release from confinement, they brought him to Camp Crame, Quezon City.

On cross examination, the witness maintained that on the day of the arrest, he was not wearing any police uniform unlike his companion SPO4 Rey Cano. He also said that while chasing, he heard gunshots but didn't know who fired at him. He could not recall how many police officers were present at the time of the arrest. He approximated that the RP Safety Battalion with them had one team composed of seven persons.

On re-direct examination, the witness identified the accused in open court, who when asked gave his name as PO1 Jonathan Engid y Solaiman.

Witnesses on the civil aspect of these cases

Testimony of Esmael "Toto" Mangudadatu for victim Bai Genalin Mangudadatu:

Witness Esmael "Toto" G. Mangudadatu appeared in court on January 27, 2010, February 3, 2010, June 27, 2012, June 28, 2012, July 19, 2012, August 22, 2012, January 23, 2013, May 22, 2013, and September 19, 2013.

He testified that he was the husband of victim Bai Genalin "Gigi" Mangudadatu, and that they got married on November 11, 1990, as evidenced by a Marriage Contract.[210] They had nine (9) children but only eight (8) were living and one (1) passed away. The eight (8) children who are still alive are: King Jhazzer Mangudadatu, [211] Michellen Mangudadatu, [212] Princess Grace Mangudadatu, [213] Yshmael Powa Mangudadatu,[214] Margaret Mangudadatu,[215]Noor Janah Mangudadatu,[216] Fawzia Mangudadatu,[217] Datu Powa Mangudadatu II.[218]Defense counsels stipulated the Certificate of Live birth of eight (8) children of Esmael Mangudadatu with victim Bai Genalin Mangudadatu.

He knew the Ampatuan family for more than 10 years, and the parties stipulated on the identities of Datu Anwar Sr. and Datu Anwar Jr. while the witness identified Sukarno Dicay in open court.

In the morning of November 23, 2009, witness narrated that he was in Davao together with his children, preparing to go back to Buluan, Maguindanao. They left Buluan at 7:00 a.m. and arrived at around 9:00 a.m. He also testified that his relatives were the ones who went to file his Certificate of Candidacy (COC) on November 23, 2009 – his wife Bai Genalin Mangudadatu, his sister Bai Eden Mangudadatu, their youngest sister Bai Farinah Mangudadatu, his cousin Rowena Mangudadatu, his aunt Wahida Ante, his cousin Pinky Balayman, Rahima Peuto, and his other aunt Mamotabai Mangudadatu. His relatives were also accompanied by his lawyers Atty. Cynthia Oquendo and Atty. Connie Brizuela and some members of the media. They asked security assistance both from the Philippine National Police (PNP) and the military, particularly Col. Geslani, even before November 23, 2009, but both the PNP and the military refused to provide them security.

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[210] Marked as Exhibit "A-2-b".
[211] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-c".
[212] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-d".
[213] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-e".
[214] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-f".
[215] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-g".
[216] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-h".
[217] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-i".
[218] Birth Certificate was stipulated by the parties and marked as Exhibit "A-2-j".

He also testified that his wife was brutally killed on November 23, 2009 at Brgy. Salman, Ampatuan, Maguindanao, as evidenced by his wife's Death Certificate. He said that his wife called him on said date around 10:00 a.m., stating that *"hinarang kami ng maraming lalaking armado,"* and that Unsay slapped her. Upon learning about the abduction of his wife, witness proceeded to DXLV radio station and asked for help for his wife and companions. Around 11:00 a.m., he was able to speak with Dicay and asked about the incident but the latter responded that he had no idea about it.

He received the confirmation of the death of his wife through a phone call from his brother Jong Mangudadatu on November 23, 2009 at 4:00 p.m. He finally saw the body of his wife Bai Genalin Mangudadatu on November 24, 2009 at 7:00 p.m. at Allen Funeral Home, Koronadal City. *"Walang awang pinatay, at iniisip ko na-iimagine ko kung paano sila brutal na binaril at sinaksak sa likod, paano binaril, nung makita ko sila sa Allen Funeral Home, paano binaril yung kanyang ari, paano binaril yung kanyang bunganga, yung suso, mata, kanyang kamay halos maubos ang laman, iniisip ko yung lahat na sumisigaw sila ng awa na huwag silang patayin".* He felt, *"Masakit (Painful), parang gusto ko na ring mawala sa mundo."* After seeing the body of his wife, he called his sibling and then had the body autopsied and brought to Buluan. He first saw his wife, her lower jaw was broken, her right hand and right foot were crushed, and she also sustained several gunshot wounds including the gunshot wound in her private part. In his estimate, she sustained 17 gunshot wounds. "*Nang nandun na po sa Medico Legal, nandun po ako at talagang binilang ko po. Hindi pa po kasama dun yung laslas sa kanyang ari."*

Witness said that his wife was buried on November 25, 2009. The expenses for the burial of his wife was ₱2 million. He was not able to keep the receipts of the expenses because under the Islam culture or practice, they do not keep receipts related to the death of their loved one. They paid for the production of Death/Birth Certificates, expense for Attorney's Fees, and transportation in going to and fro, to attend the trial. He had no proof of these expenses, but he can produce the receipts.

After the burial of his wife, he filed a Complaint against Andal Ampatuan, Sr., Andal Ampatuan, Jr., Zaldy Ampatuan, Nors Ampatuan, Bahnarin Ampatuan, Akmad Tato Ampatuan, and Akmad Baganian Ampatuan, as evidenced by the Complaint-Affidavit.[219] When asked to give an amount to compensate for the pain and the loss he and his children suffered for the death of his wife, witness answered ₱100 million and exemplary damages of ₱100 million.

When cross-examined on February 03, 2010, he said that he has been a politician for over 20 years, and on November 20, 2009, he

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[219] Previously marked as Exhibit "A-2".

decided to run as governor. For him, his strongest opponent for this election contest was Datu Unsay.

Prior to the filing of his candidacy on November 23, 2009, there were prior threats to his life. He affirmed that the Mangudadatus are a strongly entrenched political family who occupied several positions in the government.

He admitted that when he asked for security escorts from the 601st Brigade of the Philippine Army and the PNP, he only made calls but did not submit formal written requests. And while he alluded before the Department of Justice (DOJ) that he intended to file cases against the Philippine Army and the PNP, he had not yet filed such cases.

Instead of travelling for 30 to 40 minutes to Shariff Aguak, the witness decided to go to a radio station to broadcast his grief. He also did not immediately ask for help from President Gloria Macapagal-Arroyo, or from his high-ranking relatives despite having linkages with them.

The witness maintained that he did not visit the massacre site. He only saw what happened through the video footage.

He does not have any proof in the form of written petitions that his constituents clamored for him to run. The witness presented no documentary proof that Datu Andal, Sr. ordered Major Sukarno Dicay to look for Umbrakato. Likewise, there was no proof that the PNP Scene of the Crime Operative (SOCO) and the National Bureau of Investigation (NBI) asked the Maguindanao government to help in the retrieval of the bodies.

On re direct examination on even date, he clarified that the media persons in the convoy included Andres Teodoro, Jun Gatchalian, Bong Reblando, Jimmy Pal-Ac, Bart Maravilla, Henry Araneta, MacMac Areola, Joy Duhay, and Julito Evardo. 32 media people joined in the convoy. The witness elucidated that he did not rush to the massacre site on November 23, 2009 because his brother, Toy Mangudadatu, prevented him.

On re-cross examination, he said that he does not have a list of the media personalities in the convoy. Without personal knowledge, his only basis was the list given by his brother to the media on November 23, 2009.

The witness gave additional direct testimony on June 27, 2012. He described Datu Andal, Sr., Datu Sajid, Datu Akmad, Sr., and Datu Anwar, Sr. as powerful and influential political leaders; while Datu Zaldy as influential and violent. As for Bahnarin Ampatuan, he characterized him as powerful, influential, and so violent.

The parties stipulated on the identification of Datu Akmad, Sr., Datu Anwar, Sr., and Major Sukarno Dicay. He remembered the latter as regards the Pandag incident and the person who said that he did not know anything about the abduction of the witness' wife.

He testified that he knew Col. Bahnarin Kamaong, the Regional Commander of the PNP's RMG in the ARMM region and Abusama Maguid as the OIC Provincial Director of the PNP in Maguindanao. They are related with the Ampatuans as Col. Kamaong was the brother of Engr. Nori Unas (Provincial Administrator of Maguindanao) and the personal aide of Datu Zaldy while Abusama Maguid's spouse is an Ampatuan.

As regards his earlier testimony – that the Ampatuans killed Datu Itao – he presented in court the pictures (Exh. "(12) U") given by the latter's wife depicting the death of Datu Itao.

On June 28, 2012, the witness gave another additional direct testimony. He said that the Pandag incident referred to the operation of Major Sukarno Dicay in a supposed search for a certain Umbra Kato. But the witness saw that high-powered weapons i.e. *Sanggukos* mounted with .50 calibers, five hundred (500) men, and military with 6x6 cars were all aimed at the house of his brother Sajid Mangudadatu.

He enumerated his relatives that submitted the COCs: sister Bai Eden Mangudadatu, youngest sister Bai Farinah Mangudadatu Hassan, cousin Rowena Mangudadatu, aunt Wahida Ante, cousin Pinky Balayman, and aunt Mamotobai Mangudadatu. The lawyers who joined the convoy included Atty. Cynthia Oquendo and Atty. Connie Brizuela.

The witness explained that the COC had to be filed in the Commission on Elections (COMELEC) office in Shariff Aguak given that they closed the office in Cotabato City. As proof, he presented a Notice to the Public transferring the COMELEC office from Cotabato to Shariff Aguak (Exh. "(12) V").

On July 19, 2012, witness was recalled to the witness stand. He identified several receipts for the National Statistics Office (NSO) Certificates as well as Philippine Airlines (PAL) Certifications[220] showing his travels to Manila to attend several hearings for these cases.

On cross examination on even date, he testified among others, that at 7:00 a.m. of November 23, 2009, he was in Davao with his children, on his way to Buluan. He reached Buluan at 9:00 a.m., and the convoy had already left. At around more or less 9 or 10:00 a.m., his wife called

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[220] Receipt amounting to ₱27,328.00 as payments for said certificates marked as Exhibit "A-2-BB".

him thru his phone that they were abducted and flagged down by Unsay Ampatuan. So he proceeded to DXLV radio station. After he made his announcement in the radio, he was able to talk to Dicay over the phone at around 11:00 a.m., and the latter denied knowing about any abduction that had taken place. He was able to tell his children about the death of their mother at around 2:00 p.m., and it was confirmed by his brother Jong at about 3:00 p.m. to 4:00 p.m. after the latter had returned from surveying the crime sight.

He further stated that he requested for security from Col. Geslani and the PNP even before November 23, 2009, but it was declined. He also said that there was another route going to Shariff Aguak from Buluan, and that was South Cotabato.

On re-direct examination on August 22, 2012, the prosecution and the defense counsels entered into stipulations with respect to the fifty-seven (57) receipts issued by the Local Civil Registrar marked as Exhibit "A-2-HH" onwards. He was also asked why he did not ask security from the Buluan Police, to which he answered that the functions of the Buluan Police were limited only in Buluan and that if they joined the convoy, the Ampatuans would think that these policemen were hostile because they were from Buluan Police. He confirmed that the threat was directed towards him so his mother decided to send his wife, sisters and other relatives to file his COC.

During re-cross examination on even date, he affirmed that at that time, he did not know that it was the PNP or Army or any other forces including the CVOs and SCAAs who were manning the checkpoints. He also stated that no one dared to administer oath for the purpose of subscribing to his affidavit when he filed the complaints three (3) days after the incident. He was also asked why he did not offer his personal escorts to his wife, he answered that his wife was not a government official so she was not allowed to have an escort. He further explained that the power to secure and to protect by the Buluan Police is only within their area of responsibility and they cannot go outside unless the Regional Director will allow them to go outside and will issue a letter order for said purpose. He was not aware that the Chief of Police of Buluan volunteered to provide security to the convoy and that his brother asked the Chief of Police to assist the convoy. He also stated that he was in Manila when his mother decided to send his wife and relatives to file his COC.

Testimony of Ramonita Salaysay for victim Napoleon Salaysay:

On March 10, 2011, Ramonita Salaysay[221], surviving spouse of Napoleon Salaysay (Napoleon), was presented on the witness stand. According to her, they have two (2) children,[222] the eldest is a

[221] Showed Certificate of Marriage marked as Exhibit Quintuple "J-2".
[222] Showed Birth Certificates marked as Exhibits Quintuple "J-3" and "J-4".

mental retardate dependent on her for support. The autopsy report of her deceased husband showed that he was fifty-five (55) years of age and that he died of multiple gunshot wounds.

The deceased[223] was a journalist for twenty (20) years. He was the owner and at the same time the publisher-editor of the Clear View Gazette.[224] She claimed that at the time of her husband's death, he was earning ₱20,000.00 to ₱25,000.00 a month.

On November 22, 2009, she sent a text message to Napoleon to fetch him in the hospital where she worked as a nursing attendant. He replied that he could not go home yet because they would have a press conference with Vice-mayor Mangudadatu. The press conference was about the COC of Mangudadatu.

In the evening of November 23, 2009, her nephew relayed to her the media massacre. Subsequently, she called the cellular phone of her husband but the same cannot be reached. Hence, she went to Camp Awang and there she learned about the killing incident. She could not sleep that night fearing that her husband was one of those killed.

On November 24, 2009, she proceeded to the crime site in Brgy. Salman Sitio Masalay, Maguindanao and she was able to identify the dead body of her husband through the clothes he wore and also because his face was not damaged. There were gunshot wounds in the head and a big wound in the right thigh. She felt that her husband was brutally killed and, at the time of the testimony, she was crying. She further testified that the dead body of her husband was brought to Subere Funeral Homes for autopsy, which lasted for two hours. However, she was only able to get the remains on November 25, 2009 because there were so many cadavers. Thereafter, she brought the remains to his place at Napan, Digos, Davao del Sur. After three (3) days of viewing, Napoleon was buried.

In quantifying her loss, she alleged that "the same cannot be quantified by monetary terms, but if allowed, she would like them to pay ₱10 million." In connection with the wake and burial expenses, she executed an Affidavit of Burial Expenses detailing a total of ₱110,000.00 to ₱115,000.00 of expenses.[225]She produced in Court a receipt of Marbel Subere Funeral Homes in the amount of ₱30,000.00.[226] Aside from the ₱10 million, she also asked for ₱5 million as exemplary damages to teach others not to kill the media.

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[223] Showed Death Certificate marked as Exhibit "T-33".
[224] She also showed a Press ID marked as Exhibit Quintuple "J-5", and a copy of the newspaper showing the editorial box marked as Exhibit Quintuple "J-6" and sub-marking.
[225] Marked as Exhibit "Quintuple J-7". Itemized as follows: Funeral service of ₱5,000.00; Cemetery Lot ₱18,000.00; Burial Permit fee ₱500.00; Coffin ₱25,000.00; Food and Drinks ₱40,000.00; Church Rites ₱1,500.00; Tomb ₱26,000.00 or a total of ₱113,000.00.
[226]Marked as Exhibit "Quintuple J-8".

The cross-examination of the said witness was waived by the defense counsels.

Testimony of Catherine Nuñez for victim Victor Nuñez:

Catherine Nuñez, the mother of the victim Victor Nuñez (Victor), testified on March 10, 2011. She narrated that she is married to Vicente,[227] and have three (3) children, one of whom was Victor Nuñez who brutally died of multiple gunshot wounds[228] at the age of twenty four (24).[229] According to her, at the time of his death, Victor worked as a reporter of UNTV earning ₱385.00 per day,[230] covering the areas of General Santos City and Maguindanao, and he usually used the UNTV van as his means of transport.

She also testified that on November 23, 2009, at 6:00 p.m., she heard about the Maguindanao massacre from the news. She then called Victor but no one answered even if she called until 2:00 in the morning. The phone was out of the coverage area.

On November 24, 2009, at 5:00 a.m., she saw in the news that a UNTV staff cried for justice for the death of Victor. Upon hearing this, she cried and called her husband so that they can go to General Santos City, UNTV office to verify Victor's death.

On November 25, 2009, after going to the UNTV office, they went to Brgy. Salman, Sitio Masalay. She saw the excavation of the bodies of persons who were brutally murdered. Later on, she saw the UNTV van "*na parang tansan.*" When asked how she felt, she said: "…*parang binagsakan ako, na-confirmed ko na kasama ang anak ko.*" She then asked a policewoman for the body of her son, and then she learned that the body was already exhumed but its exact location was unknown.

On November 26, 2009, she saw Victor's body at Collado Funeral Homes in Tacurong City. The body has so many gunshot wounds. Subsequently, she threw a fit ("nagwala ako"), and hence, she signed a consent form of autopsy already at the UNTV office. She identified the cadaver of her son Victor through DNA examination since there was someone else claiming for Victor's body. Blood samples were extracted from her and Vicente on November 27, 2009 in Camp Lira, General Santos City and based on the DNA lab test, the body was indeed of Victor.

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[227] As proof, a Marriage Certificate marked as exhibit Quadruple "Z-10" and sub-markings was presented.
[228] As proof, a Death Certificate marked as Exhibit "T-50' ad sub-markings, and an Autopsy Report marked as Exhibit "SSS" were presented.
[229] As proof, a Birth Certificate marked as Exhibit Quadruple "Z-11" and sub-markings was presented.
[230] As proof, a Certification from UNTV marked as Exhibit Quadruple "Z-12" and sub-markings and a COMELEC ID marked as Exhibit Quadruple "Z-13" and sub-markings were presented.

On December 06, 2009, Victor's body was buried in Forest Lane, General Santos City. She further testified that she was deeply hurt by the manner of the death of her son, and her husband was crying as well.

When asked if she could put a monetary value on the emotional effect for the death of her son, she claimed ₱10 million, and ₱5 million as exemplary damages *("…para hindi sila tularan, bilang aral sa kanila na sana ang mga media hindi nila papatayin.")* Her counsels stand to receive fifteen percent (15%) attorney's fees of whatever she will get.

On cross-examination on even date, Catherine Nuñez was questioned if there were other persons claiming the cadaver of her son Victor when she arrived in Collado Funeral Homes. According to her, it was Momay Castillo who was the other person claiming the body and as a consequence, the body was not immediately released to her on November 27, 2009. She claimed that although the body of Victor was bloated, she can still identify his face since it was not damaged. The DNA result was released only on February 03, 2010. Hence, the body was released and buried before the DNA results were released.

Witness was recalled to the witness stand on June 26, 2012. She identified the Autopsy Report[231] and PNP DNA Lab Report with No. DNA-128-09.[232] Lastly, she testified that she incurred ₱100,000.00 as expenses in relation to the death of her son, but they did not keep the receipts.

Testimony of Noemi E. Parcon for victim Joey Parcon:

Noemi Parcon, the surviving wife of the deceased Joel V. Parcon (Joel), was presented on the witness stand on March 10, 2011. She testified that she was the wife,[233] and they have three children.[234] Based on the autopsy report, her husband died of multiple gunshot wounds.

Victim Joey Parcon[235] was a journalist, specifically a publisher-editor of Pronterra News,[236] and at the time of his death, he was earning ₱30,000.00 to ₱35,000.00 a month. She did not present pay slips, but only various billings paid to her husband for advertisement and legal notices to arrive at the said amount. She showed a Purchase

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[231] Exhibit "(3) S" and sub-markings.
[232] Exhibit Quadruple "Z-5".
[233] Showed Marriage Contract and Certificate of Marriage (Exhibit Quintuple "D-2", marked provisionally) as documentary evidence.
[234] Showed Birth Certificates as documentary evidence (Exhibit Quintuple "D-4", marked provisionally but was compared to the original on July 4, 2012; Exhibit Quintuple "D-5", marked provisionally but was compared to the original on July 4, 2012).
[235] Showed Death Certificate as documentary evidence (Exhibit "T-19").
[236] Showed ID No. 1010 (Exhibit Quintuple "D-6") and Pronterra Balita as documentary evidence (Exhibit Quintuple "D-7" and sub-marking).

Order[237]addressed to Pronterra News Service for the publication of two notices of delinquency for ₱19,800.00 and a Billing Statement charged against the Local Government of Koronadal for ₱14,700.00.

She claimed that on November 23, 2009, at 11:00 in the morning, after listening to the news on the radio, she called Joel, but his cell phone cannot be reached. Thereafter, she verified that Joel was listed as one of the journalists who went with the convoy of the Mangudadatus in filing the COC according to the list given by Gov. Pax Mangudadatu. Still hoping, she tried to call her husband from 4:00 to 7:00 p.m. At around 7:00 p.m., her daughter was able to contact the phone, and when the latter asked for Joel, the person from the other line said *"patay na papa mo."*

On November 24, 2009, she and her daughter went to the crime site in Brgy. Salman, Shariff Aguak. However, they were not able to go to the actual crime site, and only stayed in the highway for more than four (4) hours, due to security reasons. She was not able to eat lunch because of the situation although the government offered food. At that point, she was emotionally depressed, could not swallow the food and has no appetite to eat. They went from one funeral home to another to look for the body of his husband, but to no avail.

On November 25, 2009, at 2:00 p.m., a friend of her identified the body of Joel inside the embalming room. She went inside the embalming room and, upon seeing the clothes of Joel, she identified the body among those several bodies lying on the floor and was also able to identify her husband through his identifying marks (mole) that were seen when the embalmer cleaned the body. Subsequently, she was shocked to see that his skull was broken, his eyes were bulging, there were multiple gunshot wounds in his body, and his hair was also nowhere in sight. Her husband's condition caused her pain. Finally, on November 26, 2009, they were able to claim Joel's body from the funeral parlor. Since Joel's siblings were in Manila who had to file leaves of absence, she waited for 10 days before burying Joel's body.

She incurred the following expenses in connection with the viewing and burial of Joel, such as food served to relatives, payment to the cemetery, and the memorial lot, which expenses amounted to ₱100,000.00. She was not able to collect the receipts of her expenses because not only was her mind in disarray, but she was also exhausted. At most, she went to a lawyer and executed an Affidavit of Burial Expenses.[238]

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[237]Exhibit Quintuple "D-8" and sub-markings.

[238] The Affidavit of Burial Expenses (Exhibit "(5) D-10" and sub-marking) itemized the costs as follows: Funeral service- ₱9,500.00; Cemetery lot- ₱30,000.00; Burial Permit fee- ₱500.00; Coffin- ₱25,000.00; Food, drinks, etcetera (10 days)- ₱60,000.00; Church rites- ₱500.00; Tomb- ₱26,000.00; Van- ₱3,000.00; for a total of ₱154,500.00.

She also narrated that the death of her husband affected her severely. Even her daughter was affected such that she did not eat for three (3) days. Her youngest daughter also failed to graduate on time due do the absences she incurred. As borne by the record, she had been crying during this part of the testimony.

In quantifying her loss,[239] she said that *"There's no amount that can ever equal the loss of the life of our love ones. But then ₱10 million is not enough to pay the life of my husband."* But when asked by the court, she asked for ₱10 million for the life of her husband. For lost incomes, she considered that (1) her husband, forty-nine (49) years of age, should have lived twenty-one (21) years more, and (2) they had a business (publication of Pronterra News) which will expand. Hence, she asked for another ₱10 million for the supposed income of Joel.

On cross-examination on even date, it was revealed that her husband was not a Social Security System (SSS) member, hence she did not receive any benefit from the SSS. She further claimed that her husband was also not insured by any insurance company, but during the burial, she received cash donations from relatives and friends of her husband, however, she failed to total the donations. The witness likewise claimed that she and some of the complainants, similarly asked for ₱10 million without asking their lawyer. However, they did not agree as regards the amount of ₱5 million as exemplary damages. The business was supposed to expand to Kidapawan City. But because her husband died, the business was already gone for no one will manage the same.

Testimony of Ma. Cipriana A. Gatchalian for victim Santos P. Gatchalian:

Witness Ma. Cipriana A. Gatchalian appeared in court on May 26, 2011. She testified that she was the wife of the victim Santos P. Gatchalian, Jr. as evidenced by their Marriage Contract,[240] that they had four (4) children whose Birth Certificates[241] she also identified. She also identified the Complaint-Affidavit[242] she executed.

She narrated that his husbandwas brutally killed with multiple gunshot wounds on his head, his trunk and his lower extremities, on November 23, 2009 in Ampatuan, Maguindanao. She identified his husband's Death Certificate[243] and the Medico-Legal Report.[244] She learned about the massacre when she watched the news on said date.

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[239] Her claims were stated in the Complaint-Affidavit.
[240] Photocopy of the Marriage Contract was compared with the original, marked as Exhibit "(5) H-2" and sub-markings.
[241] Birth Certificates of Natasha Marie Acedo Gatchalian marked as Exhibit "(5) H-3" and sub-markings; Anna Victoria Acedo Gatchalian marked as Exhibit "(5) H-4" and sub-markings; Therese Marie Acedo Gatchalian marked as Exhibit "(5) H-5" and sub-markings; and Mary Samantha Acedo Gatchalian marked as Exhibit "(5) H-6".
[242] Exhibit "(5) H".
[243] Marked as Exhibit "T-38" and sub-markings.
[244] Exhibit "GGG".

She immediately texted her husband but did not get a reply. The next day, she again texted but to no avail. Her husband's death was only confirmed to her by her brother-in-law on November 25, 2009. It was only on November 26, 2009, when she personally identified the cadaver of her husband through their wedding ring and her husband's cyst. Upon seeing the cadaver of her husband, she was so shocked, she cried. She said that it was so painful to see the state of her husband. When her children saw their father, she said that they were crying out loud, wailing, and so she pitied her children. Due to their father's death, her children got depressed. Witness was crying during her testimony.

Her husband was a correspondent of Metro Gazette as evidenced by a Certification[245] from said news agency, working at the Central Mindanao and Maguindanao, and earns ₱5,000.00 per month.

She claimed for actual damages amounting to around ₱112,000.00 as evidenced by a list of expenses the witness prepared[246] and some receipts and documents,[247] moral damages of ₱10 million, and exemplary damages of ₱5 million. She incurred attorney's fees in relation to this case.

No cross examination from the defense counsels.

Testimony of Juliet Evardo for victim Jolito Evardo:

Juliet Evardo, mother of deceased Jolito P. Evardo (Jolito) was presented on the witness stand on June 2, 2011. She testified that she[248] and her husband Desiderio Evardo,[249] have seven (7) children, the fourth being the deceased Jolito Evardo.[250] According to her, Jolito was assigned in Mindanao, working as an editor and assistant cameraman for UNTV. In such capacity, his usual means of transportation was the UNTV van, and for his services, he received ₱382.00 per day. He worked seven (7) times a week. Jolito died in Brgy. Salman Maguindanao, on November 23, 2009 of multiple gunshot wounds on the trunk. At the time of his death, Jolito's civil status was single.

On November 20, 2009, Jolito told his parents that he was going back to General Santos City since on November 23, 2009, he would be joining the convoy in filing the COC of Toto Mangudadatu, and on Sunday, one of the Mangudadatus will be conducting a press conference. She forbade his son to go considering the peace and order situation in said place. Nevertheless, her son insisted and thus, they sent him off.

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[245] Marked as Exhibit "(5) H-7".
[246] Marked as Exhibit "(5) H-8" and sub-marking.
[247] Marked as Exhibits "(5) H-9" and sub-markings, and Exhibit "(5) H-10" and sub-markings.
[248] Her statements are also contained in a Complaint-Affidavit dated December 23, 2009.
[249] As proof, the Marriage Contract was presented in open court marked as Exhibit "(4) Y-2" and sub-markings, marked provisionally.
[250] As proof of filiation, the Birth Certificate marked as Exhibit "(4) Y-3" and sub-markings was presented. It showed that the deceased was born on November 4, 1986.

On November 23, 2009, at about 3:00 p.m., after selling rice cakes, her brother-in-faith, relayed that the convoy was massacred. She and her husband then went to UNTV Davao in Bahada where they were told to wait for the confirmation that UNTV crew members were those involved in the incident.

On November 25, 2009, at 2:00 p.m., someone called her and relayed that Jolito was one of the victims. Subsequently, she and her husband travelled to General Santos and arrived on November 26, 2009 at 6:00 p.m. Finally, on November 28, 2009 in UNTV General Santos City, she saw her son inside a coffin brought by Southern Funeral Homes. The wake of his son was held in UNTV General Santos City for 10 days. Jolito's body was buried in Forest Lake, General Santos City on December 6, 2009.

She spent more than ₱100,000.00 for the coffin, snacks and food for the burial. In this regard, she merely presented a list of expenses.[251] No receipts were presented because their minds were in trouble at that time. She grieved the death of his son, especially that she lost a helping hand to assist her in their needs (she was a rice cake seller). She was also sad that her son's dreams did not come true. She recalled that Jolito was a good and *"malambing"* son for he helped her with the finances, and a good brother who provided for the school needs of his three siblings.Thus, she suffered emotional and physical pain and she also experienced lapses in memory. She was crying during her testimony. Likewise, her husband and children were also adversely affected. As compensation for her son's death, she claimed ₱10 million; and for exemplary damages, she asked for ₱5 million. Lastly, they agreed that fifteen percent (15%) of their claims will be given to their counsels as attorney's fees.

No cross examination from defense counsels.

Testimony of Gloria Teodoro for victim Andres Miguel Teodoro:

Gloria Teodoro, the widow of Andres Teodoro (Andres), directly testified on June 22, 2011. She said the she was the legal wife[252] of the deceased[253] Andres, who died in a massacre in Brgy. Salman on November 23, 2009. She also identified a *"Sinumpaang Salaysay".*[254]

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[251] This was contained in a June 2, 2011 Memorandum marked as Exhibit "(4) Y-5", enumerating: ₱50,000.00 for casket, ₱29,000.00 for food, ₱20,000.00 for snacks, ₱20,000.00 for expenses, ₱19,000.00 for the lot, and ₱7,000.00 for others.
[252] As proof, a Marriage Contract was presented.
[253] As proof, a Death Certificate marked as Exhibit "T-4" and an Autopsy Report were presented.
[254] Marked as Exhibit "B-20" and sub-markings.

According to her, she had three (3) children with him, all of whom were minors at the time of his death.[255] Andres also has four other children who lived with them. The children were under their support since they were young.

Andres was a journalist connected with the Central Mindanao Inquirer[256] since 1991. Specifically, he was a publisher-editor at the time of his death. She had no idea of his exact earnings but she testified that he gave her ₱500.00, and sometimes ₱1,000.00 per day.

On the early morning of November 23, 2009, Andres told her that he will attend a press conference in Maguindanao.But in the afternoon of even date, she learned from her friend Precy that Andres was kidnapped and "*pinagpapatay.*" She then tried to call him but her husband's phone cannot be contacted. Afterwards, she listened to the news on radio, and upon hearing that Andres was one of the victims that were massacred, she got scared, felt hurt and cried. When their children learned about the death of their father, they also got scared and cried.

On November 24, 2009 at 5:00 p.m., she saw her husband's remains at Collado Funeral Parlor.She was horrified when she saw his injuries: a severed leg and a bashed skull. It appeared to her that Andres was killed without mercy. Thereafter, she brought the body to their home, and for five (5) days, they held a wake for Andres.

On November 30, 2009, her husband was buried in a public cemetery in Tacurong. During the burial, she grieved and felt hopeless seeing as the person from whom they draw strength and support was already gone. Andre's son, Winston, even suffered hypertension.

She spent ₱95,000.00 for the wake and interment. However, the same were not supported by receipts but only an Affidavit of Burial expenses.[257] According to her, at that time, she did not think of keeping the receipts because of the situation.

As a result of his death, she suffered sleepless nights worrying about how to support all of her children who were also adversely affected. She claimed that her son Teddy, can no longer go to college because her earnings were not enough.She further claimed that no price would quantify their sufferings, but as compensation, she posited the amount of ₱10 million. As exemplary damages, she claimed ₱5 million and fifteen percent (15%) of the proceeds would be paid to her lawyer.

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[255] As proof, Birth Certificates were presented: Exhibits"B-20-b", "B-20-c" and "B-20-d".
[256] As proof, she presented his ID from Central Mindanao Inquirer marked as Exhibit "B-20-e".
[257] The Affidavit of Burial Expenses marked as Exhibit "B-20-G" and sub-marking includes: coffin and funeral services ₱35,000.00; cemetery burial permit fee ₱3,500.00; food and drinks ₱55,000.00; church rites ₱2,000.00; tomb ₱4,000.00.

On cross-examination on even date, she confirmed that she was not able to ask for receipts for their expenses. It was also established that she was able to travel to Manila to testify because of the help and support of her siblings to defray her daily expenses.

Testimony of Ruth delos Reyes for victim Daryl Vincent delos Reyes:

Ruth delos Reyes, mother of the victim Daryl Vincent delos Reyes, directly testified on June 22, 2011,that she and her husband, Arvin Linguan delos Reyes, had three children, one of whom was the deceased[258] Daryl Vincent.[259] At the time of his death, Daryl was twenty eight (28) years old and single. Daryl remained single because he wanted to support his siblings and he desired a good life for his parents. He earned ₱6,000.00 a month as an employee of the local government unit (LGU) of Tacurong City. He also received bonuses.[260]

On November 23, 2009, at 6:30 a.m., Ruth's sibling who also worked in the same LGU, told her that Daryl accompanied his boss Eduardo Linchosito[261] for a medical check-up in Cotabato City. She also learned that victims Cecille Lchonsito, Wilhelm Palabrica, and Mercy Palabrica were with Daryl during the trip. Since her son was not yet home by late evening, she went to the city hall office at around 11:00 p.m. to look for Daryl. On that occasion, she saw Mayor Lino Montilla. She asked him the whereabouts of her son and the red maroon Vios that he was riding in. In answer, Lino told her to calm down and to go home since she wouldjust be informed about the missing Vios.At that point, she has no idea of what happened to Daryl, so she waited and remained awake the whole night. Purportedly, on their way to Cotabato City, they passed by Sitio Salman, Ampatuan, Maguindanao, and in this place, Ruth alleged that Daryl and his companions were massacred as "passersby".

On November 24, 2009, at 6:00 in the morning, an employee from the LGU informed her that the Vios was one of the vehicles found in the excavation site. Upon hearing this, she and her husband cried and could not accept the fact that his son already died.

On November 25, 2009, she finally saw Daryl's remains at Collado Funeral Parlor. On December 5, 2009, the remains were buried.

They incurred ₱160,000.00 as expenses for the burial until the forty(40)-day period of grieving. Although not all of the receipts were kept (some were at home) because she was not expecting the incident, she presented a notarized Affidavit of Burial Expenses.[262] The family grieved,

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[258] As proof, a Death Certificate marked as Exhibit "T-7" was presented.
[259] As proof, a Certificate of Live Birth, Exhibit "(6) C-1", marked provisionally, was presented.
[260] As proof, a Certification from the LGU Human Resource Management Office marked as Exhibit "(6) C-2" was presented.
[261] Head of the Office of License of LGU Tacurong City.
[262] Marked as Exhibit "(6) C-3".

even up to the time of her testimony. They could not accept the fact that Daryl was already dead. They felt the loss since Daryl helped with the school expenses of his siblings. She claimed that her son was innocent and it just happened that he was there, and became a victim by chance. For this, she asked ₱15 million for compensation, and ₱10 million for exemplary damages.

No cross-examination was conducted by the defense counsels.

Testimony of Eden F. Ridao for victim Anthony Ridao:

Eden Ridao, widow of Anthony Ridao (Anthony), directly testified on June 23, 2011, that she was married[263] to the late[264] Anthony for 18 years and they had two (2) minor daughters.[265]

At the time of his death, her husband worked as a Statistical Coordination Officer 3 in the National Statistical Coordinating Board in Cotabato City.[266] Based on the proofs of income presented, his latest salary was ₱19,906.00, and that he was earning ₱238,807.00 annually. Based on the Certificate of Employment, he supposedly earned ₱292,778.00. Anthony also has small businesses (i.e. food processing) which earned ₱10,000.00 per month.

At 9:00 a.m. of November 23, 2009, the couple left KCC Mall in Koronadal City to go to their respective offices. Anthony's office was in Cotabato City, while her office was in Koronadal. When she reached her office, she overheard passersby talking about the difficulty in passing through the Ampatuan segment of the highway, and that there were a number of uniformed men along the same highway. She was disturbed by what she heard, and in the afternoon, she learned of the incident in Ampatuan through the news. Consequently, she tried to reach her husband by calling his cellphone and their home landline from 3:00 to 5:00 p.m. However, she could not contact him. She searched for Anthony and called his boss and it was then that she learned that he did not report to the office that day. Thinking that this was an unusual occurrence, she panicked and asked her in-laws and Anthony's classmates to look for him. Her father-in-law even placed a *panawagan* to look for Anthony. But his whereabouts remained unknown until the next morning. Thus, her worries continued because based on the news, the ambush occurred in Ampatuan highway – which was the only route to Anthony's work in Cotabato City.

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[263] As proof, she presented a Marriage Contract marked as Exhibit "(6) H" and sub-marking.
[264] As proof, she presented a Death Certificate marked as Exhibit "T-26".
[265] As proof, she presented Birth Certificates marked as Exhibits "(6) H-2" and "H-3".
[266] As proof, the following documents were presented: his Service Record marked as Exhibit "(6) H-5" and sub-marking; his ID marked as Exhibit "(6) H-4"; Certificate of Employment and Compensation issued by the Human Resource Affairs Division of the NSC, Central Office marked as Exhibit "(6) H-7", marked provisional; and the Notice of his lasts Salary Adjustment marked as Exhibit "(6) H-6".

In the afternoon of November 24, 2009, her brother-in-law checked the site and there they found the cadaver of Anthony. He identified the body of Anthony through the ring on the latter's finger, a wallet which contained an ID card, ATM card, house keys, and car keys. When the news was relayed to her, she cried in disbelief for Anthony was merely an ordinary motorist who happened to pass by along the national highway on his way to work. Thereafter, she proceeded to claim the body, which was to be released together with the other cadavers in the different funeral parlors of Koronadal City. She searched[267] and finally located the body through Anthony's wedding ring at Subere Funeral Parlor. She found the body full of wounds and contusions; the left leg broken and almost severed; the face was likewise broken and hardly recognizable. She also retrieved various personal effects of Anthony from the Criminal Investigation and Detection Group (CIDG) Regional Office 12 based on the letter of the witness to a certain Pamfilo Regis, and brought some in open court.[268]She retrieved ₱2,000.00 but only ₱1,000.00 was presented in court because she spent the other ₱1,000.00. The bill had six holes if unfolded. Aside from these personal effects, the PNP Regional Office 12 also found the crashed Tamaraw FX driven by Anthony. The said vehicle with plate number UTG 234 was identified by her through a photograph in open court.[269]

She held a wake at the same funeral parlor for four (4) to five (5) days. For the burial, she incurred a total expense of ₱211,568.65. As proof, she presented the Affidavit of Burial Expenses.[270] She also spent for incidental expenses, contained in the Summary of Incidental Expenses,[271] like legal papers for insurance, Government Service Insurance System (GSIS), estate settlement, and transfer of titles. She also incurred costs for his first year death anniversary. The incidental expenses totaled ₱43,093.70. These expenses were documented by receipts shown in open court.

She alleged that Anthony was the demonstrative and sweet type of husband. He was also a good provider and was reliable around the house. As a father, he was the loving kind. Hence, she felt pain, loneliness and endured enormous financial difficulties that caused her sleepless nights. As such, she claimed at least ₱10 million. For the loss of their Tamaraw FX, she asked for ₱250,000.00 even if it was just bought second hand at

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[267] She started from Isulan, Tacurong, Collado in Marbel and about two (2) more parlors.
[268] Gold wedding ring, Landbank ATM Card, family photo, GSIS Ecard, Pag-Ibig ID, Driver's License, different IDs, Residence certificate, Photocopy of LTO O.R., Photocopy of Certificate of Registration, ₱1,000.00 bill with holes. Letter of the witness to Pamfilo Regis marked as Exhibit "(6) H-8".
[269] As proof of ownership, she showed the Certificate of Registration marked as Exhibits "(6) H-20" and "H-21" BUT without signature of the owner) of the vehicle registered under her name, and the car's official receipt.
[270]Marked as Exhibit "(6) H-9": ₱55, 3666.00 - Memorial Lot, ₱20,000.00 – Coffin, ₱105,650.00 – food and drinks, ₱1,500.00 – church rites, ₱29,000.00—miscellaneous expenses, with attachments.
[271] Affidavit of Other Expenses marked as Exhibit "(6) H-10"; Receipts marked as Exhibits (6) "H-11" to "H-19", provisional with respect to receipt dated November 28, 2010.

₱200,000.00.[272] She explained that she incurred ₱120,000.00 as repair expenses.

The defense did not conduct cross-examination on the said witness.

Testimony of Bai Ayesha Hajar D. Andamen for Victim Bai Eden Mangudadatu:

Bai Ayesha Hajar D. Andamen, daughter[273] of the late Bai Eden G. Mangudadatu, directly testified on June 30, 2011,that her forty five(45)-year-old mother, relatives and friends[274] died on November 23, 2009 in the Maguindanao massacre.[275]

On November 23, 2009, at 11:00 a.m., while in Davao Doctor's Hospital with her sick grandmother, her aunt told her that her mother died due to a massacre. This news was confirmed by her uncle Jong Mangudadatu who went to the crime site at Masalay, Ampatuan using a chopper.

On November 24, 2009, she saw her mom's body at Allen Funeral Homes in Marbel. She cried and got hurt especially that it was not part of Muslim culture to kill women.

At her demise, Bai Eden was earning ₱20,000.00 per month as vice-mayor of the Municipality of Mangudadatu.[276] Bai Eden was also engaged in the business of pharmacy and medical supplies. She was the proprietor of Nashden Marketing Pharmaceutical Medical Equipment Supplies.[277] For this business, Bai Eden earned ₱4 million a year. The Bureau of Internal Revenue (BIR) files of which were surrendered to the bank. Considering that her mother provided for the family, she was now obliged to spend for the upkeep and education of her six (6) siblings,[278] some of whom were minors. She alleged that she spends ₱200,000.00 per month for them. This amount covers their rent (her siblings were renting an apartment for they were studying outside of Buluan), driver and other bills.

As compensation for her mother's death, she asked for ₱3 billion considering that they belonged to a royal family. Their family also spent ₱1 million for the *kanduli* – a Muslim practice which entails feeding the

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[272] As proof, she showed a photocopy of the Deed of Sale marked as Exhibit "(6) H-22", provisional. Note though that the selling price in the Deed was ₱120,000.00 and not ₱200,000.00.
[273] As proof, she showed her Birth Certificate, marked as Exhibit "ZZZ-9".
[274] She named them as Bai Genalin Mangudadatu, Bai Farina Mangudadatu, Mrs. Suraida Bernan, Raida Abdul, Pinky Balayman and Bai Faridah.
[275] As proof of her mother's death, she presented a Death Certificate marked as Exhibit "T-27".
[276] As proof, she showed a Certificate from the Office of the Municipal Mayor marked as Exhibit "ZZZ-11".
[277] As proof, she showed a business permit marked as Exhibit "ZZZ-12".
[278] As proof, she showed the Birth Certificates of her siblings marked as Exhibits "ZZZ-3" to "ZZZ-8".

people praying for the dead family member for one hundred (100) days. However, she had no receipts, and was not given receipts for such expenses.

On cross-examination on even date, Bai Ayesha testified that she worked as a cashier in the Treasurer's Office of the LGU of Buluan. She earned ₱12,000.00 a month. As to the other earnings of her mother, she has no proof to show that her mother was the proprietor of Nashreen Pharmaceutical.

Testimony of Fairodz U. Demello for victim Eugene Demello:

Fairodz U. Demello, widow of Eugene Pamansag Demello (Eugene), directly testified on June 30, 2011, that she was married[279] to the late[280] Eugene. They had five (5) young children.[281]

At the time of his death, her husband was only thirty-five (35) years old.[282] He worked as a driver and received an income of more than ₱1,000.00 per day. However, she did not have any proof of his income but stated that he plied from Tacurong to Davao City.

In the morning of November 23, 2009, her husband received a call from Bai Eden Mangudadatu, the sister of Governor Toto Mangudadatu. Afterwards, he asked for her permission to leave because they were going to file Toto Mangudadatu's COC. After 10:00 in the morning, she heard the news that the pathway of Toto Mangudadatu's convoy was blocked. She then worried and got scared for the sake of her husband, especially that she heard that they would all be killed. Thereafter, she went around and asked to verify the news of the convoy blockage. By 1:00 p.m., she was able to confirm the death of her husband. The news hurt her because at that time, she was five (5) months pregnant. She collapsed and fainted for she could not accept the fact that Eugene was already dead. Subsequently, she told her children that they lost their father. She searched for Eugene's body and found it at Allen Funeral Homes in Koronadal City. She saw that Eugene, wearing the white t-shirt, had his hands tied on his back with a gray checkered moslemscarf. She waited for the autopsy, and based on the examination, Eugene was shot *("pinagbabaril").* After the autopsy, she brought him home for burial.

She spent ₱200,000.00 to bury his remains. She did not keep the receipts because in the Muslim tradition, they do not practice the issuance of receipts. From the first day to the 100th day of his death, she spent ₱100,000.00. Notably, the commemoration of the 100th day is part of the Muslim tradition called the *kanduli*. During the *kanduli*, the Muslims feed

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[279] As proof, she presented a Marriage Contract marked as Exhibit "(5) L-2", provisional.
[280] As proof, she presented a Death Certificate marked as Exhibit "T-11".
[281] As proof, she presented Birth Certificates marked as Exhibits "(5) L-3" to "L-7", provisional.
[282] As proof, she presented his Birth Certificate marked as Exhibit "(5) L-8".

the people. As a result of his death, she experienced too much pain. Although the demise of Eugene cannot be quantified, she claimed ₱30 million for the loss of her husband.

No cross-examination was conducted by the defense counsels.

Testimony of Zenaida O. Duhay for victim Jose Duhay:

Zenaida O. Duhay, widow of Jose "Jhoy" Duhay, based on her *judicial affidavit,*[283]directly testified on August 10, 2011, that she was married to Jhoy Duhay.[284] They had three (3) children.[285] At the time of his death,[286] Jhoy was the publisher of Filipino Chronicle.[287] He also contributed articles to the Mindanao Goldstar. As proof, she showed a Certification[288] from Mindanao Goldstar but the same did not state the victim's income.

She incurred burial expenses for the death of her husband in the amount of ₱46,600.00.[289]As proof, she showed an Affidavit of Burial Expenses.[290] However, she did not have receipts except for cemetery fee and Certification from Southern Funeral Homes.[291]She claimed ₱5 million as unearned income of her husband. As basis, she stated that Jhoy earned ₱25,000.00 a month, and for a period of 12 years, (Jhoy was 48 years old) he would have earned that amount. However, there was no proof that Jhoy earned the said amount.

On cross-examination on even date, she was able to claim burial expenses for Jhoy's death from SSS, while her burial claims were still on-process. She could not present any payroll statements because Filipino Chronicle was their family business. Hence, the amount of ₱25,000.00 was her rough estimate.

Testimony of Emily A. Lopez for victim Arturo A. Betia:

Emily A. Lopez,[292] first cousin of the late Arturo A. Betia (Betia), based on her *judicial affidavit,*[293]directly testified on

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[283]Exhibit "(5) G-2" and sub-markings.
[284] As proof, she showed a Marriage Certificate marked as Exhibit "(5) G-3" and sub-markings.
[285] As proof, she showed Birth Certificates marked as Exhibits "(5) G-4", "(5) G-5" and "(5) G-6" and sub-markings).
[286] As proof, she showed a Death Certificate marked as Exhibit "T-39" and sub-markings.
[287] As proof, she showed the September 1, 2007 Edition of the Filipino Chronicle marked as Exhibit "(5) G-7" and sub-markings.
[288] Marked as Exhibit "(5) G-11".
[289] As proof, she showed an Affidavit of Burial Expenses (Exhibit Quintuple "G-8" and sub-markings, provisional). However, she did not have receipts except for cemetery fee and Certification from Southern Funeral Homes (Exhibit Quintuple "G-9").
[290] Marked as Exhibit "(5) G-8" and sub-markings, provisional.
[291] Marked as Exhibit "(5) G-9".
[292] As proof of her authority to represent the heirs of the deceased, who died without issue, she presented a Special Power of Attorney (Exhibit Quintuple "Z-2" and sub-marking, provisional).
[293]Judicial Affidavit marked as exhibit Quintuple "Z-1" and sub-markings.

August 11, 2011, where she presented the following documents: Birth Certificate of the deceased,[294] her Birth Certificate,[295] two (2) Certifications from the Office of Municipal Civil Registrar of the Province of Guimaras, Municipality of Buenavista,[296] Certificate of Employment from the publisher/editor Freddie Solinap of Periodico Ini South Cotabato,[297] Certificate of the deceased' employer that Betia earned ₱15,000.00 to ₱20,000.00 a month,[298] Certification issued by the Department of Social Welfare and Development (DSWD) regarding Betia's death,[299]photocopy of the receipt for the memorial lot purchased from Koronadal Eternal Garden Memorial Park,[300] and Betia's pictures.[301]

During her testimony, one of the defense counsels noted that the signatures of the publisher (Freddie Solinap) in the Certificate of Employment and in the Certification of the earnings materially differed. The Certification of earnings pertains not to monthly income but to monthly commission and also the said Certification does not have a date.

On cross-examination on even date, the defense raised the matter that the Judicial Affidavit was executed in Quezon City (right before the hearing) and not in Manila.

Testimony of Arlyn A. Lupogan for victim Lindo Lupogan:

Arlyn A. Lupogan, widow of Lindo Lupogan, based on her *judicial affidavit,*[302] directly testified on August 18, 2011and presented the following documents: Marriage Certificate,[303] Birth Certificate of their three (3) children,[304] Death Certificate of Lindo,[305] Medico-Legal Certificate,[306] a copy of the Metropolitan Gazette where Lindo worked as stated in its editorial box,[307] two (2) IDs,[308] and receipt for the payment of memorial lot and memorial service.[309]

During cross-examination on even date, it was highlighted by the defense that the original of the receipts were with the SSS for burial benefit claim. She was able to claim this burial benefit from SSS.

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[294]Birth Certificate of the deceasedmarked as Exhibit Quintuple "Z-3" and sub-marking.
[295]Birth Certificate of the witness marked as Exhibit Quintuple "Z-4" and sub-marking.
[296]Two (2) Certifications from the Office of Municipal Civil Registrar of the Province of Guimaras, Municipality of Buenavista marked as Exhibits Quintuple "Z-5" and "Z-6".
[297]Certificate of Employment from the publisher/editor Freddie Solinap of Periodico Ini South Cotabato marked as Exhibit Quintuple "Z-7".
[298] Exhibit Quintuple "Z-8".
[299] Exhibit Quintuple "Z-9", provisional.
[300] Exhibit Quintuple "Z-10", provisional.
[301] Exhibit Quintuple "Z-11" and sub-marking, provisional.
[302] Exhibit Quintuple "K-2".
[303] Exhibit Quintuple "K-3".
[304] Exhibits Quintuple "K-4," "K-5" and "K-6" (Exhs. "14," "15," and "16").
[305] Exhibit "T-53".
[306] Exhibit "WWW-4".
[307] Exhibit Quintuple "K-7" and sub-markings.
[308] Exhibit Quintuple "K-8" and "K-9".
[309] Exhibit Quintuple "K-10" and "K-11", both provisional.

Testimony of Lerma Palabrica for victim Mercy Palabrica:

Lerma Palabrica, mother of the deceased Mercy Palabrica (Mercy)*, directly testified on September 29, 2011.* She narrated that she and her husband had nine (9) children, one of which was Mercy.[310] At her demise,[311] Mercy was thirty-two (32) years old and was then earning ₱7,307.00 per month in the Licensing Office, Office of the City Mayor.[312]

On November 23, 2009, since it was already late, she asked for Mercy's whereabouts. Her son Rex answered that he saw a red car in Maguindanao and the mayor said that there might be a hostage taking. The day after, she learned of Mercy's death. Upon learning such, she did not do anything and just cried in their house. The news hurt her, and her family could not accept the fact of Mercy's death.

On November 25, 2009, they finally recovered the body in Collado Funeral Homes, and on November 30, 2009, the wake ended.

As a result of the interment, she incurred several expenses as shown by receipts.[313] She also spent for food but did not have receipts for these. In connection with the filing of this case, she already incurred expenses amounting to ₱112,000.00. These items can be found in a notarized list which was allegedly submitted to the Philippine Charity Sweepstakes Office (PCSO).

The cross examination was suspended on account of the non-presentation of the notarized list of expenses submitted to PCSO, but the same was never presented in court.

Testimony of Meryl Perante for victim Ronie Perante:

Witness Meryl Perante was presented on October 06, 2011. She testified that Ronie was one of those killed on November 23, 2009 at Brgy. Salman, Ampatuan, Maguindanao.

In the course of her testimony, the following documents were presented, marked and sub-marked: NSO copy of the marriage certificate between the witness and Ronie;[314] NSO copy of the birth certificates of their children: Ian Joy, Ronie, Jr. and Ronie III;[315] photocopy of death

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[310] As proof she showed a Birth Certificate marked as Exhibit "(6) "E-1", provisional.
[311] As proof, she presented a Death Certificate marked as Exhibit "T-2" and sub-markings.
[312] As proof, she showed a Service Record marked as Exhibit "(6) "E-3" and sub-markings, provisional.
[313] ₱13,000.00 for a pig; ₱6,000.00 for a pig; ₱35,000.00 for the Funeral Service from Collado Funeral Parlor marked as Exhibits "(6) E-4", "(6) E-5" and "(6) E-6" and sub-markings, provisional.
[314] Marked as Exhibit "(4) S-3".
[315]Marked as Exhibits "(4) S-4", "(4) S-5" and "(4) S-6" and sub-markings.

certificate of Ronie;[316] Affidavit of Two Disinterested Persons to show that the address of Ronie is Conel, General Santos City and not Esperanza, Sultan Kudarat as shown in the death certificate;[317] folder containing photocopies of newspaper clippings and photographs related to Ronie's death;[318] notarized photocopy of Affidavit of Burial expenses amounting to ₱112,206.00, but the witness testified that she had no receipts because she lost them, not thinking that they were needed;[319] *Sinumpaang Salaysay* of M. Perante;[320]photocopy of Ronie's ID as a correspondent of Mindanao Gold Star Daily,[321] and NSO receipts for processing of papers needed for filing the instant case.

The witness also testified that she was six (6) months pregnant at the time of Ronie's death so she collected the newspaper clippings and photographs related to her husband's death so that her unborn child will be able to understand what happened to his father. She fainted when she saw her husband's cadaver. She was also worried how she will be able to provide for her three (3) children.

She also stated that Ronie was earning a salary of not less than ₱10,000.00 as a correspondent of Mindanao Gold Star Daily. She knew how much he was earning because he entrusted his salary to her. However, she was unable to show receipts to substantiate Ronie's income because he was only a freelance correspondent.

Lastly, witness asked for exemplary damages in the amount of ₱15 million because she wanted that what happened to her husband will serve as an example to the perpetrators because according to her *"noong pinatay nila ang asawa ko ay parang pinatay na rin nila ang press freedom."*

On cross-examination on even date, the witness admitted that she had no evidence to show the expenses on the wake and burial of her husband. It was also established that her husband started working as a correspondent of Mindanao Goldstar Daily in the year 2002 but she had no receipts showing the income of her husband considering that he worked as a freelance correspondent.

Testimony of Mary Grace Morales for victim Rosell Morales:

Mary Grace Salamanca Morales who testified in court on October 06, 2011. She is the widow of Rosell Morales, one of the people

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[316]Marked as Exhibit "T-31".
[317] Marked as Exhibit "(4) S-7".
[318] Marked as Exhibit "(4) S-8". The court allowed this to be marked despite objection from the defense since the defense can object to it once it had been formally offered. The defense stipulated that the photocopies were true and faithful reproductions of the original newspaper clippings and photographs which were presented in court.
[319] Marked as Exhibit "(4) S-9".
[320] Marked as Exhibit "(4) S-1" and sub-marking.
[321]The original ID was presented for comparison with the photocopy before the photocopy was marked.

killed on November 23, 2009 at Brgy. Salman, Ampatuan Maguindanao. She testified about her relationship with Rosell,[322] their three (3) daughters,[323] how she found out that her husband was dead, the burial and other expenses incurred because of his death and the pain and suffering caused to her and her daughters.

Witness said that she last saw her husband at 4:00 a.m. of November 23, 2009 when he left to go to the house of her sister – Marites Cablitas – so that together, they can cover the filing of the COC of Toto Mangudadatu. On the same day, they heard news that several persons who joined the convoy of Toto Mangudadatu were killed. One of the names mentioned was that of Marites Cablitas, but Rosell's name was not included.

On November 24, 2009, the witness, together with the families of the other victims, went to Brgy. Salman, Ampatuan, Maguindanao where she saw the body of her sister Marites Cablitas but could not locate the body of her husband. When she was about to leave, a media man shouted where Rosell was. Then, witness saw the body of her husband far from the vehicles and from where the other bodies were found. She testified *"Hindi ko po ma-explain ko ano po yung nararamdaman ko nung time na yun, kasi nanginginig na yung katawan ko, umiiyak na po ako hindi ko na po maihakbang ang mga paa ko."*

However, for the next three (3) days – November 25, 26 and 27, 2009 – she returned back and forth from her house in General Santos to three (3) funeral parlors to check if the body of her husband was there. It was only on November 27, 2009 that she located her husband's body in Allen Funeral Home. She then brought her husband's body to Allen Funeral Home for the wake. She further testified that her three (3) daughters discovered the death of their father through their relatives. Two (2) of her daughters would always stay at the corner while her youngest daughter would always ask when her father was coming home.

After the burial of her husband, witness prepared a Complaint-Affidavit and, together with the families of the other victims, filed a case. She also executed an Affidavit of Burial Expenses[324] where she stated that she incurred expenses in relation to the wake of her husband amounting to ₱76,463.00, but she failed to keep the receipts. She also testified that his husband was a news correspondent and circulation manager of News Focus and showed his I.D.s and certifications.[325] She also testified that Rosell did not have any regular salary as his income came from commissions from advertisements. His estimated salary at the time he

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[322] She identified their Marriage Certificate marked as Exhibit "(4) "R-3" and sub-markings.
[323] She also identified the Birth Certificates of their children marked as Exhibits "(4) R-4", "(4) R-5" and "(4) R-6" and sub-markings, with a manifestation from the defense counsels that the occupation of victim written on the Certificate was driver.
[324] Exhibit Quadruple "R-11", provisional.
[325] Exhibit Quadruple "R-14", "R-15", "R-16" and "R-17".

was alive was ₱5,000.00 a week because the daily amount that he entrusted to the witness was ₱350.00 a day, and the last amount he gave her was ₱5,000.00. She claimed ₱30 million for her husband's loss of income, the pain of losing her husband and the pain of her daughters losing their father. This was because according to her when her husband died at the age of 33 years old, he could have lived for another 32 years. Also, based on his daily income, he could have earned more if he were still alive.

Lastly, the pain experienced by her and her children could not be quantified by any amount of money. The witness also claimed exemplary damages in the amount of ₱10 million because according to her *"Hindi naman dapat pinapatay ang mga media, gusto ko pong maging example ang kaso na ito, para hindi na mauulit, ang mga media hindi dapat pinapatay dahil naghahanap ng balita, hindi kailangan gilitan ang buhay ng isang mamamahayag."*

On cross examination on even date, she admitted that she received ₱20,000.00 from SSS as death benefit and ₱156,000.00 from PCSO.

Testimony of Gemma Palabrica for victim Welhelm Palabrica:

Gemma Palabrica directly testified on October 12, 2011. She testified that she was the wife of the late Wilhelm Palabrica as reflected in the NSO copy of their Marriage Certificate.[326] Based on NSO Birth Certificates, they had two children.[327] Based on the Death Certificate[328] and Medico-Legal Report,[329] her husband died of multiple gunshot wounds at the age of 46 years old at Sitio Masalay, Ampatuan, Maguindanao on November 23, 2009.

She came to know of her husband's death after her brother-in-law called her on November 24, 2009, at around lunch time. She felt shocked and very sad and was totally puzzled why her husband happened to be in Cotabato. Upon relaying the news to her son, the latter also cried. She cried since she heard the news up to the morning of November 25, 2009. She also relayed the news that night to her daughter, who also cried. The death of Wilhelm was difficult for them. It was difficult to raise children without a father, especially that her son was growing up and he would be able to know the truth about the death of his father. Witness was crying during her testimony. She retrieved the body of her husband from Collado Funeral Parlor, Tacurong City. She then brought it to the deceased' ancestral home in Brgy. New Passi, Tacurong City. She uttered: *"Hindi matutumbasan ng pera ang pagkawala niya".* There was no monetary

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[326] Exhibit Sextuple "F-1" and sub-markings.
[327] Exhibit Sextuple "F-2" and "F-3" and sub-markings.
[328] Exhibit "T-3" and sub-markings.
[329] Exhibit "PP" and sub-markings.

value to compensate the pain they suffered.

Starting from the retrieval of his body up to his burial and also the observance of his 40 days, she incurred expenses of about ₱200,000.00. This was stated in her Affidavit of Burial Expenses. She showed receipts of her expenses, which were compared to the original – except for some.

Based on the Certificate of Employment and Compensation,[330] at the time of her husband's death, he was working as a driver in the LGU of Tacurong earning ₱6,039.00 per month. Before his death, he was physically fit, he had not been sick for several years, and he was a very healthy man according to the witness. She executed an Affidavit[331] before the CIDG for this purpose.

As exemplary damages, she was going to ask from this court to recompense them ₱15 million because there are so many accused in these cases.

During her cross-examination on even date, it was established that she received ₱20,000.00 as funeral expenses from the SSS and from the PCSO, her family received ₱216,000.00.

Testimony of Phoebe Bataluna for victim Rubello Bataluna:

Phoebe Bataluna testified in court on October 27, 2011. She testified that she was the daughter of victim Rubello Bataluna and to prove her relationship to the victim, she brought copy of her Birth Certificate. She executed a Judicial Affidavit consisting of nine (9) pages dated October 26, 2009 in relation to this case.

In the course of her testimony, witness affirmed her statements in her Judicial Affidavit, which include the following: that she had other siblings and to prove this, she presented the birth certificates of Glaze Jean Gregorio Bataluna and Jesse Belle Bataluna; that her mother died three (3) years ago as shown in the Certificate of Death;[332] and that her father also died and to prove this, she produced his Certificate of Death.[333]

According to her, the amount of ₱111,853.00 was spent as expenses for the wake and burial of her father as shown in the Affidavit of Burial Expenses,[334] and that after the burial of her father, she filed a complaint together with the other relatives of the media victims. As such, she executed a three (3) page *Sinumpaang Salaysay*[335] and joined the other complainants in filing a case against those who killed her father.

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[330] Exhibit Sextuple "F-25" and sub-markings.
[331] Exhibit "B-19" and sub-markings.
[332] Exhibit Quadruple "Q-7".
[333] Exhibit "T-41".
[334] Exhibit Quadruple "Q-8".
[335] Exhibit Quadruple "Q".

During her testimony, she testified that her father worked as a correspondent and advertising man of Newspaper Goldstar Daily at the time he was killed and was earning ₱54,000.00 per year, depending on the number of advertisements he would bring in for the newspaper. She claimed that her father earned ₱4,500.00 every half of the month, and half of this amount goes to the publisher.[336] As proof of her father's earnings, the witness presented a Statement of Account from Gold Star Daily in the name of Rubello Bataluna.[337]

She further testified that she incurred other expenses in relation to her father's death which included securing authenticated copies of documents needed in court and expenses for the one (1) year anniversary of her father's death, and as proof, she handed over official receipts[338] from the NSO in the name of Phoebe Bataluna, as well as a receipt from KCC Mall at General Santos City in the amount of ₱5,500.00.

On cross-examination on even date, witness testified that one of the victims, in the person of Benjie Adolfo, was her boyfriend but she was not testifying to claim for damages for the death of the latter. She confirmed that the Statement of Account from Gold Star Newspaper was not signed by any officer of Mindanao Gold Star Daily, and that in her Certificate of Live Birth, the stated occupation of her father was a "stoneboat operator," but that he was not one at the time of his death. She also confirmed that in the Certificate of Live Birth of Glaze Jean Gregorio Bataluna, the stated occupation of their father was a "farmer," but in the Certificate of Live Birth of Jesse Belle Bataluna, the stated occupation of their father was a "salesman/appliances." She admitted that she did not attach any official receipts to the Affidavit of Burial Expenses that she executed in connection to the case. She also confirmed that she does not have personal knowledge regarding the circumstances on how her boyfriend and her father died. She further confirmed that there were people who gave her money to be able to go to Manila twice to attend the hearing of the case. She affirmed that she executed the marked Affidavit of Burial Expense to claim benefits from SSS but has not yet been able to get the said benefits because she has not yet submitted the Affidavit to the SSS. The amount stated in the Affidavit was the amount being claimed from SSS. She also filed a claim with PCSO and got ₱156,000.00. She testified that the Statement of Account contained nothing that would confirm that her father was employed either as advertising man of Gold Star Daily. She narrated that her father was supposed to go to Isulan, Sultan Kudarat in the morning of November 23, 2009 then, subsequently, she learned that her father went to Maguindanao. She does not know the reason why her father went to

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[336] ₱2,250.00 multiplied by one (1) month would be ₱4,500.00, then multiply this by twelve (12) months, the total will be ₱54,000.00.
[337] Exhibit Quadruple "Q-9".
[338] Exhibit Quadruple "Q-10" and series.

Maguindanao. Hence, the statement in her Judicial Affidavit stating that her father went to Maguindanao to cover the filing of COC of Vice Mayor Esmael Mangudadatu was not accurate and correct.

On re-direct examination on even date, witness testified on the following: that she arrived at the DOJ at 2:00 p.m. the other day and she subscribed to her Judicial Affidavit before Prosecutor Ira Gomez at 4:00 p.m. the same day; and that she learned that her father went to Maguindanao to cover the filing of the COC of Esmael Mangudadatu on November 24, 2009.

Testimony of Ma. Luisa J. Subang for victim Francisco Subang Jr.:

Witness Ma. Luisa J. Subang testified on October 27, 2011 for her direct testimony. She identified her Judicial Affidavit dated October 26, 2011.

According to her, she is the widow of the victim Francisco Subang, Jr. (Francisco), and as proof of their marriage, she presented a copy of their Marriage Contract.[339] She has three (3) children with Francisco as evidenced by the Certificates of Live Birth.[340] The witness made a correction on page one (1) of her Judicial Affidavit in the sentence, "that Ma. Luisa J. Sabang went through a stressful period in the aftermath of the massacre as she waited for the body of her husband to be retrieved and which she saw only on November 26, 2011", the year 2011 should be 2009. She likewise identified the Death Certificate of her husband.

She testified that she spent ₱56,353.00 for the wake and burial as evidenced by an Affidavit of Burial Expenses.[341] Witness spent ₱9,510.00 for rice, ₱ 9,650.00 for t-shirts which were worn during the burial and ₱12,000.00 for lechon evidenced by four (4) receipts.[342]

After the burial, witness, together with other media victims executed a "*Sinumpaang Salaysay*" and joined other complainants in filing a case against those who killed her husband.[343]She also stated that her husband, at the time he was killed, was a publisher of Socsksargen Today evidenced by his Socsksargen I.D., RPN-DXDX Certification[344] and the Staff Box of Socskarsargen Today indicating him to be its publisher.

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[339] Exhibit Quadruple "V-4"and sub-markings.
[340] Certificates of Live Birth of Ian Krisna, Kristian Javel, and Kristia Lou, all surnamed Subang (Exhibits Quadruple "V-5", "V-6" and "V-7" and sub-markings, respectively).
[341]Photocopy of Affidavit of Burial expenses provisionally marked and sub-marked because the original was with SSS (Exhibit Quadruple "V-8" and sub-marking).
[342] Question 51, page 7 of Judicial Affidavit. Four (4) receipts marked. ₱4,800.00 sold to Ma. Luisa J. Subang on November 27, 2009. ₱4,700.00 sold to Ma. Luisa J. Subang on December 3,2009. ₱12,000.00 for two (2) lechon dated December 23,2009, ₱9,650.00 in full and partial payment of t-shirt from ART Color Advertising dated December 2,2010. Last receipt dated December 2,2010 for the t-shirts "Stop Killing Journalist" (Exhibit Quadruple "V-9" and sub-markings).
[343] Question 54, page 7 of Judicial Affidavit. Witness identified *Sinumpaang Salaysay*, previously marked, and identified her signature as well. *Sinumpaang Salaysay* marked and sub-marked.
[344]Exhibit Quadruple "V-11".

Witness handed over the Socsksargen I.D. of Ian Subang,[345] newspaper Socskarsargen Today November 22-28, 2009 issue,[346] and Certificate of Creditable Tax Withheld at Source issued on April 1, 2010.[347] Witness said that her husband was the president of SMBI – Samahan ng mga Mamamahayag at Broadkaster, Inc., evidenced by the letterhead of SMBI which she presented.[348]

Witness also incurred other expenses in relation to her husband's death when she secured authenticated copies of documents needed in court and required by other government offices and agencies evidenced by receipts.[349]

On cross examination on even date, witness testified on the following: Her three (3) children were all of legal age but she had no Special Power of Attorney to represent them. Witness did not know if her husband received consideration for joining the Mangudadatu convoy. She received ₱20,000.00 from SSS by reason of the death of her husband and received ₱156,000.00 from PCSO. Her husband was brought to Collado Funeral Homes, and no other place after he was recovered from the alleged crime site. The Affidavit of Burial Expenses was sworn before a notary public in order to get benefits from SSS. Witness confirmed that attached to the affidavit was a receipt from Zubere Funeral Homes. She claimed that her husband earned around ₱432,000.00 annually, proof being the Certificate of Creditable Tax Withheld at Source. However, the name of her husband did not appear in the Certificate. The amount of ₱432,000.00 did not appear in the document and that the only amount allegedly withheld was ₱150.00. The Certification issued by James Catalan, station manager of Radio Philippines Network, Inc. had no relation to the Socsksargen Today newspaper, only to the broadcasting network RPN-DXDX. The letterhead as far as witness was concerned was the original but she's not part of SMBI and did not know when the letterhead was printed. She mentioned in her Judicial Affidavit that her husband was supposedly going to the Munato Festival in Saranggani province but his plans changed, he told his wife that he had gone to Maguindanao province to cover the filing of the COC of Toto Mangudadatu.

On re-direct examination on even date, witness testified on the following: When asked why she attached the photocopy of the official receipt with the Affidavit of Burial Expenses, she answered *"Sorry po, nakasama lang, siguro nalito lang po ako."* James Catalan knew her

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[345] Defense stipulated that the photocopy of the ID (Exhibit Quadruple "V-10" and sub-markings) is a faithful reproduction of what appears to be an ID card of Ian Subang which states valid until January 2007 only, photocopy of ID marked and sub-marked

[346]Exhibit Quadruple "V-12" and sub-markings; Marked, staff box sub-marked, name Francisco Ian Subang, Jr. Publisher sub-marked.

[347]Exhibit Quadruple "V-13".

[348] Position of husband – President, CEO/Publisher, Socsksargen Today, witness pointed to the name appearing on the upper left hand portion of the document, marked and sub-marked (SMBI Letterhead –Exhibit Quadruple "V-15" and sub-marking).

[349]Exhibit Quadruple "V-14"; twelve (12) NSO receipts marked.

husband because in DXDX Radio Station, he first worked there as a talent announcer when James Catalan was not yet the station manager.

On re-cross examination, witness testified on the following: She did not inform the prosecutor that the receipt was a mistake. Witness did not execute a subsequent affidavit of expenses stating that the receipt was a mistake and would never be included. The receipt was from Marbel Zubere Funeral Homes because the cadaver was first brought to Zubere for autopsy. She did not mention in her Judicial Affidavit that her husband was brought to Zubere for autopsy before it was brought to Collado because she forgot to mention it.

Testimony of Toy Pamensang for victim Raida Sapalon Abdul:

On direct examination, Toy Pamensang testified through his Judicial Affidavit[350] and was presented on November 2, 2011. He testified that he was the husband of victim Raida Abdul and as proof of their marriage presented an NSO copy of their Marriage Contract.[351]

According to him, his wife was previously married to Jainodin Sapalon but was subsequently divorced and as proof, presented a copy of the Certificate of Divorce[352] between Jainodin Sapalon and Raida Abdul which witness identified. Raida Abdul had two (2) children with Jainodin Sapalon and in order to prove this, witness identified the Certificates of Birth[353] of Asraph Abdul Sapalon and Nur-An Abdul Sapalon. He also identified the NSO copy of the Birth Certificates of his two (2) minor children - Rashad Abdul Pamensang and Sahada Abdul Pamensang[354] - with his marriage to Raida Abdul. Witness said the proofs of death of his wife were the Death Certificate[355] and the Autopsy Report No. SARGO 2009-32.[356] Witness executed an Affidavit-Complaint[357] consisting of two (2) pages which he identified, as well as his signature on the said Affidavit-Complaint.

Witness spent a total of ₱36,000.00 for the retrieval of the body of his wife, ₱218,500.00 for *kanduli* services and ₱40,000.00 for funeral services and other expenses in preparing for the burial site.[358] Witness had a list of expenses to support the existence of these expenses. He identified a list of itemized burial, *kanduli* and other miscellaneous

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[350]Exhibit Quadruple "G-11" and sub-markings.
[351]Exhibit Quadruple "G-2" and sub-markings.
[352] Exhibit Quadruple "G-4" and sub-markings.
[353]Exhibits Quadruple "G-5" and sub-markings and Quadruple "G-6" and sub-markings.
[354] These certificates were marked and sub-marked: Exhibits Quadruple "G-7" and "G-8" and sub-markings.
[355] Exhibit "T-16" and sub-markings. This Certificate had been previously marked but was also sub-marked during the trial.
[356] Exhibit "BB" and sub-marking This report had been previously marked but was also sub-marked during the trial.
[357] This Affidavit-Complaint had been previously marked but was also sub-marked during the trial as Exhibit Quadruple "G-2" and series.
[358] Page 7 of Judicial Affidavit

expenses spent for the death of Raida Abdul Pamensang which was signed by Toy B. Pamensang.[359] The total amount of these expenses was ₱ 32,000.00.

Witness stated that at the time of his wife's death, she was a cash clerk at the Cashier's Office of the Municipality of Buluan and was earning ₱6,439.60 per month and ₱90,439.60 per year including allowances. Witness produced a Certification issued and signed by the OIC Municipal Treasurer, the service record of Raida Pamensang stating that she was earning an annual income of ₱77,580.00 as of November 22, 2009, and a Certification from the Office of the Treasurer of the Municipality of Butuan which stated that Raida Abdul earned an annual income of ₱90,438.60 including PERA and ADCOM.[360]

On cross examination on even date, witness testified on the following: The *kanduli* is the prayer for the departed to be conducted forty (40) days and one (1) year after the burial. Witness said that he had the authority to represent the children of his wife in her first marriage but had no document to prove that authority. During the wake, the Mangudadatus extended financial assistance to his family but he could not remember how much. He had also not yet received benefits from SSS or GSIS because of the death of his wife. However, he received ₱216,000.00 from PCSO. Witness learned about the death of his wife because he heard it over the radio when former Vice-Mayor Esmael Mangudadatu called for a public prayer. Before he executed his Complaint-Affidavit, witness talked with the Mangudadatus that they were going to file a case against the Ampatuans. It was the Mangudadatus who told him that a case should be filed against the Ampatuans.

Testimony of Mohamad Palawan for victim Rahima Palawan:

Mohamad Palawan identified on direct examination on November 3, 2011, the Judicial Affidavit he executed in connection with this case.[361] He was the husband of Ms. Rahima Palawan and as proof, he presented their Certificate of Marriage.[362] Out of their union, five (5) children were born, and as evidence, he also presented the corresponding Birth Certificates[363] of their children. He presented the Death Certificate[364] of Rahima Palawan as well as the Autopsy Report[365] showing that his wife died due to gunshot wounds. He also testified that he filed an Affidavit-Complaint in relation to this case, affirmed and confirmed the contents of the same but admitted that there were some mistakes. The names indicated as Genalin and Bai Eden are not his sisters but were cousins of

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[359] This list was marked and sub-marked as Exhibit Quadruple "G-9" and sub-markings.
[360] These three (3) documents were marked as Exhibits Quadruple "G-10" and sub-marking.
[361] Exhibit Quadruple "N-11".
[362]Exhibit Quadruple "N-4" and sub-markings.
[363]Exhibits Quadruple "N-5", "N-6", "N-7", "N-8" (provisional), and "N-9" and sub-markings.
[364] Exhibit "T-8" and sub-markings.
[365] Exhibit "YY" and sub-marking.

his wife. When he signed the Complaint-Affidavit, he read it but did not notice the mistake he committed because he was in a hurry.

He narrated that he spent a total of ₱35,500.00 for the retrieval of the body of his wife, ₱28,000.00 for funeral services and other expenses in preparing for the burial site, and expenses for *kanduli* which amounted to a total of ₱193,000.00.[366] He handed to counsel the document which he prepared in relation to these expenses.[367]

On cross examination on even date, witness testified that he was a driver and his monthly income was not lower than ₱8,000.00; nonetheless, he spent ₱35,500.00 for the retrieval of the body from the funeral homes and the burial of his wife. He incurred ₱ 28,000 for funeral services, and ₱ 193,000.00 for *kanduli*, but these expenses were not supported by receipts. He confirmed that it was his son who informed him about the death of his wife. His wife joined the convoy because she was related to Bai Eden Mangudadatu and Bai Farina Mangudadatu and she was invited by Bai Genalin Mangudadatu to join the filing. He confirmed that he received financial assistance in connection to death of his wife from PCSO in the amount of ₱216,000.00.

Testimony of Femalyn V. Magaway for victim Noel Decena:

Femalyn V. Magaway identified on direct examination on November 10, 2011, the Judicial Affidavit she executed in relation to this case.

She testified that she was the cousin of victim Noel Decena and presented the NSO copy of the Certificate of Live Birth of Noel Gelay Decena[368] and the NSO copy of the Certificate of Live Birth of Femalyn Villahermosa as the proof of her relationship to said victim.[369] She said that Teresa Decena, the mother of Noel Decena, issued a Special Power of Attorney (SPA) for witness. Witness presented an SPA dated June 15, 2010.[370] Witness knew of the death of her cousin Noel Decena through

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[366] Page 6 of Judicial Affidavit.

[367] List marked as Exhibit Quadruple "N-10" – itemized burial, *kanduli* and other miscellaneous expenses spent for the death of Rahima P. Plawan. sub-marking on the entry pertaining to the total amount of expenses for the retrieval, funeral and burial amounting to ₱63,500.00 marked as Exhibit Quadruple "N-10-b". Expenses for *kanduli* celebration amounting to ₱193,000.00 encircled and sub-marked Exhibit Quadruple "N-10-c". Identified signature on the itemized list of expenses. Encircled, sub-marked "N-10-c".

[368] Photocopy of Certificate of Live Birth of Noel Decena marked as Exhibits Quadruple "X-2" and "X-2-a"; entries stating name of child as Noel Gelay Decena and mother as Teresita Alonzo Gelay bracketed and sub-marked as Exhibits Quadruple "X-2-b" and Quadruple "X-2-c", respectively. Judge stated to indicate "compared with the original".

[369] Prosecution: witness was issued an SPA so relationship with victim only incidental, just proving as support to the fact that she is the cousin and the attorney-in-fact of the mother of the victim.

[370] SPA marked as Exhibit Quadruple "X-4", entry stating the name of Femalyn Magaway as attorney-in-fact, signature on top of such name encircled and sub-marked as Exhibit Quadruple "X-4-a" and "X-4-b".

his Certificate of Death[371] which she identified as mentioned in her Judicial Affidavit.

Witness prepared an original of itemized list of expenses[372] spent for the death of Noel Decena, in the amount of ₱54,000.00. Witness identified the signature at the bottom portion of the itemized list as her signature. Witness mentioned one (1) receipt to support the list of expenses. She presented an original receipt dated December 1, 2009[373] from Vincent Grace Funeral Home. She also presented the proof of employment of Noel Decena which were the following: the original copy of the Certificate of Compensation signed by Freddie Solinap of Rapido Newspaper, [374] a Certificate of Employment, [375] and a copy of the November 22-28, 2009 issue of Rapido Newspaper.[376] Witness stated that she failed to keep other receipts in support of the list of expenses because at that time they were mourning.

On cross examination on even date, witness testified that the Judicial Affidavit and itemized list of expenses were only printed the night before she testified. The amount stated in the list of expenses was based on what the witness had approximated to be the amount of each item stated. The SPA did not indicate a case and case number. The mother of Noel Decena was 48 years old, and could still walk and travel, while the father of Noel Decena was 55 years old and could walk but could not travel anymore because he is suffering from high blood and rectal cyst. She confirmed that there was no SPA from the father of Noel. From the way the witness understood the SPA, she was authorized to attend and testify in relation to these cases. Witness said that she did not recover benefits from SSS in behalf of Teresita Decena or from any government agencies. However, Teresita Decena was able to receive money from PCSO in the amount of ₱156,250.00. Witness said that Noel Decena was with the convoy of the Mangudadatu on November 23, 2009, and that he joined the convoy because he was invited by the Mangudadatus.

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[371] Certificate of Death previously marked Exhibit "T-47" and submitted to court as part of formal offer of evidence in opposition to petition for bail of accused Michael Joy Macaraeg. Entry in Certificate of Death referring to cause of death as multiple gunshot wounds trunk and extremities, marked as Exhibit "T-47-c".

[372] List marked as Exhibit Quadruple "X-5" and signature at the bottom above the name Femalyn Magaway sub-marked as Exhibit Quadruple "X-5-a".

[373] A photocopy of the receipt was also shown. Defense stipulated that the photocopy was a faithful reproduction of the original. Photocopy of receipt from Vincent Grace Funeral Home for ₱ 4,000.00 dated December 1,2009 marked Exhibit Quadruple "X-6" and entry referring to amount ₱4,000.00 bracketed and sub-marked Exhibit Quadruple "X-6-a".

[374] Photocopy of this document was shown. Defense stipulated that photocopy was a faithful reproduction of the original. Certificate of Compensation signed by Mr. Freddie Solinap marked as Exhibit Quadruple "X-9", entry indicating monthly allowance of Noel G. Decena encircled and sub-marked as Exhibit Quadruple "X-9-a".

[375] Photocopy of this document was shown. Defense stipulated that the photocopy was a faithful reproduction of the original. Certificate of Employment marked as Exhibit Quadruple "X-7".

[376] Photocopy of this document was shown. Defense stipulated that the photocopy was a faithful reproduction of the original. Nov. 22-28, 2009 issue of Rapido Newspaper marked as Exhibit Quadruple "X-8", editorial box sub-marked Exhibit Quadruple "X-8-a".

On re-direct examination, witness testified that the mother of Noel Decena was in Midsayap as of that moment. She authorized the witness through a SPA because the former could not leave her husband and no one would look after their youngest child.

On re-cross examination, witness testified that she was the one who received the benefits from PCSO through a SPA prepared by the mother of Noel Decena. However, she did not tell the prosecution that she was authorized to receive benefits from PCSO. She already threw away the SPA authorizing her to receive the amount from PCSO because from what she understood, it was no longer needed. She gave the check to the mother of Noel Decena. Witness also said that her mother was the sister of Mrs. Decena. As such, she was Mr. Decena's niece. Hence, her mother and their family members were willing to help Mrs. Decena and her family for purposes of this case.

Testimony of Estrella Razon for victim Fernando Razon:

Estrella Razon identified during direct examination on November 10, 2011, the Judicial Affidavit she executed in relation to this case.[377] Her proof of marriage to Fernando Razon was an NSO copy of a Marriage Contract which she presented.[378] She has five (5) children with Fernando Razon as evidenced by their Certificates of Live Birth which she presented and which the prosecution marked and sub-marked.[379] Her proof of knowledge of the death of her husband was the latter's Death Certificate which she identified.[380]

She spent a total of ₱155,300.00 for the wake and burial of her husband evidenced by an Affidavit of Burial Expenses which she presented.[381] She has receipts to support Affidavit of Burial Expenses which she showed and identified. As proof of employment of her husband at time of death, she presented these documents: Certificate of Employment issued by Mr. Freddie Solinap and a sample copy of Periodico Ini Weekly News.[382] She also incurred other expenses in relation to death

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[377] She also identified signature on top of the name Estrella P. Razon as hers. Confirmed and affirmed the contents of the Judicial Affidavit. Prosecution adopted the Judicial Affidavit of Estrella P. Razon as part of the direct testimony of the witness. Judicial Affidavit marked as Exhibit Sextuple "G-12", signature sub-marked as Exhibit Sextuple "G-12-a".

[378] Marked as Exhibit Sextuple "G-1". Entry stating name of husband as Fernando P. Razon bracketed and sub-marked as Exhibit Xextuple "G-1-a", entry stating the name of the wife as Estrella L. Pancho bracketed and sub-marked as Exhibit Sextuple "G-1-b", date of marriage November 26, 1988 bracketed and sub-marked as Exhibit Sextuple "G-1-c".

[379] Exhibits Sextuple "G-2", "G-3", "G-4", "G-5", and "G-6" and sub-markings.

[380]Death Certificate previously marked as Exhibit "T-6" which was already submitted to the court as part of the formal offer of evidence by the prosecution in opposition to the petition for bail of accused Michael Joy Macaraeg. Entry referring to cause of death of Fernando P. Razon bracketed and sub-marked as Exhibit "T-6-a".

[381] Identified signature on top of the word affiant as hers. Affidavit of Burial Expenses marked as Exhibit Sextuple "G-7", signature above the word affiant sub-marked as Exhibit Sextuple "G-7-a". Total amount of expenses ₱155,300.00 bracketed and sub-marked as Exhibit Sextuple "G-7-b".

[382] Certificate of Employment of Fernando Razon issued by Mr. Freddie Solinap, publisher of Periodico Ini South Cotabato as Exhibit Sextuple "G-9" and the amount of his income as ₱10,000.00 to ₱15,000.00 based on his sales production bracketed and marked as Exhibit Sextuple "G-9-a". Periodico Ini Weekly

of her husband evidenced by receipts.[383]

On cross examination on even date, witness testified that she has children who were already of age. However, witness did not have any SPA representing these children to appear on their behalf in these cases. She received ₱20,000.00 from SSS as death benefit and received ₱156,250.00 from PCSO as financial assistance. Witness confirmed that based on the Certificate of Employment, her husband was entitled to fifty percent (50%) commission and the range of his salary would usually be from ₱10,000.00 to ₱15,000.00. There was also a time when his salary would be lower than ₱10,000.00. The amount stated in the Certification happened to be a mere approximation. She confirmed that the Affidavit of Burial Expenses did not appear to be an official form of SSS. She also said that the amount stated in the Affidavit – ₱70,000.00 - for food, drinks, etcetera was only an approximation. The receipts she presented more or less would not total to the amount mentioned in the Affidavit. She affirmed that there were receipts which were included but not actually used in connection with the wake of his husband, such as cinema tickets. She further confirmed that her husband was the advertising manager of Periodico Ini, but the position he handled was not a permanent appointment.

On re-direct examination, witness testified that there were certain items which they purchased before the burial because they needed them, such as pillowcase, cotton doormat, etc.

Testimony of Pacita Dalmacio for victim Eleanor Dalmacio:

On direct examination on December 07, 2011, Pacita Dalmacio testified that she executed an affidavit in relation to this case. She identified a Judicial Affidavit[384] consisting of nine (9) pages dated December 7, 2011 as the one she executed. Witness was the mother of victim Eleanor Dalmacio. She presented an NSO copy of the Certificate of Live Birth of Eleanor Soguilon Dalmacio[385] to prove this. Eleanor or Leah has three (3) children. The evidence of this were the

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News March 9-15, 2009 issue marked as Exhibit Sextuple "G-10" and editor box found on page 2 which indicates the name of Fernando Razon as the advertising manager bracketed and sub-marked as Exhibit Sextuple "G-10-a".

[383] Identified receipts from NSO and other transportation receipts as the receipts she mentioned in her Judicial Affidavit. Defense manifested that the photocopies were faithful reproductions of the original. One observation: receipt no. 1611, it is dated October 27, 2007 so it should not be included. Does not clearly indicate the date when these receipts were actually consumed. While there may be some reference to months and days, there is no specific mention as to the year when these receipts were issued. Most of the receipts were actually printed on April 15, 2010. Receipts which refer to the expenses for the burial and wake of victim Fernando P. Razon marked as Exhibits Sextuple "G-8" and "G-8-a". Set of receipts which refer to the other expenses relative to the filing of the case in relation to the death of Fernando P. Razon marked as Exhibits Sextuple "G-11" and series.

[384] Marked as Exhibit Quintuple "L" in sequencia and signature of Pacita Dalmacio bracketed and marked as Exhibit Quintuple "L-8-a".

[385] Certificate of Live Birth of Eleanor Soguilon Dalmacio marked as Exhibit Quintuple "O-3", name of Eleanor Dalmacio, name of mother Pacita Soguilon marked Exhibits Quintuple "O-3-a" and "O-3-b" respectively.

Certificates of Live Birth of Renalean Franchesca Khrystylle Dalmacio,[386] Franzitha Leian Karla Dalmacio,[387] and Aphril Gielean Kaye Dalmacio,[388] which were handed over by witness. As proof that her daughter Eleanor or Leah was dead, she presented the latter's Certificate of Death.[389]

Witness spent more or less ₱50,000.00 for the wake and burial of Leah but only ₱30,000.00 had receipts. To prove this, witness handed over invoice no. 2373[390] dated November 25, 2009 in the amount of ₱ 30,000.00. Witness also spent for terminal fee, NSO certificates and expenses for the children of the victim. She handed over three (3) terminal fee receipts,[391] official receipts from the NSO[392] in the amount of ₱140.00 and four (4) receipts[393] representing medical expenses for Leah's children.

After the burial, the husband of witness, together with the relatives of the media people who were killed, made a *Sinumpaang Salaysay* in order to file a case against those who killed their children. Witness said that if the *Sinumpaang Salaysay* was shown to her, she would be able to identify it.

Witness said that daughter Eleanor was the associate editor of Socksargen Today and columnist of News Focus before she was killed. To prove this, witness presented the Press ID[394] of Eleanor Dalmacio, the May 7 to 13, 2007 issue of Socksargen Today,[395] the August 27 to September 13, 2007 issue of News Focus,[396] and the September 21 to 28, 2009 issue of News Focus.[397] Witness estimated that her daughter earned about ₱5,000.00 per month as associate editor of Socksargen Today. To prove this, witness has an advertising contract representing her daughter's employment contract.[398]

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[386] Certificate of Live Birth of Renalean Franchesca Khrystylle Dalmacio marked as Exhibit Quintuple "O-4", name of mother Eleanor Soguilon Dalmacio bracketed and sub-marked as Exhibit Quintuple "O-4-a".
[387] Birth Certificate of Franzitha Leian Karla Dalmacio Subang marked as Exhibit Quintuple "O-5", name of mother Eleonor Soguilon Dalmacio bracketed and sub-marked Exhibit Quintuple "O-5-a".
[388] Birth Certificate of Aphril Gielean Kaye Dalmacio marked as Exhibit Quintuple "O-6" and name of mother Eleanor Soguilon Dalmacio bracketed and sub-marked as Exhibit Quintuple "O-6-a".
[389] Certificate of Death previously marked Exhibit "T-28".
[390] Marked as Exhibit Quintuple "O-7".
[391] Marked as Exhibits Quintuple "O-8", "O-8-a", "O-8-b".
[392] Marked as Exhibit Quintuple "O-8-c".
[393] Marked as Exhibits Quintuple "O-8-d", "O-8-e", "O-8-f" and "O-8-g".
[394] Press ID of Eleanor Dalmacio marked as Exhibit Quintuple "O-9", back side marked as Exhibit Quintuple "O-9-a".
[395] May 7 to 13, 2007 issue of Socksargen Today marked as Exhibit Quintuple "O-10", staff box appearing on page 2 bracketed and sub-marked as Exhibit Quintuple "O-10-a", name of Leah Dalmacio appearing inside staff box bracketed and sub-marked as Exhibit Quintuple "O-10-b".
[396] Witness pointed to staff box on page 5 of News Focus August 27 to September 13, 2007 issue when asked where the name of Leah Dalmacio appears. Identified that picture appearing on right side of first page of News Focus was Leah Dalmacio. Copy of News Focus August 27 to September 13, 2007 marked as Exhibit Quintuple "O-11", picture of Leah Dalmacio marked as Exhibit Quintuple "O-11-a". Staff box marked as Exhibit Quintuple "O-11-b", name of Leah Dalmacio marked as Exhibit Quintuple "O-11-c".
[397] Marked as Exhibit Quintuple "O-11-d", staff box bracketed and sub-marked as Exhibit Quintuple "O-11-e" and name of Eleanor Dalmacio marked as Exhibit Quintuple "O-11-f".
[398] Advertising Contract marked as Exhibit Quintuple "O-12".

Witness also mentioned that a Joint Affidavit of Two Disinterested Persons[399] was executed which she handed over. She then identified the signatures appearing above the printed names Adrian G. Dinasas and Roberto L. Bitco in the said Joint Affidavit dated January 13, 2011 as the signatures of these two (2) men. She knew these were their signatures because she was in front of them when they signed the Affidavit. Witness wishes to see the end of this case and the damages caused to her daughter and other victims be paid considering that her daughter was the sole breadwinner of the family.

No cross-examination was conducted by the respective counsels of the accused on the said witness.

Testimony of Dennis Ayon for victim Cynthia Oquendo-Ayon:

On direct examination on December 8, 2011, Dennis Ayon testified that he is the husband[400] of the deceased Cynthia Oquendo (Cynthia) who was a lawyer by profession since 2000.[401] In November 2009, they were living with his in-laws' house at Anastacio Subdivision, Polomolok, Poblacion, South Cotabato. At the same time, his wife had her own office in Poblacion, Polomolok and was an associate of Flaviano Law Office in General Santos City.

In the afternoon of November 22, 2009, his wife and father-in-law Catalino Oquendo Jr. were preparing to leave for Buluan because his wife's legal services were hired by then Vice Mayor Esmael Toto Mangudadatu (Toto) to assist the latter's wife in filing the COC of Toto for Governor in their province. According to the witness, he knew of this information as early as Tuesday, November 17, because Toto called up Cynthia for that purpose.Before November 2009, the services of Cynthia were hired by Toto in the 2007 election, when his wife Genalin "Gigi" Mangudadatu (Gigi) ran for Mayor in Tulunan, North Cotabato.

On November 23, 2009, from 5:43 a.m. to 10 a.m., witness received seven (7) text messages from the victim. At about 5:43 in the morning, the first message on November 23, 2009 was *"good morning dearest".* The second text message at 8:12 a.m. was *"Ok lang, ni. Daghan media, gakontak pa security,"* in tagalog – *"Ok lang honey. Maraming media.* They are contacting security or escort." The third text message at 8:24

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[399] Marked as Exhibit Quintuple "O-13", names of Adrian G. Dinasas and Roberto L. Bitco bracketed and marked as Exhibits Quintuple "O-13-a" and "O-13-b".

[400] Marriage Certificate marked as Exhibit Quintuple "R-2-a".

[401] Proof that wife is a lawyer is the Integrated Bar of the Philippines (IBP) ID of Cynthia Jorque Oquendo, reserved marking of ID because will have it photocopied later as Exhibit Quintuple "R-6". The defense stipulated to the photocopy. Marked as Exhibit Quintuple "R-6", name appearing in ID is Cynthia Jorque Oquendo encircled and marked as Exhibit Quintuple "R-6-a", Roll of Attorneys No.45548 marked as Exhibit Quintuple "R-6-b".

a.m. of the same day was*: "la man siguro, di pa bal-an, basi lunch time",* which in tagalog means "*hindi naman siguro, d pa malaman, not sure yet, baka lunch time*," because witness was asking her when she would come back. The next text message at 8:27 a.m. of the same day was *"Buluan pa, balay ni assemblyman. Di mulakaw ang media without security. Pero wala gyapon kahit PNP sa Buluan, gipang recall na, pero nagkontak na sa AFP."* She said that they were still in Buluan in the house of assemblyman because the media would not go without security, they were not provided PNP personnel because the PNP in Buluan had been recalled, but they were contacting the AFP. Next text "ok" at 8:28 a.m. Next text message at 9:01 a.m. was *"Take off na, leaving house, god bless."* Last text message at 9:54 a.m. was *"Ampatuan na, duon na Shariff Aguak, dito me file."* meaning "we are now in Ampatuan, we are near in the Capitol, Shariff Aguak, we will do the filing there."

In the afternoon of November 23, 2009 at 1:15, he was informed by his brother-in-law, Dr. Emmanuel Oquendo, that his wife and father-in-law were kidnapped. He got very worried, was trembling and shaking. Instead of going to a meeting, he proceeded to Cynthia's office in Polomolok to meet his in-laws – Ray Oquendo, Noli Oquendo, Olive Grace Oquendo, and Jacob Oquendo. When he went home, he did not tell anything to his kids to spare them from the feeling; and because the witness knew that they would not understand. Witness just comforted them. Between 4:30 p.m. and 5:00 p.m., his mother-in-law arrived with the wife of his brother-in-law and they told witness and confirmed that Cynthia and *Tatay* were among those killed. He embraced his family while all of them cried.

In the morning of November 24, 2009, they went to the crime site. But when he was informed by his cousin that the body of his wife was brought down to the highway, he immediately went down. When the witness was able to secure the cadaver of his wife, he saw that there were multiple wounds on her leg, grazing wound on her face; and she was bathed in blood. At that instance, he wanted also to end his life. The cadaver of his wife was brought first to Collado Funeral Home and then subsequently it was transferred to Southern Funeral Parlor in Polomolok. The autopsy took place the following day on November 25, 2009, which was conducted by Dr. Dimaandal.[402]

After the autopsy, he brought the body of his wife and father-in-law to their home in Polomolok for the wake which was from November 26 to 30, 2009. During the wake, his brother-in-law, Ray Oquendo, handed and showed the witness the cellphone of Cynthia that was recovered from her body. The witness testified that his wife used that cellular phone less than a year prior to her death, and he also talked to his sister-in-law Atty. Gemma Oquendo, were they planned what to do with that phone because

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[402] Autopsy report pre-marked as Exhibit "UU", copy shown to witness only a machine copy.

it might contain some important and vital things inside. According to him, he handed over the cellular phone to his sister-in-law because she was a lawyer and she knew what to do, and the same could be used in the future. Witness attempted to open it two (2) times: once during the wake and another one after the wake because they were just all curious that there might be something inside like a video because it has a camera, so they were speculating that there could be a video recorded.

He was able to open the cellular phone of his wife but there was no video recording. They learned that the CIDG in General Santos has the equipment and the gadget to extract messages or information on the phone, so they decided along with Atty. Gemma Oquendo, Ray Oquendo and his sister-in-law, Olive, to submit the cellphone to the CIDG. But they did not submit the cellphone to the CIDG because prior to that, they talked to the Chief, the name of which they cannot recall and requested that if the CIDG would open or extract the information in the cellular phone, they would be present also. The Chief of CIDG said that they would not be allowed to observe, that was why they decided then not to submit the cellphone but kept it and handed it over to Atty. Gemma Oquendo.

The witness also testified that the first time he saw the cellular phone (Sony Erickson E1i, maroon color), was inside a small plastic bag, the same was tainted with blood and in an off mode.[403] The prepaid cellphone number that his wife was using at that time was 09106880595, and used this number for more than a year prior to her death. The witness also read the number 09106880595 appearing in the text messages which he received from his wife on November 22 to 23, 2009. According to him, his wife was using the same number up to the last text message but he forgot the cellphone number that he was using while exchanging text messages with his wife on November 22 to 23, 2009.

The income of his wife before her death appeared to be more or less ₱200,000.00[404] in September 2008 to November 2009 as shown by a Certification dated August 3, 2010 issued by one of her clients – DOLE Philippines, Inc. As far as the witness knows, with the receipts they recovered and submitted to the court, the overall amount was ₱1.3 million. The witness prepared a document where it reflected the estimated income of his wife for the year 2009[405] by using two (2) booklets which

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[403] Cellular phone marked Exhibit Sextuple "U", pre-marked on August 4, 2010. Defense manifested that cover of the cellular phone was detached and seemed that it was no longer working, it didn't have any power.

[404] Identified Certification from DOLE Phils. dated August 3,2010 marked as Exhibit Quintuple "R-7". Entry Atty. Cynthia Oquendo-Ayon for legal services encircled and marked as Exhibit Quintuple "R-7-a". Total amount of ₱200,600.00 marked as Quintuple "R-7-b". Part of folder marked as Exhibit Quintuple "R".

[405] Identified document, an estimated income earned by Atty. Cynthia Oquendo-Ayon for the year 2009. marked as Exhibit Quintuple "R-8". Identified his signature. Signature of Engr. Dennis Ayon encircled and marked as Exhibit Quintuple "R-8-a" and amount ₱1,302,75.000 as Exhibit Quintuple "R-8-b".

was the basis for his estimate.[406]

According to him, he could not tell the exact amount of funeral expenses but the receipts were with his mother-in-law and she would be presenting them when she testifies. His mother-in-law was the one keeping the receipts insofar as the expenses in connection with the funeral services extended to the cadaver of his wife by these two (2) funeral parlors because there were two (2) of them, so they decided that all receipts be collected and he would just give it to his mother-in-law as well as the burial expenses. Other than funeral and burial expenses, he also incurred expenses for the food during the wake from November 26 to 30, 2009 and during the internment, the expenses for the construction of the tomb estimated more or less ₱25,000.00 and the fabricated steel canopy in connection with the construction of the tomb amounted to ₱15,000.00.

The witness also testified that his wife was thirty-five (35) years old at time of her death and at the peak of her health. The killing of his wife affected their life, in fact his youngest son was recently diagnosed of learning disability. The witness was crying while testifying.

The witness also thought that with the manner of killing his wife and all the victims, there was no amount of money that could recompense her death. The witness likewise, identified the Medico Legal Report in connection with the death of his wife[407] and thereafter executed an Affidavit in connection with the case.[408]

On cross examination on even date, the witness testified that they went to Buluan and stayed in the house of Mangudadatu, they were also given food by the Mangudadatus. The following day, November 23, they were also provided with vehicles by the Mangudadatus in going to Shariff Aguak but no security whatsoever was given to them by the Mangudadatus according to her. There was an apparent threat in their going to Shariff Aguak but no warning whatsoever was given by the Mangudadatus about the possibility of them being killed along the way. His wife and father-in-law were abducted and subsequently killed.

His brother-in-law, Ray Oquendo, gave the cellphone of his wife to him, no other stuff. There was a video in the cellphone but it had nothing

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[406] Identified these two (2) booklets of Oquendo Law Office. First booklet No. 001 of Oquendo Law Office up to No. 0050 collectively marked as Exhibit Quintuple "R-9" and second booklet with receipt No. 0051 to 00100 be collectively marked as Exhibit Quintuple "R-10". Defense manifested that in Exhibit Quintuple "R-8", it would appear that the DOLE payments here amounts to ₱200,000.00 but I have examined here that there were DOLE receipts which appear to had not been deducted as confirmed by the witness. Among the receipts identified by the witness which had original receipts attached to it were the receipts with nos. 0001 up to 0033 and thereafter followed by 0040 and receipt 0053, 54 and December 8, 2009 receipt which is 0060.

[407] Medico Legal Report No. A09-065 previously marked as Exhibit "UU", name Cynthia Oquendo-Ayon encircled and marked as Exhibit "UU-5".

[408] Affidavit of Dennis Q. Ayon previously marked as Exhibit Quintuple "R" identified as his. Identified signature appearing above name Dennis Q. Ayon as his, marked Exhibit Quintuple "R-1".

to do with the incident. During his first attempt to open the cellphone, there was no CIDG during that time, no representative from National Telecommunications Commission, and no NBI present as well. The same was true for the second attempt. Aside from messages from his wife on November 22 to 23, 2009, he received other text messages from other persons specifically Atty. Gemma and her secretary Cynthia Flaviano.

He executed an Affidavit-Complaint dated November 29, 2009, six (6) days after the massacre, when matters were still fresh in his mind, although there were some which were not included. He was wrong in mentioning that there were only two (2) text messages, instead of seven (7), coming from his wife. He did not execute any other affidavit aside from this one.

The witness confirmed that he had no personal knowledge so far about the circumstances about the abduction or the killing. He also did not submit the cellphone of his wife to the NBI or PNP. He tried with the CIDG but did not pursue. He never had any document from any other government agency to confirm that it was his wife's cellphone.

He confirmed that ₱1,302,750.00 was just an estimated income of his wife, operational expenses for the office and the salaries of the staff had not yet been deducted from this amount. But, he said that his wife was practicing law since she passed the bar in 2001 until 2009. It was almost more than a year since she started private practice in General Santos and then in Bukidnon. She joined the Public Attorney's Office, then she resigned in January 2008, so she started private practice in February 2008 onwards. In 2007, the witness thought that she was still in the Public Attorney's Office when she assisted the wife of Toto in 2007.

The witness maintained his wife's IBP ID. His wife did not keep receipts. He took it from the secretary. He confirmed that the last receipt on Exhibit Quintuple "R-9" was a July 2009 receipt. He confirmed that the first receipt in Quintuple "R-10" was a December 18, 2008 receipt. There was also receipt dated December 8, 2009 with Receipt No. 0060, issued by the secretary for the payment after death.

He had no way of confirming cash payment coming from Koronadal Health Workers Association except from that which was indicated herein. Regarding the payments from DOLE Philippines, witness thought that he just made a mistake when asked the question: "you have not deducted the amount that is appearing from the receipt which you had earlier identified, you just lump it here?" There are some receipts for DOLE which he was not able to deduct in the amount stated.

On re-direct examination on even date, witness clarified that he received a total of nine (9) text messages from his wife in the morning, correcting his statement in his Affidavit. The reason for the inconsistency

as to number of text messages received from wife was because those messages were sensitive. He did not turn over the cellphone to NBI because during that time, he could not just trust anybody because of what had happened. They learned that they were asking for escorts from the PNP, they were asking for escorts from the AFP, but they were not provided at that time, then it all happened.

In preparing the estimated income of his wife for 2000, he based the first entry of this estimated income on the two (2) booklets marked as Exhibit Quintuple "R-9" and "R-10". Witness was not the one who did the summation, he just asked somebody to do it. Before signing the document which was an estimated income earned by Cynthia for the year 2009 marked as Exhibit Quintuple "R-8", witness read the contents of the document.

On re-cross examination, witness testified that he did not disclose seven (7) other messages of his wife because they were sensitive; and that it was more than two (2) years thereafter that this was the only time that he formally disclosed the seven (7) other text messages when he testified on it that morning. He kept the cellphone of his wife and did not submit it to the NBI, PNP or AFP because he did not trust anybody during that time – one of the reasons, during that time of opening and extraction they just wanted that they also be allowed to witness the extraction but they were not allowed to witness the extraction. When he gave the cellphone to Atty. Gemma Oquendo, he did not know if Atty. Gemma submitted it to any government agency.

Testimony of Maura Montaño for victim Marife Montaño:

On direct examination of witness Maura Montaño on December 8, 2011, she identified the Judicial Affidavit[409] she executed in relation to the death of her child, Marife Montaño, who was killed in Maguindanao. Her relationship to Marife was evidenced by the latter's Certificate of Live Birth which she also presented.[410] Witness mentioned the Certificates of Live Birth of the two (2) children of Marife Montaño, which she handed over.[411] She also mentioned the Certificate of Death of her child which she identified.[412]

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[409] Judicial Affidavit marked as Exhibit Quintuple "M to 11 M-7", signature of Maura Montaño bracketed and sub-marked as Exhibit Quintuple "M-7-a". Defense stipulated on existence of Judicial Affidavit as well as signature. Attested to the truthfulness of the contents of the Judicial Affidavit. Prosecution adopted contents of Judicial Affidavit as part of her testimony in fifty seven (57) criminal cases

[410] Defense stipulated but manifested that it appears that it is late registration. Marked as Exhibit Quintuple "N-5", second page as Exhibit Quintuple "N-5-a", entries stating name of child Marife Montaño and mother Maura Cordoba bracketed and sub-marked as Exhibit Quintuple "N-5-b".

[411] Certificates of Live Births of Rhullymae Shulla Montaño conisting of one (1) page and Jether Montaño consisting of two (2) pages. Defense stipulated for Jether. Marked as Exhibit Quintuple "N-6", name of mother Marife Montaño bracketed and marked as Exhibit Quintuple "N-6-a". Defense stipulated for Rhullymae, observation that on both birth certificates, occupation of Montaño is radio broadcaster. Marked Exhibit Quintuple "N-7", second page as Exhibit Quintuple "N-7-a", name of mother Marife Montaño bracketed and marked as Exhibit Quintuple "N-7-b".

[412] Certificate of Death previously marked as Exhibit "T-40".

She mentioned expenses for the wake and burial of Marife and that she had receipts. She handed over three (3) receipts dated December 3, 2009, December 3, 2009, and November 30, 2009.[413] She also mentioned expenses related to the payment of terminal fee and Certificates from NSO, and handed over four (4) terminal fee receipt stubs and four (4) receipts in relation to securing these NSO Certificates.[414] Witness also executed a *Pinagsamang Sinumpaang Salaysay* which she identified.[415] She also mentioned a Saksi Mindanaon News ID of Marife Montaño which she handed over.[416] The income of her daughter was evidenced by a booklet of receipts which she handed over.[417]

On cross examination on even date, witness testified that she was married but her husband was already dead since 1991. She was not able to bring the Death Certificate of her husband. Her daughter, the victim, was not married. Her daughter had two (2) children; one was eighteen (18) years old at the time of the testimony. She did not bring an SPA to represent this child as it was in their house. The document to prove that she was appointed as the legal guardian to represent the minor child of Marife Montaño was also left in the house. Witness had no knowledge if during the lifetime of her daughter, the latter was insured by any insurance company. Witness was able to receive benefits from SSS in the amount of ₱2,300.00 monthly pension and death benefits in the amount of ₱20,000.00. She did not receive any financial assistance from government agencies, and no financial assistance from PCSO. Her daughter was a publisher of Saksi Mindanaoan News and was invited by the Mangudadatu to go with him to file the COC. She did not receive financial assistance from Toto Mangudadatu. Witness identified the signature of her daughter appearing below her daughter's picture. Nobody told the witness to include ₱50 million in her Affidavit. Witness saw the receipts in other files of her daughter's papers. Those receipts were included in the file of these papers. Saksi Mindanaoan News already stopped publishing. Witness did not know who wrote the receipt dated December 14, 2009 and did not know who wrote the details in receipts marked as Exhibits Quintuple"N-12" to "N-12-z". Defense manifested that

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[413] November 30, 2009 receipt marked as Exhibit Quintuple "N-8", two (2) receipts both for meat marked as Exhibits Quintuple "N-9 and N-9-a".

[414] Set of terminal fee receipt stubs and NSO receipts marked as Exhibits Quintuple "N-10 and N-10-a".

[415] Already marked as Exhibit Quintuple "N" as one mentioned. Defense stipulated on signature of witness on *Pinagsamang Sinumpaang Salaysay.* Signature appearing above name Norberto C. Montaño was the signature of her child because he signed it in front of her. 2Nd, 3rd and 4th pages marked as Exhibits Quintuple "N-2, N-3, N-4", signatures of Maura Montaño and Norberto Montaño marked as Exhibits Quintuple "N-4-a and N-4-b".

[416] Defense stipulated that photocopy was a faithful reproduction of the original except that it indicated Photographer and not as publisher at the dorsal portion, in front says publisher. Marked as Exhibit Quintuple "N-11" and sub-marking.

[417] Booklet of receipts containing fifty (50) receipts with only receipts nos. 0001 up to 0028. Defense manifested that the last receipt with entries from receipt no. 0036 the same have no entries thereof. Receipt no. 0028 is dated December 14, 2009 in the name of Gov. Teng Mangudadatu. Receipts numbering 0001 to 0027 which bear date before November 23, 2009 marked in evidence as Exhibits Quintuple "N-12, N-12-a up to N-12-z." It would be until receipt no. 0027 and the date would be November 21, 2009.

based on said exhibits, the disparity as to the manner by which the handwritings were made could clearly be seen, the fact that the details of these official receipts appeared to have been written with the use of a pen, the signatures appearing therein used a different pen.

Testimony of Remia Cadagdagon for victim Jephone Cadagdagon:

On direct examination of witness Remia Cadagdagon on January 18, 2012, she identified the Judicial Affidavit[418] she executed in relation to this case. She testified that the victim Jephone Cadagdagon was her son evidenced by his NSO copy of Certificate of Live Birth[419] which the witness identified. Witness also identified the Certificate of Death of his son.[420]

The witness prepared an itemized list[421] of burial, funeral and miscellaneous expenses which she identified. She also had receipts,[422] as well as terminal fee stubs[423] and NSO receipt[424] to support these expenses incurred in relation to the case which she identified. The witness executed a *Sinumpaang Salaysay*[425] in relation to the case, which she identified.

She also mentioned a copy of the November 23, 2009 issue of Saksi Mindanaon News[426] and the Saksi Mindanaoan News ID[427] of the victim, both of which she identified. Jephone has a trucking business evidenced by a business permit[428] and Supplier Payment Inquiry[429] of Go Forth Trucking which witness identified. Witness also mentioned machine copies of Land Transportation Office (LTO) receipts showing her son's ownership of vehicles relating to his business and a Certification from DOLE Philippines regarding the contract of service it had with Jephone. In connection with this, witness identified four (4) Certificates of

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[418] Adopted by prosecution as part of her direct testimony, marked as Exhibit Quadruple "T-32" and sub-marking.
[419] Marked as Exhibit Quadruple "T-4" and sub-markings.
[420] Certificate of Death previously marked as Exhibit "T-22" during the pre-trial on August 4, 2010.
[421] Marked as Exhibit Quadruple "T-5".
[422] Identified several documents consisting of five (5) receipts marked as Exhibits Quadruple "T-6" to Quadruple "T-10".
[423] Two (2) boarding passes with terminal fees stubs at the back marked as Exhibits Quadruple "T-12" and Quadruple "T-13".
[424] Marked as Exhibit Quadruple "T-11".
[425] Previously marked as Exhibit Quadruple "T" and sub-markings for the prosecution on August 4, 2010 consisting of three (3) pages.
[426] Identified Saki Mindanaoan News consisting of six (6) pages. Defense stipulated on photocopy. Photocopy of last page of the Saksi Mindanaoan News marked as Exhibit Quadruple "T-14." Witness mentioned a Staff Box on Saksi Mindanaoan News, pointed to right bottom portion of the document. Staff box on Exhibit Quadruple "T-14", sub-marked as Exhibit Quadruple "T-14-a", name Jephon C. Cadagdagon, photographer bracketed and sub-marked as Exhibit Quadruple "T-14-b". Name is Jephone.
[427] Defense stipulated on photocopy. Photocopy of front and dorsal portions of ID Jephon Cadagdagon with Saksi Mindanaoan News marked as Exhibits Quadruple "T-15" and Quadruple "T-15-a." Name is Jephone.
[428] Business Permit from the Office of the City Mayor of General Santos City. Marked as Exhibit Quadruple "T-16", name of Jephon Cadagdagon as owner/proprietor bracketed and sub-marked as Exhibit Quadruple "T-16-a".
[429] Document consisting of three (3) pages marked as Exhibits Quadruple "T-22", "T-22-a" and "T-22-b".

Registration from the LTO[430] and the Certificate dated August 24, 2011 from DOLE Philippines.[431]

She also mentioned that her son was a graduate of Ramon Magsaysay Memorial Colleges and as proof she mentioned her son's diploma[432] which she identified. Witness' son also undertook training, while he was still alive, with the PNP, Philippine National Red Cross and other caregiving agencies. As proof of this, she mentioned Certificates of Training from PNP,[433] Philippine National Red Cross[434] and other caregiving agencies,[435] which she identified. A Joint Affidavit of Two Disinterested Persons[436] was also executed relative to the spelling of the name of her son Jephone.

On cross examination, the witness relayed to the court that the her Judicial affidavit was prepared by Atty. Quinsayas, and she signed it the night before she testified. She was also not armed with SPA to represent her husband in these cases. She further confirmed the statement in her Judicial Affidavit that she had no knowledge as to the monthly income of her son as a driver and photographer of Saksi Mindanaoan News.

Despite that his son has a trucking business and was earning an income in the amount of ₱111,210.40, just the same he worked as a driver of Saksi Mindanaoan News.

She also confirmed that she incurred the following expenses: terminal fees whenever she had a court date, and when she had to get an NSO certificate, and when she went to the DOJ Board of Claims, as well as SSS.

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[430] Defense stipulated on photocopies. Photocopies of Certificates of Registration of vehicles owned by Jephon Cadagdagon one having CR No. 9390220, another with CR No. 8552755-1, CR No. 9153127-4, last one having CR No. 7707558-5, photocopies marked as Exhibits Quadruple "T-17", "T-18", "T-19" and "T-20", respectively.

[431] Marked as Exhibit Quadruple "T-21", name Jephon Cadagdagon bracketed and sub-marked Exhibit Quadruple "T-21-a." Document is a photocopy, original with DOLE Philippines, marking is provisional, certified true copy. Defense manifested that document appeared to be a mere computer printout certified by a person whose name was not legible

[432] Photocopy shown. Defense manifested that it was not a faithful reproduction of the original, name Jephon spelled as Jephone. Photocopy bears markings which do not appear in the original. Court said that except for the words "Tesda" and "verified from" photocopy appears to be a faithful reproduction of the original. Photocopy of the diploma of Jephone Cadagdagon marked as Exhibit Quadruple "T-23".

[433] Certificate from the headquarters of the PNP in Camp Fermin Lira, General Santos City – certification to show that he had training from PNP. Defense stipulated on photocopy, marked as Exhibit Quadruple "T-24".

[434] Certifications of Jephon Cadagdagon issued by Philippine National Red Cross for Basic Life Support Training, First Aid Training and Swimming and Water Safety Training Certificates. Photocopies presented for comparison. Defense stipulated on photocopies, marked as Exhibits Quadruple "T-25", "T-26" and "T-27", respectively.

[435] Certification from R.O. Diagan Cooperative Hospital and St. Vincent Strambi Home of the Aged. Defense stipulated on the photocopies, marked as Exhibits Quadruple "T-28", "T-29" and "T-30", respectively.

[436] Witness identified Joint Affidavit of Two (2) Disinterested Persons signed by one Christopher Altubar and Judith Q. Hayao as affiants. Defense stipulated. Marked as Exhibit Quadruple "T-31".

The witness affirmed that she received a sum of money from the DOJ Board of Claims. However, she could not recall the amount. She also said that she received ₱17,000.00 from the SSS and ₱100,000.00 from the Office of the President.

She also did not know the operation expenses in the trucking business operated by her son for the last nine (9) months when he was alive. But she said that her son had four (4) drivers, the salaries of whom she did not know. She stated that the office of the trucking business was only at their house. Nonetheless, she identified the statement coming from Stanfilco, a division of DOLE Philippines indicating that her son's trucking business, Go Forth Trucking Business, was one of their contractors doing field operations in San Jose and Silway.

The witness asserted that her son completed the Law Enforcement Service one-year curriculum, as part of the ROTC program, but he did not own or operate a firearm. He also trained with the Red Cross, but that does not equate to his proficiency. She said that his son trained as a caregiver but did not pursue that profession.

Of the three (3) times she went to Manila, the only expense that she shouldered was that of the boarding pass which happened to be paid only once on September 07, 2010 from Cebu Pacific.

She said that her husband saw that their son was the 4th of the sixteen (16) piled bodies in the pit found in the 4th gravesite. Her son was laid to rest after paying ₱10,000.00 to Subere Funeral Home; another ₱25,000.00 was paid to the parlor by the Mangudadatus, according to the witness. She did not know the reason why the Mangudadatus paid ₱25,000.00 for her son's burial costs.

Testimony of Stephanie Cecil Lechonsito for victims Eduardo Lechonsito and Cecil Lechonsito:

On direct examination of the witness Stephanie Cecil Lechonsito on January 18, 2012, she testified that the victim Eduardo D. Lechonsito was her father and victim Cecil S. Lechonsito was her mother, and her proof of this was her Birth Certificate[437] which she identified with Local Civil Registry No. 86-5551 in the name of Stephanie Cecil Sandoval Lechonsito. She also presented the Marriage Contract of her parents with Registry No. 86-87.[438]

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[437] Marked as Exhibit Nona "S-1", sub-markings: name Stephanie Cecil Sandoval Lechonsito as Exhibit Nona "S-1-a", date of birth November 3, 1986 as Exhibit Nona "S-1-b", the name of father Eduardo Daguro Lechonsito as Exhibit Nona "S-1-c". Identified signature above name Eduardo D. Lechonsito in her birth certificate as her father's signature, sub-marked as Exhibit Nona "S-1-e", name of mother Cecil T. Sandoval sub-marked as Exhibit Nona "S-1-d".

[438] Marked Exhibit Nona "S-2", name of husband Eduardo Lechonsito sub-marked as Exhibit Nona "S-2-a", name of wife Cecil Sandoval sub-marked as Exhibit Nona "S-2-b", date of marriage December 28,

Her parents had two (2) children, the witness and her sister Marija Charmaigne Sandoval Lechonsito. Witness identified the Certificate of Live Birth of Marija Charmaigne Sandoval Lechonsito with Local Civil Registrar No. LCR No. 90-71433.[439]

The witness said that her father Eduardo D. Lechonsito was already dead,[440] having died on November 23, 2009 at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. The proof of his death was a Death Certificate[441] which she identified. The cause of his death was multiple gunshot wounds evidenced by a Medico Legal Report[442] which she also identified. She further narrated that her mother Cecil S. Lechonsito was already dead, having died also on November 23, 2009 at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao, evidenced by a Death Certificate[443] which she identified. The cause of death of witness' mother was multiple gunshot wounds evidenced by a Medico Legal Report[444] which she identified.

The father of the witness was a Licensing Officer III in the City Government of Tacurong City evidenced by his appointment paper: KSS Porma Blg. 33 dated March 10, 2008.[445] As Licensing Officer III, the father of the witness earned ₱19,168.00 evidenced by his Salary Adjustment.[446] While the mother of witness was an Overseas Filipino Worker (OFW) in

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1995 sub-marked as Exhibit Nona "S-2-c". Identified father's signature above the name Eduardo Lechonsito in the marriage contract of parents, sub-marked Exhibit Nona "S-2-d." Identified mother's signature above name Cecil Sandoval, was able to identify it because familiar with it, sub-marked Exhibit Nona "S-2-e".

[439] Marked as Exhibit Nona "S-3", name sub-marked as Exhibit Nona "S-3-a", date of birth September 22, 1990 sub-marked as Exhibit Nona "S-3-b", maiden name of mother Cecil Taub Sandoval sub-marked as Exhibit Nona "S-3-c", name of father Eduardo Daguro Lechonsito sub-marked as Exhibit Nona "S-3-d".

[440] The father of witness was born on September 6, 1956 and was fifty-three (53) years old when he died.

[441] Death Certificate of Eduardo D. Lechonsito Registry No. 2009-40, previously marked as Exhibit "T-5". Name Eduardo Daguro Lechonsito sub-marked as Exhibit "T-5-a", completed year 53 sub-marked as Exhibit "T-5-b", place of death Sitio Masalay, Brgy. Salman sub-marked as Exhibit T-5-c, date of death November 23, 2009 sub-marked as Exhibit "T-5-d".

[442] Medico Legal Report with No. A09-090 for Eduardo D. Lechonsito with date November 26, 2009, pre-marked as exhibit "TTT". One page back to back document. Cause of death is multiple gunshot wounds, head, trunk and extremities sub-marked as Exhibit "TTT-1-d".

[443] Certificate of Death of Cecil Sandoval Lechonsito with Registry No. 2009-84 previously marked as Exhibit "T-49", name Cecil S. Lechonsito sub-marked as Exhibit "T-49-c", completed years 52 sub-marked as Exhibit "T-49-d", place of death Sitio Masalay Brgy. Salman Ampatuan Maguindanao sub-marked as Exhibit "T-49-e", date of death November 23, 2009 sub-marked as Exhibit "T-49-f".

[444] Two-page document Medico Legal Report A09-091 for Cecil Lechonsito y Sandoval, previously marked as Exhibit "UUU", sub-marked conclusion/cause of death is multiple gunshot wounds, head and trunk sub-marked as Exhibit "UUU-4".

[445] Defense stipulated on the photocopy. Photocopy marked as Exhibit Nona "S-4". Witness identified the signature of her father in the appointment paper above the name Eduardo D. Lechonsito, sub-marked as Exhibit Nona "S-4-a", Title Licensing Officer III sub-marked as Exhibit Nona "S-4-b", name of Eduardo D. Lechonsito sub-marked as Exhibit Nona "S-4-c", status permanent sub-marked as Exhibit "S-4-d".

[446] Notice of Salary Adjustment dated August 28, 2008 addressed to Eduardo D. Lechonsito. Defense stipulated on photocopy, marked as Exhibit Nona "S-5", sub-marked on the New Salary Schedule specifically ₱19,168.00 as Exhibit Nona "S-5-b", name Eduardo D. Lechonsito sub-marked as Exhibit Nona "S-5-c".

Qatar evidenced by an OFW Membership Verification Sheet.[447] She said that on November 07, 2009, her mother arrived in the Philippines because she saw her when the latter arrived in the Philippines at her aunt's house in Laguna.

In the evening of November 23, 2009, the witness had just arrived from school in her aunt's house in Laguna when the latter suddenly told her to call her mother and father. She tried calling them through their cellphones but those were out of coverage.

On November 27, 2009 at about 3p.m., the witness was at their house in Tacurong City when the caskets of her father and mother were brought to their house in Tacurong City. There, her sister as well as the siblings of her father and mother were present. When witness saw the casket, she felt sad and hurt and cried so hard. Her sister cried also upon seeing the caskets of their mother and father.

The wake for her father and mother lasted to about eight (8) days. They were both buried on December 5, 2009 at the Shangrila Cemetery in Tacurong City. The expenses incurred due to the death of her parents included funeral services amounting to ₱110,000.00 each evidenced by a funeral receipt,[448] which she identified.

After the burial of their parents, the witness had a fear of everything because her parents were the ones protecting them.[449] If witness could put a value on the emotional effect of the death of their parents, even ₱10 million each parent was not enough. She claimed that her family has a right to ₱5 million each parent, because of the manner her father was killed, through multiple gunshot wounds and because of the violent way of her mother's death.

The witness recounted that her mother was loving, caring, understanding, supportive and a good provider. Her father was also supportive, understanding and a good provider.

As to the arrangement with counsel, she said that she would pay to counsel fifteen percent (15%) of the total amount she would receive. Witness also acted as the representative of her sister, and had a SPA[450]

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[447] Certified true copy of the OFW Verification Sheet for Cecil Lechonsito y Sandoval issued by POEA, marked as Exhibit Nona "R-1", name Cecil Lechonsito sub-marked as Exhibit Nona "R-1-a", name of principal employer sub-marked as Exhibit Nona "R-1-b" and job site Qatar sub-marked as Exhibit Nona "R-1-c". Earned US$400 per month, evidence is OFW membership verification sheet. Monthly salary of US$400 sub-marked as Exhibit Nona "R-1-d".

[448] Original receipt no. 0150 issued by Charito L. Collado Funeral Parlor, stating received from Stephanie Cecil Lechonsito, Address – Tacurong City, the sum of ₱110,000.00. Defense stipulated on photocopy marked as Exhibit Nona "S-6", sub-marked amount of ₱110,000.00 as Exhibit Nona "S-6-a". Funeral services rendered to Eduardo Lechonsito sub-marked as Exhibit Nona "S-6-b". Signature above the print customer is the witness' signature, sub-marked as Exhibit Nona "S-6-c"

[449] Witness at this point was crying.

[450] SPA marked as Exhibit Nona "R-3", signature above name Marija Charmaigne S. Lechonsito as principal is sister' because signed in front of her, signature sub-marked as Exhibit Nona "R-3-a".

which she identified.

On cross examination, the witness testified that at the time of her testimony, she was 25 years old and had been working since June 2011. On the other hand, her sister was 21 years old and was not yet working.

She did not know the reason why her father left Tacurong City in the morning of November 23, 2009, nor was she able to read the newspaper as to the reason why her parents left on that day. She did not receive any death benefits from GSIS for the death of father and neither did her sister. She also did not receive any survivorship pension from GSIS for the death of her father.

However, she received benefits from SSS for the death of her mother but could not remember how much. She could not remember if she received death benefits from the Overseas Workers Welfare Administration (OWWA). She received financial assistance from the Office of the President but could not remember how much. She also could not remember if she received any benefits from PCSO.

The witness was claiming moral damages in the amount of ₱5 million and exemplary damages in the amount of ₱10 million but was not claiming for temperate damages. She was not briefed by her lawyer that in criminal proceedings, one could not claim for moral and exemplary damages and one could only claim actual damages. This was the first time of the witness to encounter the word "damages." She also did not know how much she should have to ask from the court in connection with the claim for damages. She asked about this matter from her lawyer before she testified in court. However, it was not her lawyer who told her to ask for ₱10 million and ₱5 million. She came up with the amount after she consulted the lawyers as to the amount which she should ask for. She also posited that she did not have personal knowledge as to accuracy of the information in the OFW Membership Verification Sheet.

Testimony of Nenita Oquendo for victim Catalino P. Oquendo, Jr.:

On January 19, 2012, witness Nenita Oquendo[451] testified on direct examination that the victim, Catalino P. Oquendo, Jr. was her husband and Cynthia Oquendo-Ayon was her daughter. She got married to Catalino on January 3, 1961 evidenced by their Marriage Contract.[452] Her proof that Cynthia was her daughter was the latter's Birth

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Signature below the conforme and above the name Stephanie Cecil S. Lechonsito, identified as her signature sub-marked as Exhibit Nona "R-3-b".

[451] Seventy-five (75) years old, widow, residing at Polomolok, South Cotabato, a retired Election Officer; TSN dated January 19, 2012, p. 4.

[452] Marked as Exhibit Quadruple "O-2", name Catalino Oquendo Jr. marked as Exhibit Quadruple "Q-2-a", name Nenita R. Jorque marked as Exhibit Quadruple "Q-2-b", date of marriage January 3, 1961 marked as Exhibit Quadruple "Q-2-c".

Certificate which she identified.[453]

Her husband and daughter were killed on November 23, 2009. The last time she saw them alive was on November 22, 2009, 2:00 p.m. before they left for Buluan. She claimed that her husband and daughter were brutally killed based on the Medico-Legal Certificate which indicated they sustained wounds.

The witness recounted that the reason why they had to leave was because Cynthia was invited to assist in the filing of the COC of Mangudadatu. Catalino accompanied her daughter because Buluan was quite far from their residence; and so, Cynthia would be driving alone.

She recalled that she was in her dress shop in the late morning of November 23, 2009 in the public market of Polomolok, South Cotabato. She saw her children gathered there. The witness saw her children in the law office of Cynthia, and some were in the clinic of her other daughter. The law office of Cynthia was just adjacent to the dress shop of the witness. When she saw her children gathered at the law office, she told them *"bakit nandito kayo, you are supposed to work at this time."* They said *"hindi Nay, nagpunta lang kami."* Witness continued entertaining her customers at the dress shop. Her daughter Olive Grave came and told her *"dito ka lang Nay, huwag kang umalis, nandito lang ako magkasama tayo, yun lang."*

Thereafter, Olive Grave kept on coming back and forth to the dress shop of the witness. In the afternoon, about 3 p.m., a neighbor friend, Mrs. Villena, came to the witness bringing with her a transistor radio with a recorder and she told witness, *"Nay, huwag kang mag-panic, be calm please."* The witness asked, *"Ano ung pinapakalma mo sa akin?"* to which she replied, *"Basta you listen to this, you promise me you will be calm, it's there."*

Mrs. Villena was referring to the announcement on the radio. Witness was able to hear the names of the persons who were killed in the massacre. Witness was not particular with the rest of the names but only listened for the names of her husband and her daughter. At first, the witness did not believe, she asked *"Lord, totoo ba ito?" Could it be true "sana hindi totoo, yun lang."* She sat down and thought *"kung totoo."* Witness did not wait for them to go home; she rode a tricycle going home.

When she arrived at the house, Dennis, the husband of Cynthia, was there watching TV and then he told witness *"Nay, talagang totoo, nakita ko ang list ng names sa tv"* and witness said, *"no let's go to another station."* They were able to watch another station on the TV, just the

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[453] Marked as Exhibit Quadruple "Q-3", name Cynthia Jorque Oquendo marked as Exhibit Quadruple "Q-3-a", name of mother Nenita Jorque marked as Exhibit Quadruple "O-3-b", name of father Catalino P. Oquendo Jr. marked as Exhibit Quadruple "O-3-c".

same, they saw the list.

When saw the list again, witness could not describe herself, she felt like she was going to faint, she was attacked with asthma. After seeing the names for the second time, she really believed that it was true. The two (2) sets of TV stations that they opened plus the transistor radio were enough to make her believe that it was true. After that, she received calls from her relatives verifying if what appeared in the TV was true or not.

During her testimony, she identified the Death Certificates of her husband and her daughter.[454] The cause of death of her husband was multiple gunshots based on the Medico-Legal Certificate which she identified.[455]

The witness said that her husband was a farmer and at the same time, the researcher of Cynthia. Her husband was also earning from *copras*. The least that they could earn for every three (3) months was ₱ 65,000.00. They also have their lot that was rented by DOLE where they were receiving ₱200,000.00 yearly. She did not have proof for the income derived from the farm because they only list it whenever the *copras* were weighed. The proof of property leased to DOLE was a certification which she identified.[456]

The witness saw the dead bodies of her husband and her daughter on November 25, 2009, at her house in Polomok for the wake. When witness first saw the dead body of her husband, it was beyond explanation, she could not understand herself, her eyes clouded with tears, she felt like she had an asthma attack. She became sick at that very moment; she could not accept it.

During the wake, the owner of the funeral parlor Collado Funeral Homes, Cesar, approached the witness and said *"ayos naman, maam, wala siyang basa. Nakita ko yung cellphone ni Cynthia sa panty niya binigay ko kay Ray, tapos umalis siya kasi madaming tao, yan lang."*

The expenses during the wake included food, burial site, and tents all amounting to ₱780,995.00, supported by receipts, although not all expenses had receipts.[457] The witness also incurred expenses in

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[454] Death Certificate of Catalino Palmani Oquendo Jr. previously marked as Exhibit "T-57" dated April 7, 2011, name Catalino Jr. Palmani Oquendo sub-marked as Exhibit T-57-c, date of death November 23, 2009 sub-marked as Exhibit "T-57-d".

[455] Medico-legal report No. A09-064 previously marked as Exhibit "TT" dated April 7, 2011, name of victim Catalino Palmani Oquendo Jr. sub-marked as Exhibit "TT-5".

[456] Certification issued by Elizabeth Garcia, Administrative Superintendent, Legal and Administrative Services Department of Dole, marked as Exhibit Quadruple "O-4". Inside the folder previously marked as Exhibit Quadruple "O-1". Actually a sub-marking. Date of certification is August 3, 2010. Name of Catalino Oquendo sub-marked as Exhibit Quadruple "O-4-a". Amount of ₱203,959.68 sub-marked as Exhibit "O-4-b".

[457] Identified receipts for the tents, the other one is for the trapal and the next is for food. Collectively marked as Exhibit Quadruple "O-5" series. Around sixteen (16) to seventeen (17) receipts. Defense stipulated that photocopies are the faithful reproduction of the originals but receipt cash invoice no.

connection with filing of these cases. Some of these expenses did not have receipts such as the pigs, fish and vegetables. The value of the expenses not supported by receipts were more or less ₱780.00.

In relation to the prosecution and filing of cases, she incurred expenses in coming over, plane tickets, hotel, and food. She estimated that the total cost every time the witness went to Manila was ₱6,000.00. She usually stayed at a hotel in Manila although she still had to gather receipts from the hotel.[458]

The witness ended by saying that she could not give any amount that would compensate her suffering and pain for the loss of a daughter and a husband, who were good people.

On cross examination, the witness testified that she did not execute an affidavit in relation to this case. When she learned of the death of her husband and daughter on November 23, 2009, she did not go to the crime site or the funeral parlor because she had to prepare the house. She woke up at 9 in the evening of November 25, 2009, and that was the first time she saw the cadavers of her husband and her daughter. Prior to that, she was given medicines because she could not sleep.

The witness affirmed that the *copras* were being gathered from the lot owned by the witness and her husband and that several persons were under his employ for the *copra* business. That venture earned ₱203,959.68 yearly. She also identified a Certification indicating that income.

Testimony of Halima Daud for Rasul Daud:

On direct examination of witness Halima Daud on February 01, 2012, she identified her Judicial Affidavit[459] which she executed in relation to this case. She claimed to be the wife of victim Rasul Daud. She presented the NSO copy of their Marriage Certificate[460] and the proof of birth of her two (2) children with Rasul Daud, their Birth Certificates.

The witness said that her husband was an executive assistant for Assemblyman Khadafeh Mangudadatu of the Regional Legislative

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57529 in the amount of ₱47,500.00 dated January 2, 2010, receipt cash invoice No. 35951 where it appears that number 2 was intercalated, would seem that no. 7 was added. Manner being written is not uniform. Photocopy of receipts marked collectively from Exhibits Quadruple "O-5" series. One of receipts marked as Exhibit Quadruple "O-11" dated Janaury 2, 2011 in the amount of ₱47,500.00 is for the 40 days.

[458] Reserved presentation of plane tickets and fares. Reservation as to marking of expenses for the plane fare and hotel accommodation of the witness.

[459] Judicial Affidavit consisting of eight (8) pages marked as Exhibit Quadruple "E-12" and sub-markings.

[460] First and second pages of the NSO copy of the Marriage Certificate marked as Exhibits Quadruple "E-w and E-2-a". respectively. Entries stating the name of the bride as Halima T. Daud and the groom Rasul Daud sub-marked as Exhibits Quadruple "E-2-b" and Quadruple "E-2-c" respectively.

Assembly of the ARMM and was earning ₱17,147.00 per month including PERA allowance for a total of ₱205,764.00 annually excluding tips and bonuses. As proof of this, she identified a Regional Legislative Assembly Service Record dated August 4, 2010, the Contract Employment of her husband last 2008 issued by the Regional Legislative Assembly of ARMM, the Contract of Service of her husband for 2009, and the payroll of her husband.[461] She also showed a photocopy of her husband's ID as executive assistant of the Regional Legislative Assembly of ARMM.[462]

She narrated that her husband was killed in Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao on November 23, 2009. As proof, she presented her husband's Death Certificate.[463] After laying to rest the remains of her husband, she had *kanduli* and prayer services and also filed a complaint against the persons who killed her husband,[464] which Affidavit-Complaint[465] she identified.

The witness spent ₱ 30,845.00 for the retrieval of the body of her husband, ₱113,000.00 for the *kanduli* services on the third day, ₱64,200.00 for the *kanduli* services on the seventh day, ₱68,700.00 for the forty (40) days, and ₱116,500.00 for the death anniversary.[466] She identified the itemized list of burial expenses and other miscellaneous expenses.[467]

On cross examination on even date, the witness testified that her husband started working as the executive assistant of the Regional Legislative Assembly of ARMM on January 1, 2008. Before this date, he worked under Khadafeh Tuy Mangudadtu as a driver but witness did not know how much he earned then. The total expenses of ₱441,045 .00 partly came from the family of her husband, from her family, and from the Mangudadatus. However, witness could no longer recall how much she incurred or how much was given by the family of her husband. She could recall though that the Mangudadatus gave ₱20,000.00 as assistance

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[461] Service Record of Rasul Daud marked as Exhibit Quadruple "E-5", name of Rasul Daud and entry of his income as stated thereon encircled and sub-marked as Exhibits Quadruple "E-5-a" and Quadruple "E-5-b". Two (2) Contracts of Employment of victim Rasul Daud provisionally marked as Exhibits Quadruple "E-6" and Quadruple "E-7", names of Rasul Daud and entries of his income as stated thereon encircled and sub-marked as Exhibits Quadruple "E-6-a" and Quadruple "E-6-b", and Quadruple "E-7-a" and Quadruple "E-7-b", respectively. Copy of payroll of his office and entry pertaining to his name marked as Exhibits Quadruple "E-8" and Quadruple "E-8"-a respectively.

[462] Original copy of ID was with husband when the was killed. Photocopy of ID marked as Exhibit Quadruple "E-9".

[463] Certificate of Death previously marked as Exhibit "T-13" on August 4,2010 by the prosecution, entry referring to the name of Rasul Daud encircled and sub-marked as Exhibit "T-13-d" and entries referring to the age and cause of death as Exhibits "T-13-e" and "T-13-f".

[464] Page 6 of Judicial Affidavit

[465] Affidavit-Complaint previously marked as Exhibit Quadruple "E" on August 4,2010, 2nd page sub-marked as Exhibit Quadruple "E-10", signatures appearing on the first page and on top of the word Affiant on the 2nd page encircled and sub-marked as Exhibit Quadruple "E-10-a" and Quadruple "E-10-b" respectively.

[466] Page 6 and 7 of Judicial Affidavit

[467] Marked as Exhibit Quadruple "E-11", signature thereon encircled and marked as Exhibit Quadruple "E-11-a", entry pertaining to the total amount of expenses ₱441,045.00 encircled and marked as Exhibit Quadruple "E-11-b".

for the expenses for the wake, the *kanduli* and the *padasal*.

The witness maintained that she had no receipts for the itemized expenses because traditionally as Muslims, they do not keep or ask for receipts. A lawyer in Buluan assisted the witness in preparing the amount appearing in the itemized list of expenses.

She said that she did not receive any benefits from GSIS and the Office of the President. However, she received ₱216,000.00 from the PCSO. Her husband was not insured at the time of his death.

The witness further declared that she did not know the tour of duty of her husband as executive assistant but the latter leaves home to report for work from Monday to Friday.

She understands exemplary damages – so that the act of killing will not be repeated by others. This was the first-time witness had testified in court, and did not have any personal knowledge as to how much to ask for exemplary damages or any damages.

Testimony of Bailaga M. Ayada for victim Abdillah Ayada:

On direct examination of witness Bailaga M. Ayada on February 01, 2012, she identified the Judicial Affidavit she executed.[468] She claimed to be the wife of the victim Abdillah Ayada. She identified[469] the NSO copy of their Marriage Certificate, as well as the NSO copies of the birth certificates of her five (5) children with the victim.[470]

The witness identified[471] the Certificate of Death of her husband as proof of his death. After she buried her husband, she conducted *kanduli* services and filed a case against the people who killed him. She identified

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[468] Marked as Exhibit Quadruple "D-25", for the first page D-25-a and series for the succeeding pages, signature on the last page as Exhibit "D-25-k" encircled and marked as Exhibit Quadruple "D-25-K-1". Judicial Affidavit of witness adopted as part of her direct testimony.

[469] Marriage Certificate between Abdillah U. Ayada and Bailaga W. Mopac marked as Exhibit Quadruple "D-2", entries stating name of the bride and groom, bride Bailaga W. Mopac and groom Abdillah U. Ayada sub-marked as Exhibits Quadruple "D-2-a" and Quadruple "D-2-b" respectively.

[470] First and second page of the NSO copy of the Birth Certificate of Mhorbai Ayada marked as Exhibit Quadruple "D-3" and "D-3-a", entries referring to the Date of Birth as well as the mother and father marked as Exhibit Quadruple "D-3-b" and "D-3-c" respectively. NSO copy of Birth Certificate of Anabai Ayada, first and second page marked as Exhibit Quadruple "D-4" and "D-4-a", date of birth as well as name of mother and father bracketed and marked as Exhibit Quadruple "D-4-b" and "D-4-c". NSO copy of Birth Certificate of Almohir Ayada marked as Exhibit Quadruple "D-5", date of birth as well as name of mother and father bracketed and marked as Exhibit Quadruple "D-5-a" and "D-5-b". Birth Certificate of Al Jamer Ayada marked as Exhibit "D-6" for the first page and Exhibit Quadruple "D-6-a" for the second page, date of birth as well as name of mother and father bracketed and marked as Exhibits Quadruple "D-6-b" and "D-6-c". NSO copy of the Birth Certificate of Baitilak Ayada, the first and second page marked as Exhibits Quadruple "D-7" and "D-7-a", date of birth as well as name of mother and father bracketed and marked as Exhibit Quadruple "D-7-b" and "D-7-c".

[471] Certificate of Death previously marked as Exhibit "T-35" on August 4, 2010, name of victim Abdillah Ayada and cause of death sub-marked as Exhibits "T-35-a" and "T-35-b", entries referring to the age of the victim at time of his death sub-marked Exhibit "T-35-c".

her Affidavit-Complaint.[472]

The witness spent ₱30,845.00 for the retrieval of the body of her husband, ₱35,000.00 for the burial of her husband, ₱123,000.00 for the *kanduli* during the three (3) days, ₱164,000.00 for the seventh day, ₱88,700.00 for the forty (40) days and ₱96,500.00 for the one hundredth day. She identified all her expenses in an Affidavit of Burial and Other Expenses.[473] She also incurred expenses for the reproduction and authentication of NSO documents and as proof thereof had fifteen (15) official receipts.[474]

The witness mentioned in her Judicial Affidavit that her husband worked as an employee of Venus Transport Cooperative in the Municipality of Buluan, Province of Maguindanao. He was earning ₱30,000.00 excluding tips and bonuses evidenced by a Certification from Venus Transport Service Cooperative[475] which witness identified.

On cross-examination, the witness testified that she was a casual employee in the Province of Maguindanao but before this, she was not employed and relied on the income of her husband during his lifetime. At the time of his death, her husband had savings to which she had custody of.

The amount of ₱631,045.00 (total amount in Affidavit of Burial and Other Expenses) came from the financial assistance from witness' relatives, her husband's relatives and their family. However, she could not remember how much her share in the amount was because the amounts given were all mixed up. These expenses were not supported by any receipts because in their culture, they do not get receipts.

She sought the assistance of the relatives of her husband as well as her relatives in coming up with these expenses. The figures indicated were based on the information relayed to her by the other members of her husband's family as well as members of her family. She was also assisted by a lawyer in the preparation of the Affidavit of Burial and Other

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[472] Affidavit-Complaint previously marked as Exhibit Quadruple "D" on August 4,2010 consisting of two (2) pages, second page of document sub-marked as Exhibit Quadruple "D-8", signatures on the first and second page as Exhibits Quadruple "D-8-a", "D-8-b".

[473] Marked as Exhibit Quadruple "D-9", entry indicating the total amount of ₱631,045.00 as Exhibit Quadruple "D-9-a", the signature on top of the name Bailaga Ayada marked as Exhibit Quadruple "D-9-b".

[474] First three (3) receipts with the amount of ₱ 140.00 in each receipt marked as Exhibit Quadruple "D-10", "D-11" and "D-12". Another four NSO receipts in the amount of ₱ 420.00 in each receipt, marked as Exhibit Quadruple "D-13", "D-14", "D-15", "D-16". Another receipt in the amount of ₱ 140.00 marked as Exhibit Quadruple "D-17". Ninth receipt in the amount of ₱ 420.00 marked as Exhibit Quadruple "D-18". Tenth to fourteenth receipts each in the amount of ₱ 140.00 and ₱ 420.00 marked as exhibits Quadruple "D-19", "D-20", "D-21", "D-22". Fifteenth receipt marked as Exhibit Quadruple "D-23".

[475] Certification issued by Kanando A. Makalay, Operator and Manager of Venus Transport Service Cooperative marked as Exhibit Quadruple "D-24", entries referred to Abdillah Ayada marked as Exhibit Quadruple "D-24-a", entries pertaining to the compensation of Abdillah Ayada to be ₱ 30,000.00 per month encircled and sub-marked as Exhibit Quadruple "D-24-b".

expenses.

The witness maintained that she did not receive any amount from the Office of the President or the SSS. She did, however, receive ₱216,000.00 from PCSO.

The husband of the witness was a driver with his earning being paid monthly. Other than being a driver, her husband also had another source of income coming from the farm. She mentioned that she was worried because she had no job or work to support her and her family. Hence, she confirmed that the amount of ₱631,045.00 would be a big help to her and her family. She spent it on the expenses she itemized in the list of expenses for *kanduli*. The Mangudadatus gave them ₱20,000.00 and three (3) sacks of rice.

On re-direct examination, she discussed that the *kanduli* services were conducted for the purpose of praying for the eternal repose of the person who recently died, with the aim that the deceased would not be dreamt by people. The *kanduli* is conducted by means of praying and feeding the people. Food has to be provided for people who attend the *kanduli.*

On re-cross examination, she said that there was no limit to the amount required to be spent for a *kanduli* but food had to be provided to the people who attend, who would pray and also the spiritual leader who would say prayers for the departed one.

Testimony of Elliver Cablitas for victim Marites Cablitas:

On direct examination of witness Elliver Cablitas on February 09, 2012,he identified the Judicial Affidavit dated February 09, 2012.[476] He claimed to be the husband of victim Marites Cablitas evidenced by a certified machine copy[477] of their Marriage Contract. They had three (3) children, one (1) girl and two (2) boys evidenced by the Certificates of Live Birth of the children, which the witness handed over.[478]

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[476] Judicial Affidavit consisting of nine (9) pages marked as Exhibit Quadruple "U-20" and pages thereof *in sequencia* and signature of witness Elliver Cablitas sub-marked as Exhibit Quadruple "U-20-H-1".

[477] Marked as Exhibit Quadruple "U-4", entries stating the names of the husband and wife Elliver Cablitas and Marites Salamanca bracketed and marked as Exhibit Quadruple "U-4-a" and "U-4-b" respectively.

[478] Original and photocopy of the Certificates shown. Certificate of Live Birth of Danica Marie Cablitas marked as Exhibit Quadruple "U-5", entries stating the names of the mother and father as Marites Salamanca and Elliver Cablitas bracketed and sub-marked as Exhibits Quadruple "U-5-a" and "U-5-b", respectively. NSO copy of Certificate of Live Birth of John Elliver Cablitas marked as Exhibit Quadruple "U-6", second page as Quadruple "U-6-a" and entries stating the names of the mother and father as Marites Salamanca and Elliver Cablitas bracketed and sub-marked as Exhibits Quadruple "U-6-b" and "U-6-C". NSO copy of Certificate of Live Birth of Mark Elliver Cablitas marked as Exhibit Quadruple "U-7", second page as Exhibit Quadruple "U-7-a" and entries stating the names of the mother and father as Marites Salamanca and Elliver Cablitas bracketed and sub-marked as Exhibits Quadruple "U-7-b" and "U-7-c".

His wife was already dead evidenced by her Certificate of Death which witness identified.[479] She died because of the gunshot wounds she sustained.

He spent ₱108,463.00 for the wake and burial of his wife evidenced by an Affidavit of Burial Expenses,[480] official receipts from Allen Memorial Home[481] and a Certification from Forest Lake.[482] Other expenses that witness incurred in relation to his wife's death were the terminal fees[483] whenever he flew to Manila to attend court hearing and NSO fees[484] for the documents needed in the filing of the case.

After the burial of his wife, he executed a *Sinumpaang Salaysay* and joined the other complainants in filing a case against those suspected to have killed his wife. Witness identified the *Sinumpaang Salaysay* dated December 20, 2009 consisting of three (3) pages,[485] and confirmed the contents therein.

He narrated that his wife was a publisher and journalist of News Focus newspaper and a radio announcer and account executive of RPN of DXDX at the time she was killed. Her occupation was evidenced by her press IDs,[486] the Staff Box of News Focus indicating her to be a publisher/journalist[487] and the Department of Trade and Industry (DTI) Certification of the registration of News Focus Publication.[488] His wife earned an estimated amount of ₱10,000.00 to ₱15,000.00 per month exclusive of allowances and commissions as a journalist of News Focus, evidenced by samples of business proposals of News Focus Publication signed by his wife and receipts of her collection as the publisher of News Focus.

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[479] Certificate of Death of Marites Salamanca Cablitas previously marked as Exhibit "T-44", cause of death, gunshot wounds, bracketed and sub-marked as Exhibit "T-44-b".
[480] Witness identified the signature above the word Affiant as her signature. Marked as Exhibit Quadruple "U-10", signature above the printed word affiant sub-marked as Exhibit Quadruple "U-10-a".
[481] Photocopy of Receipt from Nilo A. Allen Memorial Home showing when his wife was embalmed. Witness forgot the original copy but would bring it next time. Provisionally marked as Exhibit Quadruple "U-8".
[482] Marked as Exhibit Quadruple "U-9".
[483] Evidenced by terminal fee stubs, marked as Exhibits Quadruple "U-16", "U-16-a", *sequencia*.
[484] Evidenced by official receipts from the NSO, marked as Exhibits Quadruple "U-17", "U-17-a".
[485] Previously marked as Exhibit Quadruple "U", second and third page marked as Exhibits Quadruple "U-2" and "U-3" respectively. Witness identified the signature above the printed name Elliver Cablitas appearing on the third page as his signature, bracketed and sub-marked as Exhibit Quadruple "U-3-a".
[486] Photocopy of the RPN DXDX ID marked as Exhibit Quadruple "U-11". Photocopy of News Focus newspaper ID marked as Exhibit Quadruple "U-11-a".
[487] Copy of November 16-22, 2009 issue of News Focus marked as Exhibit Quadruple "U-12", Staff Box appearing on page 7 of the said issue bracketed and sub-marked as Exhibit Quadruple "U-12-a", name of Marites S. Cablitas as publisher encircled and sub-marked as Exhibit Quadruple "U-12-b".
[488] Photocopy of DTI Certification provisionally marked as Exhibit Quadruple "U-13", name Marites Salamanca Cablitas encircled and sub-marked as Exhibit Quadruple "U-13-a".

A letter proposal dated October 10, 2009 prepared by his wife was brought by the witness.[489] He also handed over two (2) booklets of official receipts of Mindanao News Focus representing the collection from his wife's advertisements.[490] These booklets were prepared by his wife.

He also incurred medical expenses because he suffered post-traumatic disorder, evidenced by receipts and a medical certificate.[491]

On cross-examination, the witness testified that as stated in his Judicial Affidavit and *Sinumpaang Salaysay*, he told his wife not to join the coverage as it was unsafe. She said that it was alright since there were members of the media who were going and that there was already a request for military escorts. His wife was assured by the Mangudadatus that there would be military escorts. She went with the convoy in order to cover the filing of the COC of Esmael Mangudadatu.

The Affidavit of Burial Expenses was executed for claim from SSS. The amounts contained in the receipts issued by Allen Memorial Home and the Certification[492] from Forest Lake were included in the Affidavit of Burial Expense. He received ₱20,000.00 from SSS for the burial, more than ₱160,000.00[493] from PCSO, and ₱100,000.00 from the Office of the President.

The daughter of witness, Danica Marie Cablitas, was also a columnist of News Focus newspaper. This newspaper is no longer in circulation because after the death of his wife, they were not able to attend to it anymore.

Testimony of Erlyn Idalo Umpad for victim McDelbert Arriola:

On direct examination of the witness Erlyn Idalo Umpad on February 08, 2012, she testified that she was the live-in partner of victim McDelbert Arriola. She is the private complainant on behalf of their minor child Japhet Elidan Umpad evidenced by the latter's Certificate of Live Birth.[494]

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[489] Witness identified the signature above the printed name Marites Cablitas as that of his wife because he is familiar with his signature. Marked as Exhibit Quadruple "U-14".

[490] These booklets were prepared by his wife. Witness identified the signatures on the receipts above the print "authorized signatures" as that of his wife because he is familiar with her signature. Receipts in every page marked as Exhibits Quadruple "U-15", "U-15-a", "U-15-b", *sequencia*.

[491] Medical Certificate issued by Saint Elizabeth Hospital, Incorporated dated March 24, 2010 and a billing statement of the said hospital dated March 21,2010. Billing statement marked as Exhibit Quadruple "U-18", Medical Certificate issued to Elliver Cablitas marked as Exhibit Quadruple "U-19". Defense manifested that the Medical Certificate mentions that it is not only for post-traumatic stress disorder, but also for sleep dyspnea, fatty liver and gallstones.

[492] Marked as Exhibit Quadruple "U-10".

[493] Amount initially received was more than ₱100,000.00 and amount that he last received was ₱60,000.00.

[494] All defense counsels stipulated that witness is the live-in partner of the victim, that she is the private complainant on behalf of the minor child. Only Atty. Golla stipulated that the witness and victim Arriola were actually capacitated to marry. Defense counsels stipulated that the witness and victim Arriola begot one child named Japhet Elidan Umpad. Defense also stipulated that the photocopy of the

She testified that McDelbert Arriola died on November 23, 2009 in Brgy. Salman, Ampatuan, Maguindanao,[495]as evidenced by the latter's Certificate of Death.[496]

She averred that she executed a Complaint-Affidavit[497] dated December 23, 2009 due to the untimely death of her live-in partner. She affirmed the truthfulness of all she stated in her Complaint-Affidavit.

She said that the victim was a cameraman of UNTV evidenced by his ID.[498] Witness got the ID from the bag of victim that was left in their residence at Atis extension, Daremco Silway, General Santos City. As cameraman, the witness said that the victim received ₱382.00 from UNTV per day evidenced by a UNTV Certification.[499] He worked five (5) times a week.

The victim incurred ₱100,000.00 evidenced by a computation of expenses,[500] due to the death of her partner. Witness has receipts but not for all expenses she incurred.[501]

If witness would put a value on the emotional effect of the death of McDelbert Arriola on her and her minor child, ₱10 million would not be enough because victim was just doing his work. There was a big effect on her and her child because he was the one providing for the needs of their child. She was crying during her testimony. Their child was only thirteen (13) days old when the victim died. The victim was together with

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Certificate of Live Birth is a faithful reproduction of the original Certificate of Live Birtht of Japhet Elidan Umpad. Photocopy marked as Exhibit Quintuple "L-2", name Japhet Elidan Umpad Arriola sub-marked as Exhibit Quintuple "L-2-a", maiden name of mother Erlyn Idalo Umpad sub-marked as Exhibit Quintuple "L-2-b", name of father McDelbert Rosia Arriola sub-marked as Exhibit Quintuple "D-2-c", signature on information portion, McDelbert Arriola sub-marked as Exhibit Quintuple "L-2-d" and Affidavit of Acknowledgement/Admission of Paternity portion at back page, specifically the signature of the father which is the name of McDelbert Arriola sub-marked as Exhibit Quintuple "L-2-e".

[495] Defense counsels stipulated on this.

[496] Pre-marked as Exhibit "T-37". Defense counsels stipulated on this. Name McDelbert Arriola sub-marked as Exhibit "T-37-b", Page 20 sub-marked as Exhibit "T-37-c", date of death November 23, 2009 sub-marked as Exhibit "T-37-d", place of death Brgy. Salman, Ampatuan, Maguindanao sub-marked as Exhibit "T-37-e", back portion that cause of death as multiple gunshot wounds on head, trunk and extremeties sub-marked as Exhibit "T-37-f".

[497] Defense stipulated on the existence of the Complaint-Affidavit. Pre-marked as Exhibit Quintuple "F", signature on left hand portion sub-marked as Exhibits Quintuple "F-1", "F-2", "F-3", signature on 4th page above the name Erlyn Idalo Umpad sub-marked as Exhibit Quintuple "F-4".

[498] Atty. Andres and Atty. Manuel Jr. stipulated on the existence of victim's ID. Other defense counsels stipulated that victim was a cameraman of UNTV. Defense counsels stipulated that photocopy of ID is a faithful reproduction of the original. Photocopy of ID marked as Exhibit Quintuple "L-3".

[499] Certification from UNTV certifying that the late McDelbert Arriola, victim of the Maguindanao massacre, was at the time of the incident a contractual talent of the BMPI-UNTV Channel 37 and that he was then receiving a contracted fee of ₱ 382.00 per day from the time he started as a volunteer in the year July 6, 2007 until the time of his death. Marked as Exhibit Quintuple "L-4'", name of McDelbert Arriola sub-marked as Exhibit Quintuple "L-4-a", second paragraph referring to ₱ 382.00 per day sub-marked as Exhibit Quintuple "L-4-b".

[500] This computation was left by the witness in her house. Prosecution reserved the right to present the list.

[501] Prosecution reserved the right to present receipts with regards to the burial expenses of McDelbert Arriola.

his child for only ten (10) days. She felt that she and her child have a right to ₱5 million for her child. She admitted that fifteen percent (15%) of what the witness would receive would go to her lawyer.

On cross-examination, the witness testified that sometime in December 2009, she and the victim were supposed to be married. They were just planning but they had not yet registered, there was no wedding invitation yet. She also did not bring any pay slip of victim to court. She confirmed that she has no receipts to support the burial expenses.

On additional direct examination on July 17, 2012, she showed the computation of expenses for the death of McDelbert Arriola amounting to ₱100,000.00 she mentioned the last time she testified. Witness said that this was in her handwriting and she identified her signature beside her name.[502] She did not have the receipts of these expenses because at that time she was still confused, thus she only made an estimate of the expenses she incurred.

When asked by the court, she verified that she did not have other receipts in support of her computation. While she paid the lot to Forest Lake where her husband was buried, she was not sure if she could still secure a copy of the receipts from Forest Lake. She also could not remember where she bought the coffin because she just gave birth at that time. She estimated that the coffin was worth ₱35,000.00.

Testimony of Ivy Maravilla for victim Ernesto Maravilla, Jr.:

On direct examination of witness Ivy Maravilla on February 15, 2012, she identified the Judicial Affidavit[503] she executed in relation to these cases. She narrated that she previously worked as an OFW in Kuwait evidenced by an OWWA document, her passport and her Residence Permit inside the passport, which she all identified.[504]

She averred that she was the wife of victim Ernesto Maravilla, Jr., evidenced by an NSO copy of their Certificate of Marriage.[505] They had

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[502] ₱ 100,000.00 composed of *lupa* - ₱ 45,000.00; *kabaong, damit, pamasahe* - ₱ 35,000.00; *kape, tinapay* ₱ 20,000.00. Marked as Exhibit Quintuple "L-6", signature marked as Exhibit Quintuple "L-6-A".

[503] Prosecution adopts the Judicial Affidavit of Ivy Maravilla as part of her direct testimony. First page marked as Exhibit Sextuple "D-12", second as Exhibit Sextuple "D-12-a" series up to the 9th page. Signature on top of the name Ivy B. Maravilla on page 9 marked as Exhibit Sextuple "D-12-h-1".

[504] Original and photocopies shown: POEA document, OWA document, residence permit marked as Exhibits Sextuple "D-7" and Sextuple "D-8" respectively. Defense manifested that based on the passport, witness is only entitled to stay in Kuwait for sixty (60) days from December 24, 2008 to February 2009. Witness testified that she was allowed to stay up to December 2, 2009 in Kuwait even though her passport states that she can only be allowed to stay until February 8, 2009 because according to the agency if she has a good attitude or work performance, she could extend her stay up to two (2) years.

[505] First and second pages of the Certificate of Marriage marked as Exhibit Sextuple "D-1" and Sextuple "D-1-a", entries stating the name of the bride and the groom as Ivy Berja and Ernesto Maravilla, Jr. bracketed and sub-marked as Exhibits sextuple "D-1-b" and sextuple "D-1-c" respectively.

five (5) children evidenced by their Certificates of Live Birth.[506] The proof of her husband's death was the latter's Certificate of Death.[507]

She prepared an Affidavit of Burial Expenses[508] and claimed that she incurred expenses evidenced by the receipts from NSO for request for documents which she identified.[509]

Before his death, her husband was earning an annual income of ₱111,043.51 exclusive of allowances and commission when he was working for Bombo Radyo, as evidenced by his Certificate of Employment from Bombo Radyo.[510]

Testimony of Maria Luisa Buenafe for victim Benjie Adolfo:

On direct examination of witness Maria Luisa Buenafe on February 16, 2012, she identified the Judicial Affidavit which she executed in connection to these cases.[511]

She claimed to be the cousin of Benjie Adolfo. She presented authenticated NSO copies of Birth Certificates proving her relationship with Benjie Adolfo which she showed to the court, to wit: NSO copy of Certificate of Live Birth of cousin Benjie Adolfo, NSO copy of Birth Certificate of her mother Evelyn Adolfo, Birth Certificate of the father of her cousin Benjamin Adolfo, and Certificate of Marriage of Celso Buenafe and Maria Luisa Adolfo Gaculais.[512]

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[506]Certificate of Live Birth of June Colleen B. Maravilla marked as Exhibit Sextuple "D-2", entries stating the names of mother and father as Ivy and Ernesto Maravilla, Jr. bracketed and sub-marked as Exhibits Sextuple "D-2-a" and Sextuple "D-2-b". Certificate of Live Birth of Jhan Chiene B. Maravilla marked as Exhibit Sextuple "D-3" and "D-3-a", entries stating the names of mother and father as Ivy and Ernesto Maravilla, Jr. bracketed and sub-marked as Exhibits Sextuple "D-3-b" and "D-3-c" respectively. Certificate of Live Birth of Josh Chestane B. Maravilla marked as Exhibit Sextuple "D-4" and entries stating the names of mother and father as Ivy and Ernesto Maravilla, Jr. bracketed and sub-marked as Exhibits Sextuple "D-4-a" and "D-4-b". Certificate of Live Birth of Jinx Cyrus B. Maravilla marked as Exhibit Sextuple "D-5", entries stating the names of the mother and father as Ivy and Ernesto Maravilla, Jr. bracketed and sub-marked as Exhibits Sextuple "D-5-a" and "D-5-b". Certificate of Live Birth of John Clarence B. Maravilla be marked as Exhibit Sextuple "D-6", entries stating the names of the mother and father as Ivy and Ernesto Maravilla, Jr. bracketed and sub-marked as Exhibits Sextuple "D-6-a" and "D-6-b".

[507] NSO copy of Death Certificate previously marked as Exhibit "T-52" on August 4, 2010, name Ernesto Maravilla, Jr. encircled and sub-marked as Exhibit "T-52-d".

[508] Marked as Exhibit Sextuple "D-9", and the total expenses of Ivy Maravilla marked as Exhibit Sextuple "D-9-a".

[509] Seven (7) receipts from NSO marked as Exhibit Sextuple "D-10", "D-10-a" and series.

[510] Original and photocopy of certificate shown. Defense stipulated that photocopy is a faithful reproduction of the original. Marked as Exhibit Sextuple "D-11", total income of ₱ 111,043.51 encircled and sub-marked as Exhibit Sextuple "D-11-a".

[511] Judicial Affidavit made part of the direct examination of witness, marked as Exhibit Quintuple "Y-8" and series up to age eight (8), name Maria Luisa G. Buenafe with signature above it encircled and sub-marked Exhibit Quintuple "Y-8-g-1".

[512] Birth Certificate of Benjie Gerardo Adolfo marked as Exhibit Quintuple "Y-1", entry pertaining to the parents Virginia Alino Gerardo and Evelyn Fernandez Adolfo encircled and sub-marked as Exhibit Quintuple "Y-1-a". Birth Certificate of Maria Luisa Adolfo Gaculais marked as Exhibit Quintuple "Y-2", entry pertaining to the father and mother of Maria Luisa bracketed and sub-marked as Exhibit Quintuple "Y-2-a". Certificate of Live Birth of Evelyn Fernandez Adolfo marked as Exhibit Quintuple "Y-3", name of father and mother bracketed and sub-marked as Exhibit Quintuple "Y-3-a". Birth Certificate of Benjamin Adolfo marked as Exhibit Quintuple "Y-4", entry pertaining to the name of father and mother

The witness identified the Certificate of Death of cousin Benjie Adolfo.[513] She also had two (2) Special Power of Attorneys. The first one was prepared by the mother of the victim dated February 12, 2010.[514] The second one was prepared by the mother of the victim on January 16, 2012.[515] She executed a Complaint-Affidavit in connection with the case. Her uncle Luis Adolfo Jr. filed the complaint with the CIDG but he died on September 08, 2011.

She produced a Summary of Expenses[516] prepared by her aunt who was the mother of the victim. But in the said Summary, the name of the victim's mother was Virginia Vivera because she re-married. However, witness did not have the receipts to support the Summary of Expenses because they were very busy at that time and whenever they paid something, they just listed it down.

On cross-examination, the witness affirmed that she was claiming ₱30 million for the death of her cousin Benjie Adolfo and that she did not cry when the public prosecutor presented her in this case.

Testimony of Asmin A. Edza for victim Norton Edza:

On direct examination of witness Asmin A. Edza on March 07, 2012, she identified the Judicial Affidavit she executed in relation to these cases.[517] She also identified a Complaint-Affidavit[518] as regards the filing of these cases against the accused.

She claimed to be the wife of deceased Norton Edza evidenced by an authenticated copy of their Certificate of Marriage.[519] They had two (2)

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bracketed and sub-marked as Exhibit Quintuple "Y-4-a". Marriage Certificate marked as Exhibit Quintuple "Y-5", entry pertaining to the bride and groom bracketed and sub-marked as Exhibit Quintuple "Y-5-a".

[513] Certificate previously marked as Exhibit "T-42 last August 4,2010, entry pertaining to name of deceased Benjie Gerardo Adolfo sub-marked as Exhibit "T-42-d", place of death sub-marked as Exhibit "T-42-e", date of death sub-marked as Exhibit "T-42-f", entry pertaining to cause of death – multiple gunshot wounds to the head, trunk and extremities – bracketed and sub-marked as Exhibit "T-42-g".

[514] Marked as Exhibit Quintuple "Y-6", name Maria Luisa Buenafe and signature above it which witness identified as hers bracketed and sub-marked as Exhibit Quintuple "Y-6-a", name of Virginia G. Adolfo and signature above it which witness identified as the mother of the victim bracketed and sub-marked as Exhibit Quintuple "Y-6-b".

[515] Sub-marked as Exhibit Quintuple "Y-7", second page Exhibit Quintuple "Y-7-a", name of Maria Luisa Buena bracketed and sub-marked as Exhibit Quintuple "Y-7-b", name Virginia Adolfo marked as Exhibit Quintuple "Y-7-c". Witness identified the signature above the name Maria Luisa Buena as her signature and the signature above the name Virginia Adolfo as that of the mother of the victim.

[516] Marked as Exhibit Quintuple "Y-9", name of Virginia Adolfo sub-marked as Exhibit Quintuple "Y-9-a".

[517] Marked as Exhibit Quadruple "M-16", 2nd page up to the 10th page marked as Exhibit Quadruple "M-16-a to i", signature and name of Asmin A. Edza bracketed and sub-marked as Exhibit Quadruple "M-16-i-1".

[518] Previously marked as Exhibit Quadruple "M", 2nd page marked as Exhibit Quadruple "M-5-a", signature of witness sub-marked as Exhibit Quadruple "M-5-b".

[519] Marked as Exhibit Quadruple "M-2", entries stating the names of the bride and the groom sub-marked as Exhibit Quadruple "M-2-a" and Exhibit Quadruple "M-2-b".

children, evidenced by the Birth Certificates[520] of her two (2) children.

She averred that her husband was killed in Ampatuan on November 23, 2009 evidenced by his Death Certificate.[521]

She presented an Affidavit of Itemized Burial, *kanduli* and other miscellaneous expenses spent for the death of Norton Ebus Edza which she identified.[522] She spent for the reproduction and authentication of documents in the NSO needed in the filing of these cases, and identified six (6) NSO receipts.[523]

The total expenses that witness spent for the death of her husband including *kanduli* and other miscellaneous expenses were ₱555,700.00 but she had not presented any receipt to prove these itemized expenses. However, she confirmed her statement in her Judicial Affidavit that in their Muslim culture, they do not keep receipts of their *kanduli* and other matters relating to the death of their loved ones. For the reproduction and authentication of the NSO document, witness incurred the total expense of ₱980.00.

Before his death, her husband was earning ₱30,000.00 per month excluding tips and bonuses proven by a Certification issued by the Operator-Manager of Venus Transport Service Cooperative, which she identified. Witness also said that Kanando A. Makalay, whose name and signature appears on the Certification, was the operator-manager of Venus Transport. She came to know about it because Makalay was the one who was tasked in their office and who issued their certification.[524]

On cross examination, the witness testified that her husband was not a member of the SSS. He was not working with the private sector or for the government. He was a driver of a passenger van. She also did not receive a monthly pension from the SSS.

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[520] Certificate of Live Birth of Trillan Goy Abedin Edza marked as Exhibit Quadruple "M-3" and the 2nd page as Exhibit Quadruple "M-3-a", entries referring to the date of birth as well as mother and father bracketed and sub-marked as Exhibits Quadruple "M-3-b" and Quadruple "M-3-c". 1st page of Certificate of Live Birth of Cyd Noreen Abedin Edza marked as Exhibit Quadruple "M-4", 2nd page marked as Exhibit Quadruple "M-4-a", entries referring to the birth a well as the mother and father bracketed and sub-marked as Exhibits Quadruple "M-4-b" and Quadruple "M-4-c".

[521] Previously marked as Exhibit "T-23", name of Norton Ebus Edza marked as Exhibit "T-23-d", entries referring to the age and the cause of death as Exhibits "T-23-e" and "T-23-f".

[522] Affidavit of burial, *kanduli* and other miscellaneous expenses spent for the death of Norton Ebus Edza marked as Exhibit Quadruple "M-8", total amount of ₱555,700.00 encircled and sub marked as Exhibit Quadruple "M-8-a" and the signature above the printed name Asmin A. Edza marked as Exhibit Quadruple "M-8-b".

[523] Marked as Exhibit Quadruple "M-9" up to Exhibit Quadruple "M-14" *in sequentia*.

[524] Certification marked as Exhibit Quadruple "M-15", monthly compensation which is ₱ 30,000.00 bracketed and sub-marked as Exhibit Quadruple "M-15-a".

Testimony of Caren F. Araneta for victim Henry Araneta:

On direct testimony of witness Caren F. Araneta on March 8, 2012, she identified the Judicial Affidavit she executed in relation to these cases.

She claimed that she was the wife of Henry H. Araneta, evidenced by their Marriage Certificate.[525] They had a child, evidenced by a Birth Certificate.[526]

Her husband was killed in Ampatuan on November 23, 2009, evidenced by a Death Certificate.[527] She also executed an Affidavit Complaint and Supplemental Affidavit which witness identified.[528]

She presented before the court a List of Itemized Burial, Funeral and other Miscellaneous Expenses which she identified.[529] She further produced a Certification form Divine Heritage Memorial Park[530] and a Certification from St. Peter Chapels[531] which she mentioned in her Affidavit.

According to the witness, Henry Araneta was an Announcer/Reporter based on his Press ID[532] and Certification issued by Nandy Vitalicio, Director, News and Public Affairs, DZRH News Center.[533] She also mentioned a black Sangyong vehicle which Henry Araneta drove on November 23, 2009, the proof of ownership being in Tambler, General Santos City.

Her husband was also a Publisher, Editor of Balita Bubuwit. Witness had back issues of Balita Bubuwit in her house and would bring it next time.[534]

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[525] Page 2 of Judicial Affidavit; Defense stipulated on the photocopy. The photocopy was marked as Exhibit Quintuple "Q-2", name of bride as Caren Fua marked as Exhibit Quintuple "Q-2-a", name of groom Henry H. Araneta marked as Exhibit Quintuple "Q-2-b".

[526] Birth Certificate of Mithuzela F. Araneta marked as Exhibit Quintuple "Q-3", entries referring to the date of birth as well as the mother and father bracketed and sub-marked as Exhibits Quintuple "Q-3-a" and "Q-3-b".

[527] Death Certificate previously marked as Exhibit "T-36", entry referring to name Henry H. Araneta encircled and sub-marked as Exhibit "T-36-d", entries referring to the age and cause of death Exhibits "T-36-e" and "T-36-f" respectively.

[528] Affidavit Complaint and Supplemental Affidavit previously marked as Exhibit Quintuple "Q" and "Q-1". Subsequent pages of Exhibit Quintuple "Q", marked as Quintuple "Q-4" and Quintuple "Q-5", signature marked as Quintuple "Q-5-a". Signature in Exhibit Quintuple "Q-1" marked as Quintuple "Q-1-a".

[529] List of expenses marked as Exhibit Quintuple "Q-6", signature marked as Exhibit Quintuple "Q-6-a", total amount encircled and marked as Exhibit Quintuple "Q-6-b."

[530] Marked as Exhibit Quintuple "Q-7", amount of ₱ 58,000.00 encircled and marked as Exhibit Quintuple "Q-7-a".

[531] Marked as Exhibit Quintuple "Q-8", amount of ₱ 22,000.00 encircled and marked as Exhibit Quintuple "Q-8-a".

[532] ID marked as Exhibit Quintuple "Q-10".

[533] Certification marked as Exhibit Quintuple "Q-9".

[534] Prosecution reserved the presentation of the issues of the newspaper.

Henry had one child with the witness and three (3) children with Heidi. Heidi was the other woman of Henry before the witness. These children were Jade, Princess and Ella. The Birth Certificate of these children are at the house of witness.

On cross examination, the witness testified that the eldest illegitimate child was 21 or 22, the second was line of 20 and the third was not yet twenty 20, a teenager, something like that. Witness was not sure if the third child was already of legal age or not.

She confirmed that she did not present any proof that her husband was receiving the monthly income of about ₱30,000.00 and ₱50,000.00 excluding tips.

The witness reached the killing site in Ampatuan, Maguindanao for the first time on November 24, 2009. She only learned about the death of her husband through the news. Witness was told by Henry Araneta sometime in 2001 that the place where he was supposedly killed was actually a killing field.

She claimed ₱200,000.00 including ₱150,000.00 for the food and miscellaneous expenses for the prayer gathering at her house before her husband was buried. In support thereof, she marked in evidence a document entitled Expenses for the Retrieval, Funeral and Burial of the body. She handed the receipts to counsel.[535] Other than Exhibit Quintuple "Q-7" and Quintuple "Q-8" though, she did not present any other proof which would show that the total that she spent for the death and burial of her husband was ₱200,000.00.

Her husband purchased on installment a black Sangyong vehicle worth ₱450,000.00 but did not present the Deed of Sale because the proof of ownership was in their house.[536]

Witness claimed ₱20 million for the loss of her husband and an additional ₱100 million for exemplary damage but had not paid any filing fee or docket fee in connection with her claim. She described her husband as a hard-hitting publisher as well as radio correspondent of DZRH. Witness did not know if he had a lot of enemies during his lifetime.

Testimony of Mary Jean M. Merisco for victim Rey V. Merisco:

Mary Jean Merisco, directly testified on June 20, 2012 that she filed a Complaint-Affidavit[537] for this purpose. She claimed to

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[535] Counsel of witness stated that witness is referring to the two (2) certifications wherein the total expenses are stated.
[536] Prosecution reserved right to present proof of ownership.
[537] Marked as Exhibit Quintuple "C" and sub-markings.

be the widow of Rey V. Merisco, based on the Marriage Certificate[538] which she identified. They got married on July 20, 2000 at Norala, South Contabato. They had one (1) child, Frances Tracy M. Merisco as shown by her Birth Certificate.[539]

Based on the Death Certificate[540] and Medico Legal Report[541] which she identified, her husband died at Brgy. Salman, Ampatuan, Maguindanao on November 23, 2009 at the age of thirty-four (34) due to multiple gunshot wounds. Before his death, Rey worked as a journalist for Periodico Ini. This was stated in the Certification[542] from Periodico Ini, which she identified. His salary, based on another Certification from Periodico Ini, was on commission basis. He also received a monthly allowance of ₱5,000.00.[543]

The witness recalled that on November 22, 2009, at around 7:30 p.m., his husband left for Tacurong City. He asked permission from her to join the convoy with Toto Mangudadatu to file his candidacy as governor.

On November 24, 2009, at about 5:30 p.m., there was news that the convoy died already. She then waited at Southern Funeral Homes in Koronadal for the arrival of the dead bodies. She was immediately able to identify his body. She saw that he had blood in his clothing and that he sustained a gunshot wound in his upper left arm. Upon seeing his remains, she was shocked; she cried. Her eight(8)-year old daughter was with her at that time. Her husband was a responsible and good father. The wake of Rey lasted for three (3) nights and four (4) days, starting on November 26, 2009. The remains of her husband was buried at Norala Public Cemetery. She incurred expenses for mortuary, food, drinks, burial permit, cemetery lot and church rites, amounting to ₱65,000.00. As evidence, she presented receipts, some of which she lost. She also presented a handwritten list of burial expenses.[544]

The death of her husband caused her loneliness. The emotional effect on her due to the death of her husband amounted to ₱10 million. Her child was only able to accept his death after two (2) months. She

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[538] Marriage Certificate marked as Exhibit Quintuple "C-2", name of the husband Rey Villareal Merisco sub-marked as Exhibit Quintuple "C-2-a", name of wife Mary Jean Borlasa Mendez sub-marked as Exhibit Quintuple "C-2-b", signature of husband sub-marked as Exhibit Quintuple "C-2-c", and signature of wife sub-marked as Exhibit Quintuple "C-2-d".

[539] Birth Certificate of Frances Tracy Mendez Merisco as Exhibit Quintuple "C-3", name of the child, mother and father sub-marked as Exhibits Quintuple "C-3-a", "C-3-b" and "C-3-c", respectively. Date of birth June 11, 2001 sub-marked as Exhibit "(5) c-3-d". Signature of father sub-marked as Exhibit Quintuple "C-3-e"

[540] Exhibit "T-30" and sub-markings.

[541] Medico-Legal Report No. A09-079 dated November 25, 2009, previously marked as Exhibit "III" and sub-markings.

[542] Marked as Exhibit Quintuple "C-4" and sub-markings.

[543] Another Certification from Periodico Ini South Cotabato marked as Exhibit Quintuple "C-5" and sub-markings.

[544] Marked as Exhibit Quintuple "C-7" and sub-marking.

claimed entitlement for exemplary damages amounting to ₱5 million, especially that his husband was only doing his job at that time. Her counsel stood to earn a share of fifteen percent (15%) of what she would receive.

No cross-examinations were conducted by the defense counsels.

Testimony of Glena Legarta for victim Bienvenido Legarta, Jr.:

Glena Legarta testified in open court on June 20, 2012 and had several stipulations. She was the lawfully wedded spouse of Bienvenido Legarta, Jr., and the evidence of their union was the Certificate of Marriage under Registry No. 98-22.[545] Out of the union between the witness and Bienvenido Legarta, Jr., there were three (3) children as attested by their respective Birth Certificates namely: Eunice Gandola Legarta, Cameron Ashley Ryan Gandola Legarta and Kenneth Gerald Gandola Legarta, and the evidence of which were the original Birth Certificates shown to defense counsels.[546] Her husband died on November 23, 2009 due to gunshot wound as evidenced by his Death Certificate.[547] As stated in his Certificates of Employment,[548] at the time of his death, the victim was employed in Periodico Ini South Cotabato and worked as an associate publisher of Rapido. As a media personel, he had a media ID No. 0983.[549]There existed a Certification stating that he earned a monthly commission from ₱10,000.00 to ₱15,000.00 based on his sales production.[550]She filed a Complaint-Affidavit for this purpose.[551]

As for her direct testimony, she testified that on November 23, 2009, at 6:00 a.m., at their home, her husband left for Butuan for the press conference of Toto Mangudadatu. That was the last time she saw him alive. At 4:00 p.m, she asked his brother and cousin, Vicente Legarta and Third Taborente, to visit the massacre site. They saw the corpse of Jun Legarta. The news was then relayed to her at 6:00 p.m.

At 9:00 a.m, of November 24, 2009, she went to Southern Funeral Homes. There, she saw the corpse of her husband in the morgue. She was able to identify him through his clothes and tattoo on his right shoulder. At the time she saw the body, it was already bloated.

By evening of November 26, 2009, she was able to claim the remains of her husband. She brought the remains in her residence and

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[545] Exhibit Quintuple "E-2" and sub-markings.
[546] Certificate of Live Birth of Eunice Gandola Legarta marked as Exhibit Quintuple "E-3"; Certificate of Live Birth of Cameron Ashley Ryan Gandola Legarta marked as Exhibit Quintuple "E-4"; and Certificate of Live Birth of Kenneth Gerald Gandola Legarta marked as Exhibit Quintuple "E-5".
[547] Death Certificate marked as Exhibit "T-18".
[548] Certificate of Employment issued by Periodico Ini marked as Exhibit Quintuple "E-6" and Rapido Certificate of Employment marked as Exhibit Quintuple "E-7".
[549] ID of Bienvenido Legarta marked as Exhibit Quintuple "E-8".
[550]Certification of Periodico Ini marked as Exhibit Quintuple "E-9" and sub-marking.
[551] Complaint-Affidavit marked as Exhibit Quintuple "E".

had it there for ten (10) days. Her husband was buried on December 6, 2009 at Koronadal Public Cemetery.

She spent ₱80,000.00 for drinks and food, church rites, cemetery lot, burial expenses, and funeral services. She only prepared handwritten list because she had no idea that receipts would be used in this case.[552]

The death of her husband shocked her, and caused her to cry. She could not sleep and eat. Her children also cried. She missed him and his care for them.

For her grief, she claimed ₱10 million, but that amount was not allegedly enough for the death of her husband. She also felt entitled to ₱5 million as other damages especially that he was just doing his job as a journalist. Fifteen percent (15%) of what they would receive from the court would be given to counsel.

During her cross examination, she mentioned that she had no personal knowledge that Mayor Andal Ampatuan/or the other named persons in her affidavit ordered the killing.

Testimony of Editha Basas Miradilla Tiamzon for victim Daniel Tiamzon:

Witness Editha Tiamzon testified on July 17, 2012 that she was the common law wife of victim Daniel Tiamzon for the last 16 years. They had three (3) children, whose Birth Certificates[553] signed by the father were presented. She described him as a good husband, good father and provider. Witness also identified the Death Cetificate[554] and Medico Legal Report.[555]

She narrated that he was a driver and trainee reporter of UNTV for Maguindanao. He earned ₱332.00 per day for work rendered for five (5)

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[552] Handwritten List of burial expenses marked as Exhibit Quintuple "E-10".

[553] Birth Certificate of Martin Paolo Mirandilla Tiamzon marked as Exhibit Quintuple "I-2" and the entries therein, the name sub-marked as Exhibit Quintuple "I-2-A", the date of birth as Exhibit Quintuple "I-2-B", name of the mother, Edita Basas Mirandilla submarked as Exhibit Quintuple "I-2-C", name of the father, Daniel Tiamzon submarked as Exhibit Quintuple "I-2-D"; Birth Certificate of Marietta Mirandilla Tiamzon marked as Exhibit Quintuple "I-3", the name sub-marked as Exhibit Quintuple "I-3-A", the date of birth sub-marked as Exhibit Quintuple "I-3-B", name of the mother, Editha Basa Mirandilla as Exhibit Quintuple "I-3-C", name of the father, Daniel Tiamzon submarked as Exhibit Quintuple "I-3-D", signature of the informant, Daniel Tiamzon submarked as Exhibit Quintuple "I-3-E"; and Birth Certificate of Herminia Belen Mirandilla Tiamzon marked as Exhibit Quintuple "I-4", the name sub-marked as Exhibit Quintuple "I-4-A", the date of birth as Exhibit Quintuple "I-4-B", name of the mother Edita Basas Mirandilla sub-marked as Exhibit Quintuple "I-4-C", the name of the father, Daniel Tiamzon submarked as Exhibit Quintuple "I-4-D", and the signature of the informant, Daniel Tiamzon as Exhibit Quintuple "I-4-E".

[554] Death Certificate of Daniel Tiamzon marked as Exhibit "T-34", the name sub-marked as Exhibit "T-34-D", the age sub-marked as Exhibit "T-34-E", date of death sub-marked as Exhibit "T-34-F".

[555] Marked as Exhibit "RRR" and the conclusion/cause of death multiple gunshot wound to the head and trunk sub-marked as Exhibit. "RRR-6".

days a week. She presented a Certification from UNTV as basis.[556]

According to the witness, she incurred total burial expenses of more or less ₱100,000.00. She also paid for air freight charges, per Airway Bill issued by PAL dated December 4, 2009 in the amount of ₱4,802.00.[557] She presented an electronic ticket issued by PAL dated September 2009 for the flight, Friday, December 4, 2009, with the amount ₱5,495.00.[558] She also presented an Official Receipt issued by LMCCI in the amount of ₱45,000.00 for funeral services[559] and Certification from LMCCI for actually rendering funeral services for the late Daniel Tiamzon under Service Contract No. 2753 dated December 2, 2009 in the amount of ₱91,000.00 under O.R. Nos. 11139, 11149 and 12036.[560]

She valued the emotional consequences of the death of Daniel Tiamzon to her and her children at ₱10 million. She highlighted that her children were undergoing psycho-socio therapy with the DSWD for ₱1,500.00 per session, every three (3) months, and with UST, for the youngest child.

On cross examination, she mentioned that Daniel Tiamzon was a driver for UNTV in Metro Manila since 2007 and that his status remained as volunteer/trainee. He previously worked in Jeddah and had a business as sideline.

On re-direct examination, she testified that he worked before at DHL in Jeddah for three (3) years; and had no knowledge of how much he earned. As sideline, he had a buy-and-sell business of vitamins, Power Plus items, which started three (3) years prior to 2009.

Testimony of Corazon Cabillo for victim Romeo Cabillo:

Witness Corazon Cabillo testified in court on September 05, 2012. In her Judicial Affidavit,[561] she indicated that she was the wife of victim Romeo "Pal-ak" Cabillo. She presented her husband's Death Certificate,[562] their Marriage Contract,[563] NSO receipts,[564] and Birth Certificates of their four (4) children.[565]

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[556] Marked as Exhibit Quintuple "I-5" and the contracted fee of ₱382.00 per day from the time he started as a volunteer in the year September 2009 until the time of his death sub-marked as Exhibit Quintuple "I-5-A".
[557] Marked as Exhibit Quintuple "I-6".
[558] Marked as Exhibit Quintuple "I-7."
[559] Marked as Exhibit Quintuple "I-8".
[560] Marked as Exhibit Quintuple "I-9".
[561] Judicial Affidavit (Exhibit Sextuple "A-10" series and sub-markings), but the same was not formally offered by the prosecution.
[562] Marked as Exhibit "T-45".
[563] Marriage Certificate marked as Exhibit Sextuple "A-1", and the names Romeo Cabillo and Corazon Jacinto sub-marked as Exhibits Sextuple "A-1-a" and Sextuple "A-1-b", respectively.
[564] Three (3) NSO Receipts marked as Exhibits Sextuple "A-7", "A-7-a", "A-7-b", and "A-7-c".
[565] Birth Certificate of Michelle Cabillo marked as Exhibit Sextuple "A-2", second page as Exhibit Sextuple "A-2-a", the name of the mother and father sub-marked as Exhibits Sextuple "A-2-b" and "A-2-c", respectively; Birth Certificate of Michael Jan Cabillo marked as Exhibit Sextuple "A-3", the second

Before the court, she claimed burial expenses amounting to ₱133,000.00, actual, moral and exemplary damages. For this purpose, she presented an Affidavit of Burial Expenses dated January 05, 2010.[566]

She also said that his husband worked as correspondent of Midland Review, earning on a commission basis ₱25,000.00 per month. As proof, she showed his ID, Midland Review issue of August 19-25, 2009,[567] and staff box with Jimmy Cabillo as correspondent.[568] He also had a part-time job as emcee during political events and town fiestas roughly earning ₱10,000.00 per month.

On cross examination, she mentioned that the Ampatuans, particularly Datu Andal Ampatuan, Sr., were close to Romeo Cabillo as the latter was always hired as emcee by the former.

Testimony of Nancy dela Cruz for victim Gina dela Cruz:

Witness Nancy dela Cruz testified in court on September 05, 2012. In her Judicial Affidavit,[569] she mentioned that she was the mother of victim Gina dela Cruz. She mentioned that the victim was a single mother and had five (5) children. As proof, she presented the Birth Certificate[570] of the victim as well as the Birth Certificates of the latter's four (4) children.[571]

The witness stated that the deceased was a reporter per Certification[572] from Saksi Mindanaoan News and RPN DXDX, Saksi Mindanaoan News issue of November 9 to 15, 2009,[573] and staff box[574]

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page as Exhibit Sextuple "A-3-a", the name of the mother and father as Exhibits Sextuple "A-3-b" and "A-3-c", respectively; Birth Certificate of Mirasol Cabillo marked as Exhibit Sextuple "A-4", the second page as Exhibit Sextuple "A-4-a", the names of the mother and father as Exhibits Sextuple "A-4-b" and "A-4-c", respectively; and the Birth Certificate of Mark Ryan Cabillo as Exhibit Sextuple "A-5", second page as Exhibit Sextuple "A-5-a", the names of the mother and father sub-marked as Exhibits Sextuple "A-5-b" and "A-5-c".

[566] Marked as Exhibit Sextuple "A-6".

[567] Marked as Exhibit Sextuple "A-9".

[568] The Staff Box marked as Exhibit Sextuple "A-9-a", the name Jimmy Pal-ak Cabillo, Maguindanao, sub-marked as Exhibit Sextuple "A-9-b".

[569] Judicial Affidavit marked as Exhibit Quadruple "W-13" and sub-markings, but the Judicial affidavit was not formally offered by the prosecution.

[570] Birth Certificate of Gina Dela Cruz marked as Exhibit Quadruple "W-3", the second page as Exhibit Quadruple "W-3-a", the names of the child and mother as Gina Dela Cruz and Nancy Telebangco sub-marked as Exhibit Quadruple "w-3-b" and Quadruple "W-3-c", respectively.

[571] Birth Certificate of Jergelyn marked as Exhibit Quadruple "W-4", the second page as Exhibit Quadruple "W-4-a" and the name of the mother Gina Dela Cruz sub-marked as Quadruple "W-4-b"; Birth Certificate of Jergiselie marked as Exhibit Quadruple "W-5" and the mother's name Gina Dela Cruz sub-marked as Quadruple "W-5-a"; Birth Certificate of Ralph Janus as Exhibit Quadruple "W-6", the second page as Quadruple "W-6-a", and the mother's name Gina Dela Cruz sub-marked as Quadruple "W-6-b"; and the Birth Certificate of Queen Jiovana Cherie marked as Exhibit Quadruple "W-7", second page as Quadruple "W-7-a, the name of the mother Gina Dela Cruz sub-marked as Quadruple "W-7-b".

[572] Marked as Exhibit Quadruple "W-10".

[573] Marked as Exhibit Quadruple "W-11".

[574] Marked as Exhibit Quadruple "W-11-a".

with Gina dela Cruz as correspondent.[575]

She claimed burial expenses amounting to ₱25,000.00, actual and moral damages. She admitted that she had no receipts and that Gov. Migs Dominguez of Saranggani Province paid for the burial expenses.

There were no cross examinations conducted but one of the defense counsels noted that on the Death Certificate of the victim, specifically on the entry of the "informant" appeared therein as Julius Carpenteros with the relation as husband of deceased. As reply to said manifestation, counsel for the victim read a part of the Affidavit which stated that deceased and Julius Carpenteros were not legally married and were living together as husband and wife without the benefit of marriage.

Testimony of Thong D. Ante for victim Rowena Ante Mangudadatu:

Witness Thong D. Ante testified on November 13, 2013. In his Judicial Affidavit,[576] he indicated that he was 35 years old, government employee of the local government of Buluan, Maguindanao, and residing in Poblacion, Maguindanao. He testified that he was the brother of the deceased[577] Rowena Ante Mangudadatu as evidenced by their Birth Certificates.[578]He was testifying for her and her husband by virtue of an SPA. [579] He narrated that his sister was married to Taugan Mangudadatu.[580] They had two (2) daughters: Baby Jana Alisha Ante and Baby Febrerania Alaysha Ante.[581]

He identified the body of his sister through a Certificate of Identification of a Dead Body submitted to the NBI Doctor.[582] He also identified the Death Certificate of her sister.[583] He likewise submitted a document entitled "Itemized Approximate Burial and Other Miscellaneous Expenses"[584] spent during the death of Rowena Ante amounting to ₱158,000.00. As regards the receipts, he mentioned that receipts were not kept because of the *kanduli* practice; and if he found any of the receipts, piled with the many documents that they handled, he would bring it in court.

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[575] Marked as Exhibit Quadruple "W-11-b".
[576] Judicial Affidavit marked as Exhibit Quadruple "I-11".
[577] Certificate of Death marked as Exhibit "T-20".
[578] Certificate of Live Birth of Thong Ante and Rowena Ante marked as Exhibits Quadruple "I-2" and Quadruple "I-3", respectively.
[579] SPA marked as Exhibit Quadruple "I-7".
[580] Marriage Certificate marked as Exhibit Quadruple "I-4".
[581] Certificate of Live Birth of Baby Jana Alisha Ante and Baby Febrerania Alaysha Ante marked as Exhibits Quadruple "I-5" and Quadruple "I-6", respectively.
[582]Certificate of Identification of a Dead Bodymarked as Exhibit "AA-10".
[583] Death Certificate of the victim marked as Exhibit "T-20-d".
[584]Itemized Approximate Burial and Other Miscellaneous Expensesmarked as Exhibit Quadruple "I-8".

Rowena worked as a clerk in the Local Civil Registry of the Municipality of Buluan.[585] He executed an Affidavit-Complaint for this purpose.[586]

On cross-examination, the witness mentioned that Prosecutor Ira Jordana Gomez prepared the affidavit. It was between 9:00 a.m. to 10:00 a.m. of November 23, 2009 that his cousins told him that the convoy was brought by armed men in the hilly part of Sitio Masalay.

On re-direct examination, he stated that it was he who supplied the answer in the Affidavit. On re-cross examination, he testified that although he has a private counsel, he still opted for Prosecutor Gomez to prepare the Judicial Affidavit.

Testimony of Paisal Bernan for victim Suraida Bernan:

Witness Paisal G. Bernan testified in court on November 13, 2013. In his Judicial Affidavit,[587] he testified that he was the brother[588] of the deceased[589] Suraida G. Bernan.

He submitted an itemized burial and other miscellaneous expenses[590] spent during the death of Suraida amounting to ₱213,000.00. He mentioned that they practiced the *kanduli* and *sadaka*. *Sadaka* refers to the tradition of thanksgiving for people who condoled with the family of the bereaved, with the latter having to give them alms; done on the 3rd, 7th and 40 to 100 days of the burial. *Kanduli* refers to the prayer for the departed.

As per service record, Suraida worked as a License Inspector II of the Municipality of Buluan with an annual salary of ₱88,824.00.[591] After the burial, he immediately executed an Affidavit-Complaint for this purpose.[592]

No cross-examination was conducted by the defense.

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[585] Service Record marked as Exhibit Quadruple "I-9", provisional.
[586] Complaint-Affidavit marked as Exhibit Quadruple "I-10".
[587] Judicial Affidavit of Paisal Bernan marked as Exhibit Quadruple "H-7".
[588] Biirth Certificate; Marriage Certificate and NSO Certification marked as Exhibits Quadruple "H-3" and "H-4".
[589] Certificate of Death marked as Exhibit "T-12"; Photograph marked as Exhibit Quintuple "X-16"; and Autopsy Report marked as Exhibit "X".
[590]Itemized burial and other miscellaneous expensesmarked as Exhibit Quadruple "H-6".
[591] Service Record marked as Exhibit Quadruple "H-5".
[592] Complaint-Affidavit marked as Exhibit Quadruple "H" (provisional, the copy of this was missing during the testimony).

Testimony of Teresita Caniban for victim John Caniban:

Witness Teresita Caniban was presented in court on November 20, 2013. In her Judicial Affidavit,[593] she indicated that she was sixty-six (66) years old, housewife, and residing at Brgy. Kalawag I, Isulan, Sultan Kudarat. In lieu of her testimony, the parties stipulated on the following as the faithful reproduction of the original copies: Certificate of Live Birth of the deceased (the witness' son), John Caniban,[594] his Certificate of Death,[595] his Press ID,[596] issue of Sultan Kudarat Gazette dated February 10-16, 2009[597] and August 3-9, 2009,[598] Affidavit of Burial Expenses,[599] SPA,[600] and the receipts.[601] Witness also identified the Certificate of Live Birth of one Princess Ariane Gulipatan Caniban, the daughter of the deceased.[602]

The defense counsels moved for the deferment of their cross-examination.

Testimony of Ricardo Cachuela Jr. for victim Hannibal Cachuela:

Witness Ricardo Cachuela Jr. appeared before the court on November 20, 2013. For his direct testimony, he executed a Judicial Affidavit[603] before the court on November 20, 2013.

He testified that he was the younger brother of victim Hannibal "Bal" Cachuela, who was among those killed on November 23, 2009 in Brgy. Salman, Ampatuan, Maguindanao. The victim was fifty-one (51) years old at the time of the so-called massacre, and would have lived to a ripe old age as he was healthy at the time of his murder. He earned an estimated amount of ₱30,000.00 per month at the time he was killed. The victim was married but he was abandoned by his wife sixteen (16) years before the massacre happened and that he had a son, Kirk John Cachuela. He also testified that the victim was living with him and helping him with the expenses.

He further testified that he suffered anxiety and false hope as he went to Ampatuan, Maguindanao to wait for news regarding his brother

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[593] Judicial Affidavit of Teresita Caniban marked as Exhibit Quintuple "M-15".
[594] Certificate of live Birth of John Caniban marked as Exhibit Quintuple "M-2".
[595] Certificate of Death marked as Exhibit "T-32".
[596] Press ID Card marked as Exhibit Quintuple "M-4".
[597]Issue of Sultan Kudarat Gazette dated February 10-16, 2009 marked as Exhibit Quintuple "M-6".
[598]Issue of Sultan Kudarat Gazette dated August 3-9, 2009 marked as Exhibit Quintuple "M-7".
[599]Affidavit of Burial Expensesmarked as Exhibit Quintuple "M-8".
[600]SPA marked as Exhibit Quintuple "M-9".
[601] Collado Funeral Parlor receipt marked as Exhibit Quintuple "M-10", Receipt issued by Atty. Agustin T. Sardido marked as Exhibit Quintuple "M-11", receipt issued by the same Notary Public marked as Exhibit Quintuple "M-12", receipt issued by the Municipal Administrator of Isulan, Sultan Kudarat marked as Exhibit Quintuple "M-13", and two (2) NSO receipts marked as Exhibits Quintuple "M-14" and Quintuple "M-14-a".
[602]Certificate of Live Birth of one Princess Ariane Gulipatan Caniban marked as Exhibit Quintuple "M-3".
[603] Judicial affidavit of Ricardo Cachuela Jr. marked as Exhibit Quadruple "B-20".

Hannibal "Bal" Cachuela, and later went from one funeral home to another in search of the latter's body.

He incurred an estimated total of ₱50,000.00 as expenses for the wake and burial of his brother and for securing the necessary documents in relation to the civil aspect of this case. He claimed moral damages amounting to ₱60 million for the suffering and loss he suffered with the death of Hannibal "Bal" Cachuela, who was always there to guide him as an older brother and who helped him in his household expenses, including contributing to his child's education.

The parties stipulated on the following documents: Certificates of Live Birth of Hannibal Cachuela,[604] Ricardo Cachuela Jr.[605] and Kirk John Cachuela,[606] and Certificates of Death of Lourdes Cachuela,[607] Ricardo Cachuela[608] and Hannibal Cachuela.[609]

No cross-examinations were conducted by the defense counsels.

Testimony of Benjie Kalim for victim Wahida Ali Kalim:

Witness Benjie B. Kalim was presented on December 04, 2013. In his Judicial Affidavit,[610] he stated that he was the husband of the deceased Wahida Ali Kalim. The parties stipulated on all the documents as the faithful reproduction of the original copies, namely: the Certificate of Death previously marked as Exhibit T-15, Autopsy Report,[611] picture,[612] and Affidavit-Complaint.[613]

The following were marked in open court: Certificate of Marriage,[614] Certificate of Live Birth of the victim's daughter with the witness,[615] Certificate of Identification of Dead Body,[616] and Miscellaneous and Other Expenses for the victim's death.[617] He had no copy of the receipts for *kanduli* and burial based on the Muslim culture.

During his cross examination, it was revealed that there was an error in the Certification of Identification of Dead Body – it reflected that his wife was 30 years old, when in fact she was 38 by then. He signed

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[604]Certificate of Live Birth of Hannibal Cachuela marked as Exhibit Quadruple "B-4".
[605]Certificate of Live Birth of Ricardo Cachuela Jr. marked as Exhibit Quadruple "B-5".
[606]Certificate of Live Birth of Kirk John Cachuela marked as Exhibit Quadruple "B-8".
[607]Certificate of Death of Lourdes Cachuelamarked as Exhibit Quadruple "B-7".
[608]Certificate of Death of Lourdes Cachuelamarked as Exhibit Quadruple "B-6".
[609]Certificate of Death of Hannibal Cachuelapreviously marked as Exhibit "T-55".
[610] Judicial Affidavit of Benjie Kalim marked as Exhibit Quadruple "C-5".
[611]Autopsy Reportof Wahida Kalim marked as Exhibit "Z".
[612]Picture marked as Exhibit Quintuple "X-14".
[613]Affidavit-Complaint marked as Exhibit Quadruple "C".
[614] Marriage Certificate marked as Exhibit Quadruple "C-2".
[615] Certificate of Live Birth of Ysmaleah Ali Kalim marked as Exhibit Quadruple "C-3".
[616]Certificate of Identification of Dead Body marked as Exhibit "Z-9".
[617]Miscellaneous and Other Expenses for the victim's death marked as Exhibit Quadruple "C-4".

this document despite the error, given that he was confused then. The deceased did not have receipts for her private business with St. Dalfour products. She only earned little from the business, via "*bayad-utang*." She joined the convoy because she was the aunt of Gov. Toto Mangudadatu; and she was texted by the other members of the convoy to join, particularly Bai Eden.

Testimony of Fahad Hassan for victim Bai Farinah Mangudadatu:

Witness Fahad D. Hassan testified on December 04, 2013. In his Judicial Affidavit,[618] he indicated that he was the husband of the deceased Bai Farinah Mangudadatu.

The parties stipulated on the following documents as the faithful reproduction of the original copies, which were previously marked, namely: the Certificate of Death,[619] Autopsy Report,[620] Certification of a Dead Body,[621] and Affidavit-Complaint.[622] The following were marked in open court: Certificate of Marriage between the witness and the victim,[623] Certificate of Live Birth of their two (2) children,[624] List of Itemized Expenses,[625] Complaint-Affidavit,[626] Certification of Employment and Service Record of the deceased as Revenue Collection Clerk I,[627] Certification of a Dead Body,[628] and Certification of Live Birth of the Deceased.[629]

On cross examination, he mentioned that he and his late wife owned a sari-sari store earning ₱1,500 per day. Thus, it was incorrect for him to assert that she alone earned that amount from the store. He did not keep the receipts related to the burial of his wife given their situation of bereavement and due to their culture. He did not have a copy of the receipts of the cellphones and the bangle. But he was with her when she bought the cellphones and he was the one who bought the bangle when he was in Saudi Arabia for the Haj. He was not told by Jong and Esmael Mangudadatu that joining the convoy would be dangerous.

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[618] Judicial affidavit of Fahad D. Hassan marked as Exhibit "YYY-9".
[619]Certificate of Deathpreviously marked as Exhibit "T-21".
[620]Autopsy Reportof Bai Farinah Mangudadatu marked as Exhibit "W".
[621]Certification of a Dead Body marked as Exhibit "W-12".
[622]Affidavit-Complaint marked as Exhibit "YYY".
[623]Certificate of Marriage between the witness and the victim marked as Exhibit "YYY-2".
[624] Certificate of Live Birth of Mohammad Yahya Mangudadatu Hassan marked as Exhibit "YYY-3" and Certificate of Live Birth of Faizal Mangudadatu Hassan as Exhibit "YYY-4".
[625]List of Itemized Expenses marked as Exhibit "YYY-5".
[626] Previously marked as Exhibit "YYY".
[627]Certification of Employment and Service Record of the deceased as Revenue Collection Clerk Imarked as Exhibit "YYY-8".
[628] Previously marked as Exhibit "W-12".
[629] Marked as Exhibit "YYY-10".

Testimony of Salama Musa for victim Meriam Calimbol Pandal:

Witness Salama Musa testified in court on February 12, 2014. In her Judicial Affidavit,[630] she testified that she was the daughter of victim Meriam Calimbol Pandal. The parties stipulated on the due execution and identification of the following documents: the Certificate of Live Birth of the witness Salama Musa[631] and her siblings, namely, Saida Calimbol Musa,[632] Merhan Calimbol Usman,[633] Dindong Calimbol Musa,[634] all of which were NSO authenticated copies; the witness would also be able to identify the picture of her mother; itemized list of burial and other miscellaneous expenses during the death of Meriam Calimbol, [635] Certification dated August 03, 2010 executed by Esmael G. Mangudadatu, Chief Executive Officer, certifying that Meriam Calimbol was an employee of EGM Fishpen from 1990 to November 23, 2009 as Marketing Officer with monthly salary of ₱12,955.58. [636] The witness also presented a Certificate of Death of Meriam Calimbol Pandal.[637]

On cross examination, she only identified in her Judicial Affidavit the Death Certificate of her mother, and not the other documents presented in open court. Mr. Mangudadatu, at the time when her mother died, did not actually extend financial support to them. The Mangudadatus did not even visit them.

Testimony of Cielo Joy Brizuela for victim Concepcion J. Brizuela:

Witness Cielo Joy Brizuela was presented in court on February 12, 2014. In her Judicial Affidavit,[638] she testified that she was the daughter of Atty. Concepcion J. Brizuela. The following documents were subjected to stipulations: Certificate of Live Birth of Cielo Joy Brizuela,[639] Certificate of Live Birth of Michael James Brizuela,[640] Itemized Burial and other Miscellaneous Expenses,[641] receipt issued by

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[630]The judicial affidavit was stipulated as to due execution; marked as Exhibit Quadruple "F-8".
[631]Certificate of Live Birth of Salama Musamarked as Exhibit Quadruple "F-2".
[632]Certificate of Live Birth of Saida Calimbol Musa marked as Exhibit Quadruple "F-4".
[633]Certificate of Live Birth of Merhan Calimbol Usman marked as Exhibit Quadruple "F-5".
[634]Certificate of Live Birth of Dindong Calimbol Musa marked as Exhibit Quadruple "F-3".
[635]Itemized list burial and other miscellaneous expenses marked as Exhibit Quadruple "F-7".
[636]Certification dated August 3, 2010 executed by Esmael G. Mangudadatu, Chief Executive Officer, certifying that Meriam Calimbol is an employee of EGM Fishpen from 1990 to November 23, 2009 as Marketing Officer with monthly salary of ₱12,955.58 marked as Exhibit Quadruple "F-6".
[637]Certificate of Death of Meriam Calimbol Pandal previously marked as Exhibit "T-40".
[638] The Judicial Affidavit was stipulated as to due execution, including the documents attached to it which includes the Certificate of Live Birth of Cielo Brizuela and her brother, Death Certificate of her mother, list of itemized expenses as well as the picture of her mother. Judicial Affidavit was marked as Exhibit Quintuple "P-5".
[639]Certificate of Live Birth of Cielo Joy Brizuela marked as Exhibit Quintuple "P-2".
[640]Certificate of Live Birth of Michael James Brizuela marked as Exhibit Quintuple "P-3".
[641]Itemized Burial and other Miscellaneous Expenses marked as Exhibit Quintuple "P-4".

Fantonial Funeral Homes amounting to ₱35,000.00,[642] Certificate of Death of Atty. Concepcion Brizuela,[643] and picture of the victim.[644]

On cross examination, she failed to bring the following documents or proof of these averments: posthumous award by the NUPL; her mother served in the Diocese of Kidapawan, Gabriela, InPeace Mindanano (Initiatives for Peace in Mindanao); returned checks or receipts which were issued by her mother insofar as the so called payments by her clients; any document to the effect that her mom was in fact connected with Charm Radio during the time when she was still alive; and certification of compensation or any other document showing the salary of her mother with Charm Radio for purposes of the hearing.

Neither did the witness bring any Income Tax return of her mother. She based the itemization of expenses from her own memory, her aunties, and persons who accompanied them during the death of her mother. But, as regards the receipt from Fantonia Funeral Home, she only had a temporary receipt. It was only in 2010 that she was able to get an official receipt. Due to the death of her mother, she suffered sleepless nights, wounded feelings, mental anguish and shock.

She had no receipts for the groceries, assorted bread, coffee and drinks, breakfast, lunch, snacks for five (5) days, and gas expenses from Kidapawan City to Del Carmen. She did not know how much her mother received from the radio station.

On her redirect examination on February 27, 2014, she produced these additional documents: Certification from the office of Governor Amas Kidapawan City, certifying that Gov. Emilou Mendoza then representative of First District of Province of Kidapawan, engaged the services of Atty. Concepcion Jaime Brizuela as retainer/lawyer for the period January 2006 up to November 2009, with a retainers fee of ₱15,000.00 per month;[645] Certification issued by Gregorio A. Andolana, President/CEO of Polytechnic Foundation of Cotabato and Asia Inc., Andolana Broadcasting Network, certifying that Atty. Concepcion Jaime Brizuela was a Broadcast Journalist/Commentator of the said station in her radio program Katungod Hustisya and Pulso ng Bayan since the inception of her broadcasting profession with an average monthly commission in the amount of ₱30,000.00 up to the time she was mercilessly murdered on November 23, 2009; [646] Acknowledgement Receipt issued by Atty. Concepcion Brizuela herself dated March 15, 2009, stating that she received the amount of ₱ 53,570.00 as partial payment of attorneys/acceptance fee, and there was a handwritten note stating

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[642]Receipt issued by Fantonial Funeral Homes amounting to ₱35,000.00 marked as Exhibit Quintuple "P-4-c".
[643]Certificate of Death of Atty. Concepcion Brizuelapreviously marked as Exhibit "T-29".
[644]Picture of the victimmarked as Exhibit Quintuple "X-27".
[645] Marked as Exhibit Quintuple "P-6".
[646] Marked as Exhibit Quintuple "P-7".

that it was March 15, 2007 plus ₱5,000.00;[647] Certification issued and signed by Ruby Padilla Sison, Provincial Chairperson of Gabriella North Cotabato, stating that Atty. Concepcion Brizuela was the Legal Counsellor of Gabriela, North Cotabato from 2004 up to her untimely death on November 23, 2009;[648] Certification issued by Joseph Arellano Evangelista stating that as per records, Atty. Concepcion Brizuela had been a PLEB Chairman of the City of Kidapawan from year 1997 to 2001 as issued by the City of Kidapawan;[649] and Certification issued by Fely A. Cinco, Coordinator, Justice, Peace and Integrity Operation Program of the Diocese of Kidapawan stating that Atty. Connie Jaime Brizuela was engaged by the Diocese of Kidapawan, Justice, Peace and Integrity Program in 2002 up to 2004.[650] She also identified the original document of Affidavit of Burial Expenses executed by Cielo Joy Brizuela subscribed and sworn to on February 8, 2010 stating that they had a total expense of ₱ 160,500.00[651] and the actual plaque of her NUJP award and membership.[652]

Testimony of Myrna P. Reblando (testimony was stricken off the record for having failed to return to testify and continue with her direct examination) but Alejandro Reblando Jr. was presented on February 27, 2014 (no cross) for victim Alejandro Reblando:

Myrna P. Reblando, widow of Alejandro ("Bong"), was presented for direct examination on April 7, 2011. She testified that her husband, Bong Alejandro[653] died at 54 years old. They had seven (7) children, one of whom was a minor.[654]

At the time of his death,[655] Bong was employed at the Manila Bulletin, Reuters and Associated Press (AP).[656] He was designated as a member of the print media of the Manila Bulletin, and a stringer for Reuters and AP. From his first job, Bong earned ₱20,000.00 per month, and from the second, she was not sure of Bong's earning. Bong was also a consultant in Mindanao State University, Marawi City. Overall, Bong earned not less than ₱40,000.00 to ₱50,000.00 a month.[657]

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[647] Marked as Exhibit Quintuple "P-8".
[648] Marked as Exhibit Quintuple "P-9". But this evidence was denied admission.
[649] Marked as Exhibit Quintuple "P-10".
[650] Marked as Exhibit Quintuple "P-11".
[651] Marked as ExhibitQuintuple "P-12".
[652] Marked as ExhibitsQuintuple "P-13" and "P-14".
[653] As proof, she presented a Marriage Certificate and Marriage Contract marked as Exhibit Quintuple "B-2-A".
[654] As proof, she presented Birth Certificates of Live Birth marked as Exhibits Quintuple "B-2-b" to "B-2-h".
[655] As proof, she presented a Death Certificate marked as Exhibit "T-56" and an Autopsy Report marked as Exhibit "Q".
[656] As proof, she showed an ID issued by Manila Bulletin marked as Exhibit Quintuple "B-3"; last salary marked as Exhibit Quintuple "B-6"; Probationary Appointment marked as Exhibit Quintuple "B-7"; and ID issued by the National Press Club marked as Exhibit Quintuple "B-4".
[657] As proof, she showed Bong's statement of account with Metrobank and BDO marked as Exhibits Quintuple "B-10" and "B-11" and series.

On November 22, 2009, after church, Bong told her that he was going to sleep in Tacurong, and then proceed to Buluan for Toto Mangudadatu's press conference. The news troubled her because there were a lot of Muslims in that area. However, her husband insisted in order to fulfill his profession.

On November 23, 2009, at 1:00 p.m., her daughter Maria called and instructed her to anticipate the bad news about Bong. She also received a lot of phone queries. Subsequently, she called Bong but the latter's cellphone cannot be reached. Nevertheless, she saw the news on TV. When asked how she reacted with the news, she said that she was in disbelief and that her children were crying. But she had to collect herself in order to manage things. Later on, she proceeded to Brgy. Salman and looked for Bong.

On November 24, 2009, at about 11:00 a.m., she was already at Shariff Aguak but she was forbidden to go up to the crime site. Thus, her son Jude, who could muster the burden of carrying Bong's body, went ahead. Jude found the remains in the site. He took pictures of Bong's body and told his mother that his father was already dead. She then instructed Jude to carry the body. Jude was able to bring the body, which was contained in a sort of duffle bag. Upon opening the bag, she recognized Alejandro through his polo. She also observed that Bong had a gaping wound on the left side of his face. At that moment, she felt deep pain because her beloved husband was already gone. Thereafter, they brought Bong's body to St. Peter Funeral parlor. When the children arrived, the bag was re-opened, and there she saw again the injuries as well as the gouged eye of Bong which made their children cried. Remarkably, that day also marked their 35th anniversary.

On November 25, 2009, Bong's burial started. During the viewing, the face of Bong was no longer shown because his face was sawn apart. After five (5) days at St. Peter, and eight (8) days at home, Bong was finally laid to rest at Forest Lake, General Santos City.

She further testified that she spent ₱300,000.00 to ₱400,000.00 for the interment. According to her, the casket was expensive at ₱108,000.00 (net of discount given by St. Peter under Bong's insurance policy). As proof, she presented a receipt,[658] and an enumeration of the expenses with 93 individual receipts.

Due to Bong's death, she felt so much pain especially since Bong was a bread winner. For their loss, which for her was immeasurable, she was willing to abide by the amount set by law but remarked that a million pesos will not be enough as compensation.

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[658] Receipt for the casket amounting to ₱108,000.00 marked as Exhibit Quintuple "B-5".

The testimony of this witness was ordered stricken-off the records for failure of the witness to return for cross-examination.

However, on February 27, 2014, the prosecution presented Alejandro P. Reblando, Jr., son of the victim, to testify on the damages incurred by his family in relation to the death of his father, Alejandro "Bong" M. Reblando, Sr. He identified the Judicial Affidavit[659] he executed. He again identified the documents earlier identified by his mother, Myrna Reblando, and already marked by the prosecution, such as his and his siblings Birth Certificates, the Death Certificate of his father, Medico-Legal Report, the Probationary Appointment issued by Manila Bulletin, his father's IDs, Certification relating to the income received by his father from Manila Bulletin, bank statements, summary of expenses in connection with the death of his father, and receipts.

No cross examination was conducted by the defense counsels on witness Alejandro P. Reblando, Jr.

Testimony of Femy Momay for victim Reynaldo Momay:

Witness Femy Momay was presented on the witness stand for her direct examination on February 27, 2014. In her Judicial Affidavit,[660] Femy Momay, widow of the victim Reynaldo G. Momay, directly testified and identified the following documents: Marriage Certificate,[661] ID of her husband from Midland Review (provisionally marked),[662] and Complaint-Affidavit before the DOJ executed by her daughter.[663]

On cross examination on even date, she admitted that she did not attach any document whatsoever to prove the salary of her husband allegedly amounting to ₱10,000.00 per month. She was not present during the time that her daughter's Complaint-Affidavit was executed.

Testimony of Bainot Mangacop for victim Mamotabai Mangudadatu:

Witness Bainot Mangacop appeared in court on August 14, 2014. For her direct testimony, she executed a Judicial Affidavit before the court on August 14, 2014.[664] She also identified her Certificate of Live

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[659]Judicial Affidavit marked as Exhibit "15 (D)" and series.
[660] Judicial Affidavit marked as Exhibit "15 (C)".
[661]Marriage Certificate of Reynaldo and Femy Momay marked as Exhibit "14 (Z)".
[662]ID of Reynaldo Momay from Midland Review Marked as Exhibit "15 (A)", provisional.
[663]Complaint-Affidavit before the DOJ executed by her daughter marked as Exhibit "15 (B)".
[664]Judicial Affidavit marked as Exhibit Quadruple "A-7".

Birth[665] and that of the victim,[666] as well as the Certificate of Death[667] and the Autopsy Report of the victim.[668]

She testified that she was the sister of Mamotabai Mangudadatu who was among those killed on November 23, 2009 at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. The deceased Mamotabai Mangudadatu was only 40 years old at the time they were slain. Deceased Mamotabai Mangudadatu has one (1) minor child, named Yasser Guinimba. She also narrated that the deceased Mamotabai Mangudadatu has been receiving a survivorship pension from GSIS, and being the eldest in the family, she has been financially and morally supporting her siblings and parents. She executed an Affidavit of Burial[669] (which was not subscribed as observed by one of the defense counsels) to show the expenses she made and her family for the retrieval, *kanduli*, and burial of her sister. When asked about the birth certificate of her sister's child, she answered that they already requested from NSO but the same was not released before she came to Manila. She also identified the Complaint-Affidavit which she executed.[670]

On October 15, 2014, witness was recalled to the witness stand. She presented the Birth Certificate of Yasser Guinimba,[671] son of the deceased and the GSIS card E-Card Visa Plus of a certain Bai M. Giniba from which the victim was getting her income as a pensioner of GSIS.[672]

No cross examination for the defense counsels.

Testimony of Takungan Balayman for victims Lailani and Pinky Balayman:

Witness Takungan T. Balayman appeared in court on August 14, 2014. For her direct testimony, she executed a Judicial Affidavit[673] dated August 14, 2014.

She testified that she was the mother of victims Lailani Balayman and Pinky Balayman who were among those killed on November 23, 2009 at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. Lailani Balayman was only 25 years old while Pinky Balayman was only 35 years old at the time they were slain. Lailani Balayman had been employed as a cashier in BBGM ice plant in Buluan, Maguindanao and earned income from there. She and her family incurred expenses for the retrieval, *kanduli*, and burial of her daughter Lailani Balayman.

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[665] Certificate of Live Birth of Bainot Mangacop marked as Exhibit Quadruple "A-4".
[666] Certificate of Live Birth of Mamotabai Mangudadatu marked as Exhibit Quadruple "A-5".
[667]Certificate of Death marked as Exhibit "T-10".
[668] Autopsy Report marked as Exhibit "Y-2-f".
[669] Affidavit of Burial marked as Exhibit Quadruple "A-6".
[670]Complaint-Affidavit marked as Exhibit Quadruple "A".
[671] Birth Certificate of Yasser Guinimba marked as Exhibit Quadruple "A-8".
[672] GSIS card E-Card Visa Plus of a certain Bai M. Giniba marked as Exhibit Quadruple "A-9".
[673]Judicial Affidavit marked as Exhibit Quadruple "J-3", but the same was not formally offered.

The parties stipulated that if the witness would be asked, she would be able to identify the following documents: Certificate of Death of Lailani Balayman,[674] Certificate of Live Birth of Lailani Balayman,[675] and the Affidavit of Burial and other expenses of Lailani Balayman with a grand total of ₱751,045.00.[676] She identified her Complaint-Affidavit.[677]

On October 15, 2014, witness Takungan Balayman was recalled to the witness stand. She identified the Certificate of Live Birth of Pinky Balayman.[678] She further clarified that in the said Certificate, the name registered as the mother was Latipa Timpolok, that Latipa was her nickname and her other (maiden) name was Takungan Timpolok Balayman. But upon checking by the defense counsels of the said Certificate, they manifested that there were discrepancies in the spelling and signatures. Thus, the prosecution manifested that they would be submitting a new copy of the said certificate.

On October 22, 2014, witness was again recalled to the witness stand. She presented a new copy of the Certificate of Live Birth of her daughter Pinky Balayman and the Certificate of Employment of her other daughter, Lailani Balayman, issued by the Operation Manager of BBGM, stating that the latter had been employed as cashier from January 2008 to November 2009 and was earning a monthly salary of ₱9,000.00.[679]

No cross examination for the defense counsels.

Testimony of Lumangal Sabdula for victim Faridah Sabdullah (no evidence formally offered by the prosecution):

Witness Lumangal B. Sabdula appeared in court on August 11, 2011. For his direct testimony, he executed a Judicial Affidavit[680] (not formally offered).

He testified that he was the husband of the victim Farida G. Sabdula who was among those killed on November 23, 2009 at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao.

He narrated that Victim Farida G. Sabdula was only 33 years old at the time she was slain. They had three (3) children, namely: Mohamad Umali Isham G. Sabdula, Umarhanie Gaguil Sabdula and Umaya Hajar Gaguil Sabdula. Victim Farida G. Sabdula had been managing their

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[674]Certificate of Death of Lailani Balayman previously marked as Exhibit "T-54".
[675]Certificate of Live Birth of Lailani Balayman marked as Exhibit Quadruple "J-4".
[676]Affidavit of Burial and other expenses of Lailani Balayman a grand total indicating ₱751,045.00 marked as Exhibit Quadruple "J-5".
[677]Complaint-Affidavitmarked as Exhibit Quadruple "J-2".
[678]Certificate of Live Birth of Pinky Balayman marked as Exhibit Quadruple "J-6".
[679]Certificate of Employment of Lailani Balayman marked as Exhibit Quadruple "J-7".
[680]Judicial Affidavit marked as Exhibit "B-3" and sub-markings.

farmland in Colombio, Sultan Kudarat and earned an annual income of ₱250,000.00.

He incurred expenses for the *kanduli*, funeral and burial of his wife Farida Sabdula. He spent a total amount of ₱404,900.00 for the retrieval of the body, funeral and burial of his wife. He asked for actual, moral, nominal and exemplary damages he suffered and his immediate family due to the untimely demise of his wife.

On cross examination by Atty. Bugaring on even date, as he had mentioned earlier, in Muslim tradition, receipts of these *kanduli* or burial is not required by Islam. Granting that official receipt was not allowed by his culture, still he did not bother to get other evidence or document to support his claim.

No re-direct examination by private prosecutor.

Testimony of Freddie Solinap for victims Noel Decena, Arturo Betia, Fernando Razon, Rey Merisco and Bienvenido Legarta

Freddie Solinap,[681] the publisher of Periodico Ini and Rapido Community newspapers at the time of the massacre, was presented for direct examination on November 08, 2012.

He testified that he was connected with the case because six (6) of his employees therein were killed in the Ampatuan massacre.[682] These six (6) employees were Fernando 'Rani' Razon (Advertising Manager), Noel Decena (Circulation Manager), John Caniban (Bureau Chief of Sultan Kudarat), Bienvenido Legarta (Reporter), Arturo Betia (Marketing Manager), and Rey Merisco (Editorial Consultant). He even executed Certificates of Employment[683] for Decena, Razon, and Betia as well as for Merisco and Legarta. Collectively, he executed a Certificate of Employment for the six (6) staffers. Aside from the six (6) staffers, he also knew the following massacre victims: Neneng Montaño, Marites Cablitas, Ian Subang, Joel Parcon, Hanibal Cachuela, Duhay and Momay. He knew them in the following capacities: Cablitas as the publisher of News Focus, Montaño as the publisher of Saksi Mindanaoan, Subang as the publisher of Socsargen Today and Parcon as the publisher of Pronterra Balita. He knew Cachuela for the latter used to work for him before transferring to another newspaper. To date, the publications of Cablitas, Subang and Montaño no longer circulate papers, and hence, non-existent

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[681] He will file a separate civil case to claim moral and exemplary damages for the loss he suffered with the cessation of his publications brought by the death of his news reporters. But he was allowed to corroborate the testimonies of the private complainants.

[682] As proof, he presented an issue of Peridodico Ini and its editorial box marked as Exhibit "(6) G-10" where his name as publisher appears. He also produced an issue of Rapido newspaper where his name in the editorial box appears as editorial consultant marked as Exhibit "(4) X-8".

[683]He identified these certificates marked as Exhibits "(4) X-7", "(4) X-9", "(5) Z-7", "(5) Z-8", and "(6) G-9".

already. He was friends with Duhay and Momay. The three (3) of them were in the same organization.

On cross examination on even date, he stated or implied that despite knowing the purpose of his testimony, he failed to bring the needed documents (save for the issues of the newspapers) which would prove that he was the publisher of Periodico Ini and Rapido newspapers.

EVIDENCE OF THE DEFENSE

The court had grouped the accused into five (5) and they are the following:

I. Ampatuan Family

II. Accused sought to be discharged as State Witnesses

III. Police Officers

IV. Members of the Civilian Volunteers Organization (CVOs)

V. Others

I. AMPATUAN FAMILY

Witnesses for accused Datu Andal "Unsay" Ampatuan Jr.: (IDENTIFIED) (WITH REBUTTAL[684] AND SUR-REBUTTAL[685])

Witnesses presented during the Bail Proceedings:

1. Bai Ameerah Ampatuan Mamalapat – She is the daughter of the late accused Datu Andal Ampatuan, Sr. Prosecution witness, Lakmodin Saliao allegedly worked as a helper in her household.

2. Nickardo A. Malang – He is allegedly another house helper of Bai Ameerah Ampatuan Mamalapat who worked together with Lakmodin Saliao.

3. Fabian S. Fabian – He works as a Supervisor at the Records Management Section of the Philippine Airlines (PAL).

4. Alibai Sakal Ampatuan – She is the third wife of Datu Andal Ampatuan, Sr. who lives in one of his houses in Bagong, Shariff Aguak, Maguindanao.

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[684] In the bail proceedings
[685] In the evidence-in-chief

5. Micko Sakal Ampatuan – He is the second child of witness Alibai Sakal Ampatuan with Datu Andal Ampatuan, Sr.

6. Theng Sali – He is one of the long-trusted aides of Datu Andal, Sr., who allegedly accompanied the latter from November 16 to 17, 2009. He is also one of the accused in these cases.

7. Feliana Elena Ong – She is the Acting Chief, Certification and Clearance Section of the Bureau of Immigration, who issued a certification that Datu Unsay left the Philippines on November 09, 2009 and arrived in the country on November 18, 2009**.**

8. Remando Henry M. Jimenez – He works at the Consular Records Office of the Department of Foreign Affairs, who identified the passport of Datu Unsay and issued a certificate that the latter left the Philippines on November 09, 2009 and arrived in the country on November 18, 2009.

9. Datu Anwar "Ipi" Upam Ampatuan, Jr. (Datu Ipi) – He is the nephew of Datu Unsay who alleged that he and his uncle had watched a boxing match on November 14, 2009 in the U.S.A. He is also one of the accused in these cases.

10. Abedin Alamada – He was then one of the Councilors of the Sangguniang Bayan of Datu Unsay Municipality, Maguindanao, who alleged that Datu Unsay had presided a meeting at the local Municipal Hall on November 23, 2009. He is also one of the accused in these cases.

11. Alexander F. Canata – He worked as an IT and Systems Consultant of Fortun Narvasa and Salazar Law Offices.

12. Leo Mark Aguilar – He works as a Junior Staff Officer in the IT (Information Technology) Department of Fortun Narvasa and Salazar Law Offices.

13. P/Chief Insp. Ariel H. Asuncion – He is the Chief of the Aviation Police Station of the Airport Police Station at Ninoy Aquino International Airport Centennial Terminal 2, Pasay City.

14. Daisy D. Otic – She works as a Librarian of Fortun Narvasa and Salazar Law Offices.

15. Jose C. Mendoza IV – He works as the Chief of the Astronomical Publication Unit, Space Science and Astronomy Section, Research and Development Division of the Philippine Atmospheric Geophysical and Astronomical Services Administration (PAGASA).

16. Engr. Trinidad R. Garbo – She works as the Section Chief of the Administrative and Special Mapping Section of the National Mapping and Resource Information Authority (NAMRIA).

17. PSI Jesson D. Mocnangan – He is an Investigation and Intelligence Officer and concurrently, an Evidence Custodian Officer at the Criminal Investigation and Detection Group, Region 12, stationed at Camp Fermin Lira, Jr., General Santos City.

Witnesses presented during the Evidence-in-Chief:

18. Soy L. Kali – He is the son of another witness Sammy S. Kali who accompanied his father to the Datu Unsay Municipal Hall on November 23, 2009.

19. Sammy S. Kali – He is the former Barangay Chairman of Brgy. Iganagampong, Datu Unsay, and one of those who allegedly attended the meeting held at the Datu Unsay Municipall Hall on November 23, 2009.

20. Thonti S. Lawani – He is also a prosecution witness who recanted his testimony given on October 12 and 13, 2011. He said that his previous testimony was made under extreme fear, duress and intimidation.

21. Mohammad Shamron U. Sapalon - He was allegedly at the Municipal Hall on November 23, 2009 and was able to ask for financial assistance from accused Datu Andal Jr.

Witness presented during Sur-rebuttal:

22. Lagiudin (Laguidin/Lagudin) H. Alfonso – Another prosecution witness who recanted his testimony and testified that the *Sinumpaang Salaysay of Thonti Lawani dated January 17, 2010* was not voluntarily executed by the latter.

Testimonies of Witnesses presented during Bail Proceedings

The witness, **BAI AMEERAH AMPATUAN MAMALAPAT,**[686] began her testimony by narrating that she has four household helpers, one of whom was Lakmodin Saliao, who worked for her from 2006 to May 13, 2010. In the same testimony, she also said that he worked as a helper of Teng Mangudadatu, former Governor of Sultan Kudarat, from 2001 to 2005, wherein at that time, the Mangudadatus and the Ampatuans were still in cordial relations.

The witness claimed that Saliao lied to the Court when he said that he worked for her from 1995 to November 02, 2009. She also claimed

[686] Judicial Affidavit of Bai Ameerah Ampatuan-Mamalapat, marked as Exhibit "1", See TSN dated February 05 and 12, 2015.

that Saliao lied when he said that he worked for Datu Andal, Sr. as a Personal Assistant starting on November 02, 2009, as he never worked for her father. Saliao worked in her household as a housekeeper. At most, she only brought Saliao to her father in order to bring food, get back the used utensils, and take the laundry.

The witness also refuted the narration of Saliao that he served food and administered medicines to her father. The witness alleged that the fourth wife of her father, *Sarah Camino*, was the person who served food to Datu Andal, Sr., while his private nurse, *Alibai Ampatuan*, made sure that Datu Andal, Sr. took his medicines on time; and when the latter was off, Sarah Camino attended to Datu Andal, Sr.'s medications. Then, while her father was in Camp Panacan, she asked Rojana Ampatuan and her husband Merick Pantao to take care of him.

The witness recalled that she brought Saliao to her father only in December 2009. On December 05, 2009, she visited her father in Davao Medical Center and brought with her Saliao. She asked Saliao to bring food to her father, get back the used dishes, fork, spoon and glasses, and take the dirty clothes to her father for laundry. She also instructed Saliao to perform such tasks beginning December 08, 2009, when her father was already in Camp Panacan. He asked Saliao to perform the tasks because he was her all-around helper, and that he was already familiar with the chores. Her father's usual companions were also not around in Camp Panacan to do such tasks.

According to the witness, Saliao could not have dialed or used the cell phone of Datu Andal, Sr. because her father himself used his own cell phone, and does not ask anyone, much less a helper, to have access to the device. The witness said that not even them, the children of Datu Andal, Sr., could accept or make calls for him.

Although the witness was in Manila on November 17, 2009, she claimed that on that date, Saliao was in her house at Luzviminda Subdivision, Ma-a, Davao City, with the other house helpers. She alleged that while her home is in Poblacion, Shariff Aguak, Maguindanao, she goes home to Davao city to visit her children, and that it is usual for her to bring Saliao whenever she goes there. Thus, before she left Davao City for Manila, her helpers, including Saliao, remained in her house in Davao City.

The witness further testified that her helpers performed household chores and had to stay there in her house in Davao City as they were waiting for her return from Manila, and they could not leave the house without her permission. The witness remembered that she also monitored the activities of her helpers, including Saliao's, in her house in Davao City and was even able to talk to Saliao in her house in Davao City on November 17, 2009. Allegedly, they only left Davao City and went to

Shariff Aguak, after celebrating the birthday of her son, Aljamir, in the evening of November 21, 2009. They arrived in Shariff Aguak before midnight of even date. She claimed that Saliao lied to the court when he said that he was in Shariff Aguak on November 17, 2009, at the house of Datu Zaldy Ampatuan, attending a meeting regarding the crimes with Datu Andal, Sr.

The following day, November 22, 2009, the witness said that she stayed the whole day in her house in Shariff Aguak together with her helpers, Saliao and Nick Malang.

Aside from testifying about these dates, the witness also made a narration regarding November 23, 2009. She alleged that Saliao lied again when he narrated that he had been at the rest house and mansion of Datu Andal, Sr. on even date. The witness testified that in the morning of that day, Saliao, with Malang and Norodin Salud, went with her from her house at 7:00 a.m., to go to her office in Shariff Aguak located near the COMELEC office. At that time, she had to file her Certificate of Candidacy as Vice-mayor of Shariff Saydona Mustapha municipality with her brother Datu Sajid Ampatuan, and his wife, Zandrea. Before filing her Certificate of Candidacy, she tasked Saliao and Malang to clean her office and prepare food for them.

After filing her Certificate of Candidacy, she went back to her office and found her helpers preparing food. Then, in the afternoon, she, Saliao, and her other helper were still in her office when news about the alleged massacre broke out. They only went home at 3:00 p.m. and slept for the night.

Aside from belying the testimony of Lakmodin Saliao, the witness also described him as a talkative person, fond of sowing intrigues among his co-workers that resulted in quarrels among them. She also mentioned that he often told untruthful matters against them. Nonetheless, she maintained that he was a good cook and efficiently cleaned the house.

As regards his past conduct, she claimed that Lakmodin Saliao, using the name Lakmodin Akmad, had been previously jailed. He faced an Information for Qualified Theft in the 2nd Municipal Circuit Trial Court of Datu Odin Sinsuat-Datu Piang-Talayan, Maguindanao.

According to the witness, Saliao stopped working for her on May 13, 2010. On that date, he no longer went home to her house, after stealing her bag containing valuable items such as Rolex watch, an Ipad, a ring, and cash worth ₱100,000.00. She allegedly reported this matter to the Shariff Saydona Mustapha Municipal Police Station. She tried to look for him, but to no avail; and that she was surprised that he testified against her father and siblings.

Presently, based on the Facebook account of her son, Datu Aljamir, and as relayed by her sister and others, the witness said that Saliao is living in the house of Toto Mangudadatu. From what the witness knew, Saliao stayed there from the time he was interviewed on television; and on that occasion, he spoke against the Ampatuans.

On cross-examination, the witness revealed that her house in Shariff Aguak is 10 minutes away from her office. Her house is likewise 20 minutes away from the house of Datu Andal, Sr., which are all located in Shariff Aguak. It was also elucidated that the charge for qualified theft was dropped for lack of sufficient evidence; and that in any case, Lakmodin Saliao is not the person jailed in connection with qualified theft.

NICKARDO MALANG[687] alleged in his judicial affidavit that he worked since December 2008 as a household help of Bai Ameerah Ampatuan Mamalapat. He corroborated her statement that there were four house helpers, including Saliao. He claimed that he and Saliao were friends, and in several instances, Bai Ameerah brought him and Saliao to Camp Panacan and to the mansion of Datu Andal, Sr. in Shariff Aguak to serve food to the latter. During those times that he brought food to her father, he, as a helper, would not serve the food to him, but bring it only to the kitchen. Only the wife of Datu Andal, Sr. or his nurse brought food to him.

He further corroborated the narration of Bai Ameerah that Saliao lied regarding his whereabouts on November 17, 2009. The witness said that he could not have been at the house of Datu Zaldy Ampatuan in Shariff Aguak, because at that time, he was with him in the house of Bai Ameerah in Luzviminda Subdivision, Ma-a, Davao City, doing chores until they slept for the night. In that house were the helpers, the children of Ameerah, and her husband. They did the household chores from past 5 a.m. until 10 p.m.; the only time they paused to stop working was when they ate breakfast, lunch, and dinner. They left Davao City on November 21, 2009, at 7:00 p.m., after celebrating the birthday of Bai Ameerah's son, Datu Aljamin. They then arrived in Shariff Aguak immediately before midnight of that date.

As regards the testimony of Saliao that his hands touched with Datu Andal, Sr., the witness clarified that Saliao could not have been that physically close to Datu Andal, Sr. The helpers did not go near him, because he was considered a person of authority: a Datu and an official. To go near him without permission is a sign of disrespect. The latter's children and relatives cannot approach him unless summoned; much more, the house helpers.

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[687] Judicial Affidavit of Nickardo Malang, marked as Exhibit "7", See TSN dated February 26, 2015.

He echoed the statements of Bai Ameerah that Saliao falsely claimed to have been in the mansion of Datu Andal, Sr. on November 22, 2009. Saliao was with the witness in the house of Bai Ameerah in Poblacion, Shariff Aguak, performing household work from day to evening. The witness said that the two of them never left the house on that day.

The witness further belied the testimony of Saliao regarding the events on November 23, 2009. The witness asserted that Bai Ameerah took him and Saliao to her office in Shariff Aguak so that they may clean the office and prepare the food that will be served after she files her Certificate of Candidacy in the COMELEC office. Datu Sajid Ampatuan and Bai Zandrea Ampatuan accompanied her in her transaction. Thus, Saliao was with him, from morning until 3:00 p.m., in the office of Bai Ameerah.

When asked to describe his friend, he said Saliao was a talkative person who sowed intrigues on the other helpers resulting in quarrels between them. He allegedly had the habit of creating stories and seemed to enjoy being *tsismoso.* He once told Bai Ameerah that the witness did not do his assigned chores whenever she was away; and because of that intrigue, Bai Ameerah scolded him. Saliao also told negative things to another helper, making that person angry with him. Nonetheless, when confronted, Saliao would express remorse and ask for forgiveness.

At the conclusion of the testimony of Malang, he relayed to the Court that sometime in the 2nd week of November 2014, while buying in the public market of Shariff Aguak, 3 vehicles stopped before him. He recognized some of the passengers: Akmad Baganian Ampatuan, his son Farouk Ampatuan, and his brother Abbey Ampatuan. Akmad Baganian Ampatuan inquired whether he was Nick Malang; and when he said yes, the former threatened to kill him and his family if he would testify in court in connection with this case. Out of fear, he said that he would not be testifying.

On cross-examination, the witness said that the fastest time to go to the mansion of Datu Andal, Sr. from the house of Bai Ameerah, via motorcycle, is five (5) to 10 minutes; and by the same mode, it takes 10 to 15 minutes to arrive at the mansion of Datu Andal, Sr. from the office of Bai Ameerah.

FABIAN S. FABIAN[688] testified on March 12, 2015. He identified and issued several Certifications related to the flight details of the witnesses and accused herein. He certified that Bai Ameerah Ampatuan-Mamalapat was a passenger in the PAL Davao-Manila flight on November 14, 2009, and its return flight on November 18, 2009. She was also a passenger in the PAL Davao-Manila flight on June 12, 2010.

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[688] Judicial Affidavit of Fabian S. Fabian, marked as Exhibit "8". See TSN dated March 12, 2015.

The witness further said that there is no record showing that she was a passenger in any of the PAL Davao-Manila flights on April 17, 2010, or for the whole month of April 2010. Likewise, he certified that Lakmodin Saliao did not board any PAL Davao-Manila flights on April 17, 2010.

He also certified that Datu Unsay was a passenger in the PAL flight from Los Angeles, U.S.A. to Manila on November 16, 2009; and that he returned in Manila in the morning of November 18, 2009. Accordingly, Datu Unsay would have been inside the aircraft, airborne on November 17, 2009, and on November 18, 2009, he was a passenger in the PAL Manila-Cotabato flight.

According to the witness, Datu Andal, Sr. was a passenger of a PAL General Santos-Manila flight on November 18, 2009. On November 20, 2009, he was a passenger of a PAL Manila-Cotabato flight.

On cross-examination, the witness clarified that his certification as regards the April 2010 flights of Bai Ameerah Ampatuan-Mamalapat only covered the flight to and from Manila and Davao. It does not cover the flights from Manila to Cotabato and vice versa. Moreover, his certification covered PAL flights only, and not the other carriers that travelled from Manila to General Santos City, Cotabato City, and Davao City. All of these certifications, are computer generated based on the system of PAL.

ALIBAI SAKAL-AMPATUAN [689] also belied the testimony of Lakmodin Saliao in her judicial affidavit.

The witness narrated that on November 17, 2009, her husband, Datu Andal Ampatuan, Sr. went to her house at Marfori Heights, Davao City, between 11:00 a.m. to 12:00 p.m. He took his lunch, together with his companions and stayed there until 5:30 p.m. Then, he travelled to Shariff Aguak. After 6 hours of travelling, he arrived in his mansion in Shariff Aguak between 10:30 p.m. to 11:00 p.m. Thus, for the witness, Saliao lied when he claimed that Datu Andal, Sr. attended a meeting at the house of Datu Zaldy Ampatuan in Shariff Aguak at around 8:30 p.m. of even date, because at that time, Datu Andal, Sr. was still travelling.

The witness claimed that aside from Datu Andal, Sr., the following persons did not attend the meeting on November 17, 2009 because they were in other places at that time: Bai Ameerah Ampatuan was in Metro Manila; Datu Unsay was aboard an airplane, flying back to Manila from U.S.A.; Bai Noria Ampatuan was in Hong Kong, as well as Bai Rebecca Ampatuan; and Datu Anwar Ampatuan, Sr. was in Singapore.

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[689] Judicial Affidavit of Alibai Sakal-Ampatuan, marked as Exhibit "9". See TSN dated April 16, 2015.

As for November 23, 2009, the witness claimed that Lakmodin Saliao falsely testified as regards the activities of Datu Andal, Sr.

She narrated that coming from his mansion in Poblacion, Shariff Aguak, Datu Andal, Sr. arrived at their house with a farm in Bagong, Shariff Aguak, between 9:00 a.m. to 10:00 a.m. (9:30 a.m. to 10:30 a.m. in the other parts of the affidavit). While thereat, Datu Andal, Sr. drank his coffee with his companions, went around the farmhouse and took his lunch; thereafter, he talked to his companions, walked around the farm again, rested in his room, and went around the farm once more. At about 4:30 p.m., she noticed several cars parked, with the passengers proceeding to the *bahay-kubo,* where Datu Andal, Sr. stayed. After an hour of meeting, Datu Andal, Sr. went back to his mansion in Poblacion, Shariff Aguak.

The witness said that throughout his stay, Datu Andal, Sr. did not talk over the phone with either Datu Unsay or Datu Anwar Ampatuan, Sr. because he was then eating lunch with her or was roaming around the farm. She also said that Saliao could not have used the phone of her husband, as the latter does not entrust it to a helper, more so that Saliao was not his helper but of Bai Ameerah's. For the witness, Saliao falsely testified that Datu Andal, Sr. put his cellphone on speaker mode. Moreover, Datu Andal, Sr. did not talk to anyone over an I-com radio at his farmhouse.

On cross-examination however, when asked whether she saw Datu Andal, Sr. on November 17, 2009, the witness said that she did not. She also mentioned that her knowledge of the travels of Bai Ameerah and Datu Unsay was only relayed to her, respectively, by the former's house help and Datu Andal, Sr.

On April 30, 2015, **MICKO SAKAL AMPATUAN**[690] took the witness stand. He is the second child of witness Alibai Sakal Ampatuan.

He stated in his judicial affidavit that on November 17, 2009, he was then a junior high school student at Ateneo de Davao University. During his lunch break at school, he went home to their house in Davao City at 12:15 p.m. to 12:20 p.m. Upon his arrival, he greeted his parents. He saw his father, Datu Andal, Sr., eating lunch; while his mother served food for his father. He recalled that Datu Andal, Sr. took his lunch with Kagi Luminda, Tamano Kamandan, and Theng Sali, who was his personal bodyguard. After lunch, he bid goodbye to his father and went back to his school to attend his 1:30 p.m. class.

When his classes ended at 4:30 p.m., he went home and arrived between 4:30 p.m. to 5:00 p.m. According to the witness, his house was

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[690] Judicial Affidavit of Micko Sakal Ampatuan, marked as Exhibit "10". See TSN dated April 30, 2015.

just about 15 minutes away from school. Upon arrival thereat, he once again saw his parents and his father's companions. Datu Andal, Sr. and his companions were then talking at the sala taking their coffee.

He greeted his father, and then went to his room. By 5:30 p.m., he heard the sound of engines and observed that his father, with the latter's companions, were about to leave. His mother mentioned to him that they would go to Shariff Aguak. The witness testified that, including food and rest stops, it takes seven (7) hours to go to Shariff Aguak from Davao.

The witness said that Saliao lied regarding his narration about November 17, 2009. Datu Andal, Sr., could not have been in Shariff Aguak at lunch time since the latter ate his lunch in their house in Davao City. Datu Andal, Sr., could not have been at the meeting in Datu Zaldy Ampatuan's house at around 8:00 p.m., because his father just left Davao City at around 5:30 p.m. Some of the attendees of that purported meeting could not have been there: Datu Unsay was on board an airplane en route to Manila from Los Angeles; Rebecca and Noria Ampatuan were out of the country; and Datu Anwar and Ameerah Ampatuan were both in Metro Manila.

As the son of Datu Andal, Sr., the witness testified that the former never entrusted his cell phone to anyone, much more a helper of another person. He also disclaimed that his father used his cell phone in speaker mode. For him, his father could not have use it in that mode since no person of right mind would put the phone on speaker if the instruction was about killing another. He also belied that Datu Anwar Ampatuan responded "opo" considering that the person at the end of another line – Saliao – was a mere helper of Bai Ameerah Ampatuan.

Moreover, he said that all throughout his life, he never saw his father use an I-com radio; and that his father does not know how to use one. The witness mentioned, based on his own research, that an I-com radio has a limited use: Brgy. Bagong Shariff Aguak is too far from Malating, and Masalay. According to him, an I-com radio usually has a bad signal after 20 kilometers – which is the distance between Bagong and Malating; the signal was also affected by the mountains in that area.

On cross-examination, the witness acknowledged that apart from personal experience, he had no proof that it takes 6 hours to travel from Davao to Shariff Aguak. He also had no personal knowledge whether his father used an I-com in November 2009. He also had no proof that on November 17, 2009, he was in Davao City, at their house in Marfori Heights. He said that he only saw his father twice or thrice a week. He also stipulated to the effect that Datu Unsay, Datu Anwar, Bai Rebecca, Bai Ameerah, and Bai Noriah never relayed to him their whereabouts; and that he only knew of their travels at the BJMP facilities.

Witness **THENG SALI**[691] was presented in Court on June 10, 2015. He stated in his judicial affidavit that on November 16, 2009, he, Datu Andal, Sr., Kagi Milo Luminda, Tamano, and some police escorts travelled from Shariff Aguak to Davao City. They went to the house of the accused in Kasuy, Davao City, where the first wife of Datu Andal, Sr., Laila Ampatuan, resided.

The next day, on November 17, 2009, their group, together with Datu Andal, Sr., went to his other house in Marfori Heights, Davao City, where another wife of his, Bai Alibai Sakal Ampatuan, lived. They arrived in that place at around lunch time. When they were eating, he remembered that Bai Alibai served Datu Andal, Sr., and that later on, his son Micko, arrived from his school, Ateneo de Davao. Micko gave respects to his father and then went inside the room.

Thereafter, Datu Andal, Sr., went to the sala and had coffee with Kagi Luminda and Tamano. Then, he noticed that Micko went out of his room, ate lunch, and bid goodbye to his father as he was about to go back to school. The group just stayed in the house. Between 4:30 p.m. to 5:00 p.m., Micko arrived from school, gave respects to his father, and retired to his bedroom.

At around 5:00 p.m., Datu Andal, Sr., bid goodbye to Bai Alibai. Subsequently, Datu Andal, Sr., the witness, Kagi Luminda, Tamano, and the police escorts travelled to Shariff Aguak. When they arrived, Kagi Luminda and Tamano went home, while some of the police escorts slept in the house of Datu Andal, Sr. He also slept in the mansion at Shariff Aguak.

As the long-trusted aide of Datu Andal, Sr., he observed that Datu Andal, Sr. kept his distance from people who conversed with him; and those who talked to him kept their distance considering that Muslim culture considers a Datu or Governor as an honorable person. The witness said that causing one's body to touch Datu Andal, Sr.'s was a sign of disrespect; and hence, all those who talked to him, even his children, kept their distance from the Datu.

Aside from these observations, the witness belied the testimony of Lakmodin Saliao. He claimed that Lakmodin Saliao lied when the latter said that he worked as the helper of Datu Andal, Sr., for Saliao actually served as the helper of Bai Ameerah Ampatuan.

He said that Saliao could not have given food and medicines to Datu Andal, Sr. for he did not function as a Personal Assistant. Datu Andal, Sr.'s wife, Bai Sarah Ampatuan, served food to Datu Andal, Sr., while his private nurse administered the medicines in Camp Panacan.

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[691] Judicial Affidavit of Theng T. Sali, marked as Exhibit "11". See TSN dated June 10, 2015.

According to the witness, Saliao lied about the purported meeting attended by Datu Andal, Sr., at the house of Datu Zaldy Ampatuan in Shariff Aguak on November 17, 2009, at 8:30 p.m. At that time, the witness and the accused, together with their companions, were still en route to Shariff Aguak from Davao City. Datu Unsay could not also have attended the meeting because he was in an airplane, on his way to the Philippines from Los Angeles. For the witness, it was not believable that a helper like Saliao attended the meeting; and more so that his hand touched with that of Datu Andal, Sr.

Like the witness Micko Sakal Ampatuan, Theng Sali said that Datu Andal, Sr. never allowed anyone – even his wives, children, and trusted aides – to receive or take calls for him. The witness had not seen Datu Andal, Sr. using his cellphone on speaker mode. Theng Sali also stated that he never saw Datu Andal, Sr. using an I-com since he did not know how to use one.

The witness claimed to have been included in these cases because of his association with Datu Andal, Sr. He stood as the "alalay" and companion of Datu Andal, Sr. ever since the latter started as Vice-Mayor of Shariff Aguak until their incarceration at Camp Bagong Diwa.

On cross-examination, the witness clarified that he does not know the whereabouts of Datu Unsay on July 19, 2009 and November 22 to 23, 2009. As regards Datu Andal, Sr., he confirmed that he brought the latter at his farmhouse, Bagong, Shariff Aguak on November 23, 2009 at 7:30 a.m., and that thereafter, the witness left and went to Cotabato City. For the other days, the witness remembered seeing Datu Andal, Sr. in Shariff Aguak in the morning of November 16, 2009 and in the evening of November 17, 2009.

Immigration Officer **FELIANA ELENA ONG**[692] testified on July 23, 2015. At the time of her testimony, she was the Acting Chief, Certification and Clearance Section of the Bureau of Immigration. She issues certification and clearance regarding travel records based on the Computer Database File of the Bureau of Immigration. She issued a Certification with an attachment containing the record file of the travels of Datu Unsay showing that he left the Philippines on November 9, 2009 and arrived in the country on November 18, 2009.

During her cross-examination, it was highlighted that there is no indication in said document as regards the place of origin of Datu Unsay before he went to the Philippines.

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[692] Judicial Affidavit of Feliana Elena A. Ong, marked as Exhibit "13". See TSN dated July 23, 2015.

On August 20, 2015, witness **REMANDO HENRY M. JIMENEZ**[693] then employed at the Consular Records Office of the Department of Foreign Affairs, identified the passport of Andal Uy Ampatuan, Jr. and issued a Certification that his office issued such passport.

He issued a Certification with an attachment containing the record file of the travel of Dau Unsay showing that he left the Philippines on November 09, 2009 and arrived in the country on November 18, 2009.

On cross-examination, he clarified that his task is limited to matters concerning the passport, while the travel details are within the jurisdiction of the Bureau of Immigration and Deportation.

On September 24, 2015, DATU ANWAR "IPI" UPAM AMPATUAN, JR.,[694] testified. In his judicial affidavit, Datu Ipi alleged that there was no conspiracy meeting held on November 17, 2009, because Datu Andal, Sr., was in Davao City on that day, having arrived only at 11:30 p.m. in Shariff Aguak. He also decried having attended that meeting and narrated that he and his uncle, Datu Unsay, arrived in the Philippines from the U.S.A. only on November 18, 2009. The witness narrated that in the United States, he and his uncle watched the Pacquiao-Cotto fight on November 14, 2009.

During his cross-examination, Datu Ipi revealed that since he was in the U.S.A. on November 17, 2009, he had no personal knowledge of what happened during that day in the Philippines, and that he had no basis to state that Datu Andal, Sr., arrived in Shariff Aguak only at 11:30 p.m.

DATU ANDAL "UNSAY' AMPATUAN, JR.[695] testified for himself on October 22, 2015. In his judicial affidavit, he said that on November 17, 2009, he and his nephew, Datu Ipi were aboard Philippine Airlines flight PR 103 from Los Angeles and arrived in Manila on November 18, 2009.

According to Datu Unsay, on November 22, 2009, at around 8:00 p.m., he was having dinner at his house in Poblacion, Shariff Aguak. He no longer left the premises and slept early for he had a scheduled meeting the next day.

He narrated that on November 23, 2009, at *Munisipyo ng Bayan,* Datu Unsay Municipality, from 8:00 a.m. to 12:00 p.m., he conducted a meeting with local officials. He was in that meeting place thirty minutes

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[693] Judicial Affidavit of Remando Henry M. Jimenez, marked Exhibit "14". See TSN dated August 20, 2015.
[694] Judicial Affidavit of Datu Anwar "Ipi" Upam Ampatuan, Jr., marked as Exhibit "15". See TSN dated September 24, 2015 and October 09, 2015.
[695]Judicial Affidavit of Datu Andal Ampatuan, Jr. marked as Exhibit "15". See TSN dated October 22, 2015 and March 03, 2016.

before the meeting; and left thirty minutes after its adjournment. As proof, he identified in Court the photocopy of the ***Minutes of the Meeting*** (***Exh. "17" with sub-markings - "Rebuttal" bail***).

On cross-examination, he clarified that he had two houses in Poblacion, Shariff Aguak; and the one where he slept at on November 22, 2009 was that which was near the interior of Poblacion. Travel time from that house to Datu Unsay Municipality takes less than 10 minutes.

Datu Unsay said in open Court that the meeting, which took place on Monday, November 23, 2009, had three agenda: about peace and order and local development. The meeting that day was a regular meeting. According to him, a regular meeting happened every Mondays and Fridays of every week, attended by the Mayor and Vice-Mayor, Sangguniang Bayan members, and barangay officials. However, Datu Unsay stated that he had no other proof *i.e.* Attendance Sheet as regards the conduct of that meeting.

Datu Unsay also mentioned that he knew Sukarno Badal, Mohammad Sangki and Datu Rasul Sangki. He explained that after coming from U.S.A. and arriving in Manila on November 18, 2009, he went straight to Cotabato City; and from November 18 to 23, 2009, he remained in Shariff Aguak.

On re-direct examination conducted on March 03, 2016, Datu Unsay clarified that Datu Unsay Municipality was originally within the area of Shariff Aguak. He further clarified that he owned three houses: one in Datu Unsay Municipality, and two in Shariff Aguak. In Shariff Aguak, one of his houses is located in the Poblacion, while the other one stands along the highway. These three houses, prior to the separation of Datu Unsay Municipality from Shariff Aguak, were all effectively located in the latter.

Datu Unsay explained that the house in Datu Unsay Municipality was already there ever since he was young, of elementary age. He claimed that his father owned the house since that residence was located near their lands, where they used to farm. He then became the owner of that house after his parents gave it to him.

The witness stated that the regular meetings of the members of the Sanggunian occurred every Monday and Thursday. Special meetings, however, may be held aside from those days. The meetings of the Sanggunian may include non-members such as persons belonging to the PNP, the DILG, the DAR, and other department heads if so needed.

As regards the preparation of the Minutes of the Meeting and its signing on the same day of the meeting, the witness explained that as soon as they finish a discussion in the agenda, the Sanggunian gives to the secretary, who gives to the computer encoder, the matters that are

already finished. Thereafter, all of the members of the Sanggunian sign the Minutes of the Meeting before they leave the premises.

With respect to the number of pages of the Minutes, he explained that the four (4) pages accounted for the four topics they discussed that day.

Datu Unsay further explained that even if he had been indicted since 2009, he was only able to present the Minutes of the Meeting in 2015, during his turn to present his own evidence. He claimed that even at the time that Atty. (Sigfrid) Fortun was his counsel, the latter already possessed this piece of document.

The witness disclaimed the insinuation that people called him "boss." He asserted that he only responded to the name "Datu Andal Uy Ampatuan, Jr.," "Unsay," and "Mayor."

Datu Unsay denied that a meeting took place in a "purok" where he had allegedly given ₱15,000.00 for the police auxiliaries. He also said that Mohamad Sangki, who made this testimony, bore a personal grudge against him.

The witness further denied the claim that he was in Saniag at the time that Mohamad Sangki brought food for the auxiliaries. He belied that a Datu, such as Mohamad Sangki, would be seen serving his aides. Indeed, it would be the aides serving a Datu, and not the other way around. Hence, for the witness, Mohamad Sangki lied.

Regarding the claim that he was seen in Ampatuan Municipality, on November 23, 2009, Datu Unsay maintained that from past 7:00 a.m., to a bit after 12:00 p.m., he was then at the municipal hall having a meeting.

With regard to Rasul Sangki, the witness said that he did not call the former for he did not have the number of Rasul, who was angry with him. At that time, Rasul, being the Vice-mayor of Ampatuan Municipality, became the Acting Mayor in the absence of his overseas father, Zacaria Sangki. Since he and Rasul Sangki had the same mayoralty positions, Datu Unsay claimed that he could not have dictated instructions to Rasul Sangki.

Datu Unsay flatly denied that an ambush transpired in Malating on November 23, 2009 contrary to the testimony of Rasul Sangki. In sum, the witness denied the testimony of Rasul Sangki against him on November 23, 2009 on the bases that he was then attending a meeting in Datu Unsay Municipality, and that he and Rasul Sangki were at odds against each other.

Anent the testimony of Lakmodin Saliao, Datu Unsay mentioned that he could not have attended the alleged meeting on November 17, 2009 in Bagong since he was in America on that day. He only arrived in Manila on November 18, 2009.

Datu Unsay stressed that Lakmodin Saliao could not have gone near, or even touched Datu Andal, Sr. Out of great respect for his father, they (his children) could not approach the former unless summoned. Therefore, not even an aide could have been beside Datu Andal, Sr.

As there was no meeting on November 17, 2009, Datu Unsay testified that there could have been no follow-up meeting to that previous gathering, supposedly held on November 22, 2009. He maintained that he was at his own house on November 22, 2009 at 8:00 p.m. He took an early dinner, rested, then slept for he had a meeting the next day on November 23, 2009.

Pertaining to the events of November 23, 2009 relayed by Lakmodin Saliao, Datu Unsay claimed that the former lied in Court. Datu Unsay said that the cellphone of his father could never be used by anyone else; not even his own children, and much more, by an aide. His father was also not deaf that would require the phone to be in speaker mode. As regards the use of an I-com radio, Datu Unsay said that no one uses that device anymore.

With respect to prosecution witness Sukarno Badal, Datu Unsay said that the former is a liar. Sukarno Badal is a Vice-mayor, and not a commander of the Ampatuan family. He said that his father is not a soldier or a police who could give firearms to Sukarno Badal. Datu Unsay further denied that the Ampatuan family had 300 armed men.

Datu Unsay disclaimed that he called Sukarno Badal regarding a meeting at Century Park Hotel. The former said that he does not have the latter's number. Datu Unsay denied that a meeting transpired on July 19, 2009. He also denied that a meeting among the members of the Ampatuan family and their supporters transpired at Century Park Hotel on July 20, 2009. He claimed that his family did not need to conduct that kind of meeting since Toto's family only held three of the 30 municipalities in Maguindanao.

He admitted that the only meeting on that day was in Camp Aguinaldo with former defense Secretary Teodoro. Those who attended that meeting included him, Datu Zaldy Ampatuan, Congressman Simeon Datumanong, Datu Akmad "Tato," "Datu Sajid Ampatuan, and Datu Saudi Ampatuan; as well as Toto Mangudadatu, Sukarno Mangudadatu, the cousin of Toto Mangudadatu who was the Governor of Sultan Kudarat, Khadafe Mangudadatu, Ibrahim Jong Mangudadatu, former Secretary Teodoro, and the AFP Chief whose name he could not remember.

In that meeting, it was allegedly discussed that the political enemies of the Mangudadatu family – Mastura Salenga and Adam Piang – will run in the mayoralty races in Buluan and Pandag, which are areas currently governed by members of the Mangudadatu family. Datu Unsay claimed that the Mangudadatus portrayed to former Secretary Teodoro that the Ampatuans prodded Salenga and Piang to run against them. Datu Unsay said that the Salenga family even went against the relatives of the Mangudadatus in the last 2013 elections.

According to Datu Unsay, the whole point of the Mangudadatus was to prevent their political opponents from running in Buluan and Pandag as Mayor, Vice-mayor, and Councilors for they were in danger of losing. In other words, the Mangudadatus were just destroying their reputation by making it appear that the Ampatuans pushed the political opponents of the Mangudadatus to run. That could not have happened because these personalities live in Pandag and Buluan, which were not under the governance of the Ampatuans.

Datu Unsay denied owning 200 firearms. He claimed that it is not true that they transported 200 firearms, which caused the delay of a certain flight.

As no meeting transpired on July 20, 2009, and that no firearms were transported, and since he did not have the contact number of Sukarno Badal, Datu Unsay said that the allegation of Sukarno Badal regarding being given 10 firearms on July 24, 2009 is not true.

Datu Unsay also said that he was in America on November 16, 2009. He claimed as impossible that he attended a meeting on even date in a "purok" near the mansion of his father in Shariff Aguak. For him, it was impossible to have a meeting on that day since, in the first place, no meeting transpired at the Century Park Hotel on July 20, 2009.

On re-cross examination, Datu Unsay verified that apart from the Minutes of the Meeting, he had no other documentary evidence or recording to prove what actually transpired during the November 23, 2009 meeting.

He also affirmed that he and Mohamad Sangki knew each other even before the alleged massacre. The same goes true for him and Sukarno Badal, Lakmodin Saliao, and Rasul Sangki.

ABEDIN ALAMADA,[696] also an accused in these cases, gave his testimony on November 25, 2015. He alleged in his judicial affidavit that as one of the Councilors of the Sangguniang Bayan of Datu Unsay

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[696] Judicial Affidavit of Abedin Alamada, marked as Exhibit "18". See TSN dated November 25, 2015.

Municipality, Maguindanao, he attended a meeting called by then Mayor Datu Andal "Unsay" Ampatuan, Jr. on November 23, 2009 at the local municipal hall.

Those who attended the meeting with him were members of the Sangguniang Bayan, barangay chairpersons, and other local officials. The meeting transpired from 8:00 a.m. until 12:30 p.m. According to the witness, at no point in time did Datu Unsay leave the premises.

On cross-examination, the witness revealed that at the time he executed his judicial affidavit in October 2015, he did not consult with his then counsel, Atty. Ibrahim Mimbalawag of the Public Attorney's Office. He also disclosed that it is only at this instance that he produced the Minutes before the Court.

The witness said that during the initial proceedings of these cases before the Department of Justice, he could not recall the date and the whereabouts of the said Minutes. Nonetheless, he remembered that he got the document from Shariff Aguak. At the close of his cross-examination, he mentioned seeing Sukarno Badal everytime Datu Andal, Sr. calls for a meeting.

On re-direct examination, the witness said that it appears to him that Atty. Mimbalawag is opposing his testimony in court. Later on, he terminated the services of his counsel.

At this point, he disclosed that after being charged in these cases, he did not hide from the authorities. Instead, he went to Sipaka, Surallah Municipality, South Cotabato.

The witness explained that at the time of the preliminary investigation of these cases, he told his then lawyer about his participation in the meeting on November 23, 2009 in Datu Unsay Municipality. According to the witness, they were not able to discuss about making an affidavit stating said fact. His lawyer just told him that he would testify about this matter later on.

The witness eventually contacted some persons in the municipal hall; and thereafter, his present counsel, Atty. Manuel, obtained the said Minutes. The latter told him that he prepared an affidavit, but the witness said that they did not discuss anything about it and the Minutes.

During re-cross examination, the witness said that their meeting back then was in Muslim language. He also said that he could not recall when he left Datu Unsay municipality. In particular, he cannot remember – for it happened a long time ago – how many days passed from the time of the meeting on November 23, 2009, until he left Unsay

municipality. He no longer returned to the place to resume his duty as member of the Sangguniang Bayan for his term already expired.

He also said that he does not know when the alleged Maguindanao massacre took place. He only heard about it when he worked at his farm; and he only learned that he was implicated when he was arrested later on at his farm.

Witness **ALEXANDER FERNANDEZ CANATA** [697] testified on March 17, 2016. His judicial affidavit stated that his previous engagement was with Fortun Narvasa and Salazar Law Offices as an IT (information technology) and Systems Consultant. He identified the DVD (digital video disc) containing the footage of the news and interview of Lakmodin Saliao by ABS-CBN's TV Patrol aired on June 23, 2010, which he himself recorded.

The witness also identified the DVD containing the downloaded video stream from YouTube, posted on August 02, 2010, by one Kumander Dalawi entitled "*May Katotohanan Kaya Ito?"* Atty. Philip Sigfrid A. Fortun, then legal counsel of the accused, asked the witness to download the said video. The witness said that he downloaded the file on August 04, 2010.

When asked **during cross-examination**, the witness stated that he had no personal knowledge of the contents of the videos.

Witness **LEO MARK AGUILAR**[698] testified on March 17, 2016. His judicial affidavit stated that he works at the Fortun Narvasa and Salazar Law Offices as a junior staff officer in the IT department. Like witness Canata, the witness identified the DVD containing the downloaded video stream from YouTube posted on August 02, 2010 by one Kumander Dalawi entitled "*May Katotohanan Kaya Ito?"*

Atty. Andres A. Manuel, Jr., then the counsel of the accused, asked the witness to download the said video in order to confirm if the posting, which was earlier downloaded by the same firm, was still available in YouTube. The witness said that he himself downloaded the file on March 15, 2016.

When asked **during cross-examination**, the witness stated that he had no personal knowledge on the contents of the videos. He also has no knowledge whether the original video footage was already spliced or edited before the uploading of the same.

On re-direct examination, he said that he did not splice, alter, or change the video from YouTube when he recorded it in the DVD.

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[697] Judicial Affidavit of Alexander Fernandez Canata, marked as "Exhibit 28". See TSN dated March 17, 2016.
[698] Judicial Affidavit of Leo Mark Aguilar, marked as Exhibit "21". See TSN dated March 17, 2016.

On April 14, 2016, witness **P/CHIEF INSP. ARIEL H. ASUNCION**[699] took the witness stand. In his judicial affidavit, he mentioned that he is currently the Chief of the Aviation Police Station of the Airport Police Station at Ninoy Aquino Internation Airport (NAIA) Centennial Terminal 2, Pasay City. The witness commanded all police officers in the station with a view to maintain peace and order and to enforce aviation laws within this terminal.

The station of the witness has exclusive jurisdiction over NAIA Centennial Terminal 2, which alone service all Davao bound domestic flights of the Philippine Airlines. He identified a Certification (actually a Memorandum) stating that his office does not have a record of any incident on July 21, 2009, pertaining to a delay of a flight of Philippine Airlines, Manila to Davao, caused by the loading of carton containing 200 different kinds of firearms allegedly belonging to the Ampatuans; and that the police officers of their station had not attended to any such incident on even date.

On cross-examination, the witness stated that he was not the Chief of the said station in July 2009, and that he only became its head in May 2015. He then said that the Certification he issued regarding July 21, 2009 was based only on the record of his office, and not of his personal knowledge. He also testified that not all flight delays are being reported to his police station, except for those involving flight interferences such as air traffic and sickness of passengers.

On re-direct examination, the witness elaborated that when persons had to be arrested inside the plane or had caused trouble inside the aircraft, such incidents are recorded in his police station. Instances of arrest include the unlawful taking of items from another passenger and the enforcement of a warrant of arrest. In cases where firearms are involved, the police may be called to interfere, which interference will be placed on record.

On re-cross examination, the witness said that they could only interfere if there are actual complaints.

Witness **DAISY D. OTIC**[700] testified on April 28, 2016. The parties stipulated on the following essential matters stated in her judicial affidavit *viz*: 1) she is currently employed by the Fortun Narvasa and Salazar Law Offices as a Librarian; 2) the witness collected the (a) 13 copies of different newspapers allegedly containing reports on Kumander Dalawi's admission; and (b) six (6) different copies of downloaded and printed web articles about Kumander Dalawi.

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[699] Judicial Affidavit of PCI Ariel H. Asuncion, marked as Exhibit "29". See TSN dated April 14 and 28, 2016.
[700] Judicial Affidavit of Daisy D. Otic, marked as Exhibit "33". See TSN dated April 28, 2016.

JOSE C. MENDOZA IV[701] appeared in court on April 28, 2016. In his judicial affidavit, he stated that he has been an employee of PAGASA for 23 years, who worked as its Weather Observer I, and Weather Specialist I and II, before becoming the present Chief of the Astronomical Publication Unit, Space Science and Astronomy Section, Research and Development Division.

His office computes astronomical data on sunrise, sunset, moonrise, moonset, eclipses and other astronomical events. As Chief of his office, he reviews the computation of this data, and sometimes he makes the computations himself.

To compute for the sunrise and sunset, the witness explained that they determine the coordinates of a specific place, alongside the calendar date, and encode these in a software called Multi Interactive Computer Almanac (MICA), which will then generate the timing of the sunrise and sunset in that location. The MICA is also capable of determining the altitude, direction, and position of the sun and the moon. For computing such data, the MICA is PAGASA's official software, which came from the U.S. Naval Observatory, and used by most agencies of the different countries.

The MICA can only generate computations, but it cannot produce a digital image of the data. Hence, their office uses software called Stellarium. Like MICA, they encode the coordinates of the place, the specific time, and date, and then Stellarium automatically shows the digital image of the position of the sun.

The witness identified the Astronomical Data Computation for Ampatuan, Maguindanao from November 23 to 30, 2009. According to him, the data was obtained through his abovementioned use of the MICA. He also identified eight pictures showing the position of the sunrise and sunset for Ampatuan, Maguindanao from November 23 to 30, 2009.

The witness thereafter identified the Sun Path Diagram and Computation Sheet that he prepared from November 23 to 30, 2009. The tracks for the sun for all these dates were almost the same, and there was no significant change for the entire week. Considering these documents alongside the latter two sets of evidence, the Sun Path Diagram provides the top view of the schematic diagrams.

When cross-examined on May 18, 2016, the witness testified that in making certifications as regards sunsets and sunrise, their office first prepares a manual computation, which will then be verified by the software MICA or Stellarium that necessitates the use of coordinates

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[701] Judicial Affidavit of Jose C. Mendoza IV, marked as Exhibit "53". See TSN dated April 28, 2016.

obtained from NAMRIA. Their office publishes the results in a book. However, the publication does not contain any reference to the use of MICA or Stellarium.

The witness mentioned that since he was not present in Ampatuan, Maguindanao, he could not determine the distance of the sun from the person present in that place. Finally, he said that the position of the sun in Manila, as compared to that in Maguindanao, is almost the same.

On **re-direct examination**, the witness stated that he no longer used manual computation, or any other software for purposes of his testimony, since he had already proven the accuracy of MICA and the Stellarium, and that he is not yet familiar with the new software.

ENGR. TRINIDAD R. GARBO[702] appeared in court on May 18, 2016. In her judicial affidavit, she mentioned that she has occupied the position of an Engineer IV-Supervising Engineer with the designation of Section Chief of the Administrative and Special Mapping Section of the National Mapping and Resource Information Authority (NAMRIA).

Engr. Garbo measured the various distances in Ampatuan, Maguindanao, between: Brgy. Bagong to Brgy. Saniag (14.324 km); Brgy. Bagong to Crossing Saniag (12.434 km); Brgy. Bagong to the junction of Brgy. Salman and Crossing Saniag (11.329 km); Brgy. Bagong to Brgy. Salman (9.904 km); and Brgy. Bagong to the end of that road taken after making a right at the junction of Brgy. Salman and Crossing Saniag (11.960 km).

The distances she measured is point-to-point and above ground, which do not consider the slopes and blockages. She then published these measurements in the Topographic Map of Shariff Aguak, which she identified in open Court.

On cross-examination, the witness clarified that she took the measurements inside the confines of her office; and that she did not actually go to Shariff Aguak, Maguindanao to measure the distances.

Although the witness mentioned in her affidavit about the junction in Shariff Aguak, she did not actually see that junction, as well as the foot tracks or foot trails going to either Saniag or Ampatuan Municipality.

On re-direct examination, the witness clarified that the label "Bagong" in the map refers to "Barangay Bagong Hall"; the label "Salman" in the map refers to the "Barangay Hall of Salman." The witness explained that as a peruser of map, they placed a symbol of Barangay Hall in the

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[702] Judicial Affidavit of Engr. Trinidad R. Garbo, marked as Exhibit "85". See TSN dated May 18, 2016 and June 01, 2016.

map (which looked like a flag), because if the word "Barangay Hall" is placed in the map, it is too long.

The witness claimed that there was no need for her to go actually to Shariff Aguak considering that they had already conducted a field validation during the processing of the map: field validation teams, a Global Positioning System, ground control points, aerial photography, designation of points, cartography enhancement, and actual field validation were some of the procedures they followed before their office came out with the map. The witness claimed that the subject map was the latest and most accurate, so far, with the scale of 50,000.

As regards the foot trail, the witness characterized that area as such because of the single line black, track or trail, marking in the map. Such characteristic was gathered in the field by the field team.

On re-cross examination, the witness emphasized that the map was produced in February 2013. She does not know whether it represents the actual conditions of topography on November 23, 2009. She cannot confirm whether the road below the red line was existing on November 23, 2009. She cannot also confirm whether the foot tracks or trails were existing on November 23, 2009.

PSI JESSON D. MOCNANGAN[703] was presented on the witness stand on May 19, 2016. He mentioned in his judicial affidavit that he joined the police force in 2003. Sometime in November 2009, he worked as an investigation and intelligence officer at the Criminal Investigation and Detection Group, Region 12, stationed at Camp Fermin Lira, Jr., General Santos City. Aside from intelligence work, he was also assigned as an Evidence Custodian Officer, tasked with the safekeeping and transfer of evidence.

The witness identified in open Court a Memorandum dated February 09, 2016, which stated that his office received 16 different kinds of firearms coming from the joint search and seizure operation between his personnel and the Philippine Army, recovered at the back of the Ampatuan Municipal Hall, on December 07, 2009. Supporting this document which he identified in open Court are: (1) a Certification issued by PSI Gil Caba Sanches dated February 03, 2010; (2) an Acknowledgment Receipt to SPO2 Jose Arlene Arroyo dated December 08, 2009; and (3) a Memorandum addressed to the Chief of the Regional Crime Laboratory Office dated December 08, 2009.

The witness alleged that at the time of recovery of these firearms, Martial Law was declared by then President Gloria Macapagal Arroyo in

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[703] Judicial Affidavit of Jesson D. Mocnangan, marked as Exhibit "97". See TSN dated May 19 and 25, 2016.

Maguindanao. He also alleged that he had these items submitted for ballistics examination.

On cross-examination, the witness testified that he was one of the evidence custodians of Region 12, CIDG from early December 2009 up to April 2010. He was also part of the search and seizure operation conducted on December 07, 2009. He recounted that said operation was a follow-up to the previous search and seizure operations within the Maguindanao and Shariff Aguak areas. After that follow-up operation on December 07, 2009, a series of operations followed.

Testimony of Soy L. Kali (presented during accused' Evidence-in-Chief)

SOY L. KALI appeared in court on August 23, 2018. For his direct testimony, he executed his ***Judicial Affidavit (Exhibit "104" and sub-markings).*** He testified that he is the Barangay Chairman of Barangay Iganagampong of the Municipality of Datu Unsay.

On November 23, 2009, he went to the Municipal Building of Datu Unsay to accompany his father Sammy L. Kali to attend a meeting. While alighting from their vehicle at around 7:30 a.m., they saw the then Mayor Datu Andal Ampatuan Jr. who they have known for a long time, alighting from his vehicle. After greeting the Mayor, the latter talked to a person named Mohammad Sapalon. Thereafter, they followed the Mayor who proceeded to the Municipal Session Hall.

The witness said that he waited outside the Session Hall until the meeting ended at around 12:00 noon, and then went inside to eat with his father. There he saw then Mayor Datu Andal Jr., Abdullah Ampatuan, Bantilan Pasawilan, Zainodin Ayob, and others whose name he cannot recall. The witness and his father followed a few minutes after Datu Andal Jr. left the Session Hall around 12:45 p.m.

On cross examination, the witness confirmed that he heard about the massacre while he was waiting for the meeting to end and was able to confirm it after the meeting around 12:45 p.m. He admitted though that he had no personal knowledge of what transpired during the meeting.

When asked, he said that he cannot estimate the distance between the Session Hall of Datu Unsay to Municipality of Ampatuan. He described that from his residence at Barangay Iganagampong, Municipality of Datu Unsay to Ampatuan Municipality, it is over an hour but not more than three (3) hours travel, and from his residence to the Session Hall, it is only about 15 to 20-minute drive. He also said that the Session Hall of Datu Unsay is nearer to the Municipality of Ampatuan than his place of residence. He confirmed that from the Session Hall of Datu Unsay, one can immediately travel to Ampatuan Municipality in less than two (2)

hours. Other than his testimony, witness admitted that he has no other proof to substantiate his allegation.

Testimony of Sammy S. Kali (presented during accused' Evidence-in-Chief)

SAMMY S. KALI was presented in court on September 05, 2018. In his ***Judicial Affidavit (Exhibit "105" and sub-markings),*** he testified that in November 2009, he was the Barangay Chairman of Barangay Iganagampong, Datu Unsay, Maguindanao. He claimed that it was impossible for Datu Andal Jr. to be the prime suspect in these cases because he was with the latter the whole time in the meeting at the Municipal Hall of Datu Unsay Municipality on November 23, 2009. He further claimed that the meeting started at 8:00 a.m., and Datu Andal Jr. never left the premises until the meeting ended after 12:30 p.m. He said that the meeting was about the peace and order situation in the municipality as well as the feeding program. He left the Hall at 1:00 p.m. As proof, the witness presented the ***Minutes of the Meeting dated November 23, 2009*** as well as his signature therein ***(Exhibit "17" and "Exhibit 17-A" respectively).***[704] He also mentioned that there were threats that if they testify, they will be charged as an accused or they or their family will be killed.

When cross examined, witness confirmed that other than his judicial affidavit, he did not execute any statement regarding the meeting that was allegedly attended by accused Datu Andal Jr. He admitted that he, together with two (2) other barangay captains namely Dali Kamondag and Bantilan Kasawilan, who were also political allies of Datu Andal Jr., visited the latter at the NBI in 2011. He said that from his residence at Brgy. Iganagampong is about five (5) kilometers away or a 15-minute motorcycle ride to the Municipality of Datu Unsay. He also mentioned that Datu Andal Jr. was residing in Shariff Aguak and not in Datu Unsay Municipality, and he cannot estimate how far is the latter from Shariff Aguak.

The witness confirmed that aside from the Minutes of the Meeting, he had no pictures taken nor did he sign any logbook during the meeting. He narrated that every Monday, they conducted sessions with the Barangay Captains and Sangguniang Bayan, and the meeting held on November 23, 2009 was a special meeting presided by Abdullah Ampatuan. He said that he was called by then ABC President, Rene Guiapal on November 22, 2009, informing him of the meeting with the Mayor the next day. He also confirmed that the Minutes which was

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[704] This document was provisionally marked during the hearing on the bail petitions of the accused, and was not admitted as it constitutes hearsay evidence as the same is merely a photocopy, contrary to the manifestation made by accused' counsel, Atty. Ernest Levanza, in the Formal Offer of Evidence dated November 05, 2018, that original marked exhibits are already in the possession and custody of the court. *See* Orders dated December 28, 2018 and December 01, 2016. A "Motion for Partial Reconsideration [To the Order dated December 28, 2018]" was filed by the accused, but the same was denied in the Order dated February 18, 2019.

prepared by Zainodin Ayob was written in English, and had signed the same even if he does not understand English. He further confimed that there were threats from the relatives of the victims, the Mangudadatus, but he cannot pinpoint who among them. He clarified that it was the "*tauhans"* who threatened them like Kagi Kamaru Ibrahim and Vice Mayor Akmad Ampatuan. Despite these threats, he said that he did not have it blottered.

Testimony of Thonti S. Lawani (presented during accused' Evidence-in-Chief)

THONTI S. LAWANI appeared in court on September 06 and 12, 2018. In lieu of his direct testimony, he executed his ***Judicial Affidavit (Exhibit "107" with sub-markings).***

In his Affidavit, the witness recanted his testimony given on October 12, 2011, when he was presented by the prosecution as its witness. In his previous testimony, his statement that in the morning of November 23, 2009, he was at Crossing Masalay and that he saw the convoy on its way up to the hilly portion of Sitio Masalay and also saw Datu Unsay when he arrived at said place, giving orders to his commanders, were untrue. The truth is that he did not see any convoy because he was not really at Crossing Masalay on said date. According to the witness in the morning of November 23, 2009, he was on his way to the house of Rasul Sangki located in the Municipality of Ampatuan near the Mosque, to ask for help in the harvesting of his crops.

He lied in open court allegedly because he was so afraid of his and his family's safety. The witness, together with Faizal Amilil, Abdulsatar Maliwawao and Lakuidin Alponso, were threatened to be killed if they will not say the things in favor of the Mangudadatus. He also claimed that his whole family was being held hostage by the Mangudadatu family, and that Kamarudin Ebrahim, Rasul Sangki, Mohamad Sangki and their companions forcefully took them from their house in Crossing Masalay and was brought to a compound in Buluan. There, they were threatened and their families, and they were not allowed to go anywhere during those times. He further said that there were a lot of people who taught him of what to say in Court including Toto Mangudadatu, Rasul Sangki and Mohamad Sangki. When he first met Toto Mangudadatu in Buluan, the latter forced them to sign a piece of paper which became their testimony in court.

After a few months, they were flown to Manila and brought to a condo along Roxas Boulevard where the lawyers taught them of what to say in Court. There were a lot of lawyers who went to the condo including Atty. Harry Roque, Leila de Lima and Atty. Nena Santos. He alleged that said lawyers forced him to say his previous statements, the truthfulness

of which he is now denying because his conscience could no longer handle it.

On additional direct examination, the witness said that on November 23, 2009, he was with Esmael Abubakar from 7:00 a.m. to 11:00 a.m.

On cross examination by the prosecution, witness had repeatedly said that during the time that he testified for the prosecution, they were told what to say. He affirmed that he was once enrolled with the Witness Protection Program (WPP) of the Department of Justice and received benefits from the government, but he did not inform the counsel of accused Datu Unsay about this fact. He said that he is aware that he was violating his oath as a previous covered witness of the WPP.

He was asked to identify a ***Sinumpaang Salaysay*** which he refused to peruse at first and when he did, he claimed that the statements therein were fed to them and he was just forced by Toto Mangudadatu to sign the same. He confirmed that they were investigated by the NBI Agents but they were allegedly taught on what to say by Toto, Rasul Sangki and Mohamad Sangki. He admitted though that when they were investigated by the NBI, Mohamad and Rasul Sangki were not present. He reiterated that it was Rasul, Mohamad Sangki and Kamarudin Ebrahim who abducted him and his family after the 2010 elections, but he changed his answer and clarified that it was only Kamarudin Ebrahim who abducted them, and he just talked to Mohamad and Rasul Sangki over the phone. He recalled the names of those prosecution witnesses who were allegedly abducted too – Faisal Amilil and Abdul Satar Maliwawaw.

The witness also confirmed that after the WPP, he was employed by Dark Horse Security Agency which secured and guarded the residence of Toto Mangudadatu in Buluan, Maguindanao, from 2013 until he was relieved because allegedly said agency did something bad to him. He left Buluan on August 16, 2018 and lived in Brgy. Iganagampong after Toto's uncle threatened his life. According to him, he was kept in the residence of Toto Mangudadatu for six (6) years from 2010 to 2016 until he left the place because the condition was no longer good to them, the food was not good, and the place was flooded.

The witness also said that he heard that anyone who will side with the Ampatuans will be killed though he admitted that from the time he left the residence of Toto Mangudadatu in 2016, until now 2018, nothing bad has happened to him and to any of his family members.

The witness clarified that Secretary Leila De Lima and Atty. Harry Roque did not teach them, but they were there during the coaching at the condominium owned by Toto and Dodong and showed pictures for them to identify. He confirmed that it was Soy Kali, the present Barangay

Chairman of Brgy. Iganagampong whom he asked for help in order for him to testify before the Court and introduced him to the counsel of accused Datu Unsay. He also confirmed that even after leaving Buluan, until now, he receives money from Toto Mangudadatu whenever he sees the latter. He mentioned that Faizal Amilil, Abdul Satar Maliwawaw and Lagudin Alfonso are relatives of his wife. He denied having received P150,000.00 from Soy Kali, in exchange for his testimony. He said that it was Datu Alvin Mangudadatu, the uncle of Toto who threatened to kill him if he will testify for Unsay, but he did not tell anyone except Toto about it nor had it blottered.

The prosecution marked the ***Sinumpaang Salaysay of Thonti Lawani dated January 17, 2010*** ***(Exhibit "(20) P" – Rebuttal evidence).***

On cross examination made by the counsel[705] of Mohamad Sangki, the witness testified among others, that he was not so familiar with Tagalog language, but his Judicial Affidavit was in Tagalog/English translation and there was no Maguindanaon interpreter when they prepared the same. He said that he was not prevented from leaving the premises of Toto's residence, and from 2011 to 2018, when he was allegedly held hostage, he did not complain to anybody even to the police. When he left the place of Toto, he affirmed that the latter did not go after him and he was not forced to return thereat.

When further cross-examined by the counsel[706] from the Public Attorney's Office (PAO) for accused Misuari Ampatuan, the witness denied having seen said accused at Crossing Masalay on November 23, 2009 because he was not at that place on said date, and it was his first time to see him in Court. He claimed that he pointed at Misuari during his presentation on October 12, 2011, because he was only asked to do so by his then counsel, Atty. Nena Santos.

During his re-direct examination, witness said that he did not report the "hostage" to the NBI because the lives of his family were being held. He explained that his first affidavit is all lies and that he was forced to sign it, while the second affidavit is the truth. He clarified that they did not leave Buluan until 2016 because they were prevented from doing so. It was only now that he was able to tell the truth because he was able to find a lawyer who can help him as he was bothered by his conscience. After he testified on October 12 and 13, 2011, he asked permission from Toto Mangudadatu to allow them to leave Buluan and he was allowed to do so. When asked why he asked for Toto's permission, witness answered: *"Respeto lang."*

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[705] Atty. Jord Jharoah B. Valenton.
[706] Atty. Amando M. Cura.

On re-cross examination by the prosecution, witness testified that prior to his testimony on October 12 and 13, 2011, Toto Mangudadatu hostaged him and his family at Maslabang, Buluan. He confirmed that when he signed the *Sinumpaang Salaysay dated January 17, 2010,* Toto Mangudadatu was not yet in power in the entire Maguindanao province because he was only then a Vice-Mayor in one of the municipalities. He cannot recall whether he signed said document before the alleged abduction of his and his family after the May 2010 elections.

When subjected to re-cross examination by the counsel of Mohamad Sangki, witness affirmed that he deeply respects Toto Mangudadatu. He said that they were not fed well in the place of Toto, not treated well, and lived in a place which was flooded occasionally. They were given money which served as their livelihood, but it only covered their food and was not enough for their other necessities. He also said that he was terminated from his employment, but he clarified that he was saying these things not against Toto Mangudadatu. Lastly, he admitted that he repeatedly read his present affidavit before signing it.

When re-cross examined by the PAO lawyer, witness said that even if Toto Mangudadatu was just a Vice-Mayor at that time, he still had authority in Buluan. He said that he respects Toto because he fears the latter since he is the Governor and because the latter threatened him.

Testimony of Mohammad Shamron U. Sapalon (presented during accused' Evidence-in-Chief)

MOHAMMAD SHAMRON U. SAPALON was presented in court on September 12, 2018. Based on his ***Judicial Affidavit (Exhibit "108" and sub-markings),*** on November 23, 2009, he went to the Municipall Hall of Datu Unsay to ask for financial support for the processing of his application as a police officer. Upon arrival thereat at around 7:00 a.m., he saw Datu Andal Jr. arrived at the Hall and he was made to wait for him because he had to attend a meeting. He waited for four (4) hours or until past 12:00 noon, when someone told him that Datu Andal Jr. is asking him to come inside the hall, then he was given ₱3,000.00. After Datu Andal Jr. left at around 12:30 p.m., he also left and went home.

On cross examination, witness confirmed that he has been living in Shariff Aguak since birth, but he did not know how far the Municipal Hall of Datu Unsay is from Sitio Masalay, Municipality of Ampatuan. He heard about the massacre on November 23, 2009 when he went home coming from the Municipall Hall of Datu Unsay. Aside from his testimony, witness confirmed that he did not have any witness or evidence to prove that he was indeed in the Municipall hall on said date.

On re-direct examination, witness testified among others, that when he came home, he heard the news about several persons killed, and when he watched the news later that night, he saw that Datu Andal Jr, was the suspect. He was surprised about the news and claimed that it was impossible to happen. He further testified that it took him eight (8) years to testify because people from their place were scared that they will be apprehended or killed.

On re-cross examination, witness said that he waited for four (4) hours for Datu Andal Jr. outside the hall and that he was able to go to the C.R. during the time he was waiting, and when asked if he was knowledgeable whether the accused was able to go out during those times, he answered that it was impossible for the accused to leave said hall.

Testimony of Lagiudin (Lagudin) H. Alfonso (presented as accused' Sur-Rebuttal witness)

LAGIUDIN (LAGUIDIN/LAGUDIN) H. ALFONSO [707] was presented in court on June 19 and 20, 2019. In lieu of his direct testimony, he executed a ***Judicial Affidavit (Exhibit "109" and sub-markings).***

He testified that the *Sinumpaang Salaysay of Thonti Lawani dated January 17, 2010* (prosecution's rebuttal evidence against accused Datu Andal Jr. marked as **Exhibit "(20) P"**), was not voluntarily executed by by the latter because he was present when Thonti was forced to sign the same. He claimed that he was also forced to sign a similar document. They were both forced to sign documents without knowing the contents thereof. He alleged that he and Thonti, as well as their families were threatened to be killed if they will not sign the documents. After signing, they were told that they need to testify in court.

The witness referred to Toto Mangudadatu, Rasul Sangki and Mohamad Sangki as those who threatened them. He said that the statement he gave in Court in November 2011 was a lie – that he saw Datu Unsay on November 23, 2009 in Crossing Masalay. The truth was that he was not near the checkpoint, he was with Thonti Lawani on their way to Rasul Sangki's house which was located near the Municipality of Ampatuan, near the mosque.

On cross examination on June 20, 2019, witness stated that he understood that in executing his present affidavit, he was in effect lying to the Court when he previously testified on November 2, 2011, because he only stated the truth in his affidavit. He decided to change

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[707] Lagiudin (Laguidin/Lagudin) H. Alfonso testified on June 19 and 20, 2019.

his statements when he left Buluan in 2013 as his conscience started to bother him when the wife of Datu Unsay, Reshal died. He said that he approached Thonti Lawani when he learned that the latter testified again in Court, and it was the latter who told him to approach Atty. Levanza (then counsel of accused Datu Unsay) because he is the one who is going to help them.

The witness denied that he and his family were under the Witness Protection Program and that he received monetary help during the time that he testified on November 02, 2011. He said that after he testified in November 2011, he did not file any case against those who coerced him to testify because he was threatened that if he will not do what he was told, he and his family will be killed. He further said that before his testimony in 2011, he was interviewed by several prosecutors inside a condominium and he was not able to inform or report to them about the threat because he was scared. When asked by the court who was threatening him and who was in custody at that time of his family, witness answered that it was Toto Mangudadatu.

When cross examined by the counsel[708] from the Public Attorney's Office, representing accused Labayan, et. al., witness also recanted his testimony that he saw accused Misuari Ampatuan in Crossing Masalay on November 23, 2009. He reiterated that he was not in said place because he was in the house of Rasul Sangki.

On re-direct examination, witness said that the condominium where he was interviewed is owned by Toto Mangudadatu. He also said that aside from the prosecutors, Toto Mangudadatu, Atty. Catambak, Kamarudin Ebrahim and his men were also present thereat. He likewise mentioned that when he was at the house of Rasul Sangki on November 23, 2009, he was with Thonti Lawani and a certain Abubakar, the one who also testified in this case.

During re-cross examination by the prosecution, witness clarified that the first time he went to the NBI in January 2010, his family was in the custody of Rasul Sangki and Mohamad Sangki. Then, in May 2010, the men of Toto Mangudadatu took his family and brought them to a compound in Buluan. Despite the opportunity to report the same considering that he was already at the NBI, he could not report because he alleged that he was threatened that he and his family will be killed.

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[708] Atty. Amando M. Cura.

Witnesses for accused Datu Zaldy Ampatuan:
(IDENTIFIED)

Witnesses presented during the Bail Proceedings:

1. Bai Noraldy Ampatuan – She is the daughter of the accused who was 12 years old then, when she last saw her father on November 22, 2009, prior to the alleged commission of the crimes charged.

2. Arlene Kaling – She was then the cook of the accused' family at their residence in Juna Subdivision, Davao City.

3. Daodi T. Adil – He was then the nanny/gardener of the accused' family at their residence in Juna Subdivision, Davao City.

4. Jackylou Alconera – She was then a receptionist at the Galleria Hotel, Davao City.

5. PO3 Datuali Amigos Amil – He claimed to be one of the security escorts of the accused at the time of the subject incident.

6. PO3 Tato Kuit Abo – He also claimed to be one of the security escorts of the accused at the time of the subject incident.

7. Ahmad Omar and Maulana Omar – They are brothers, who were politicians allegedly with the accused at Malacañang on November 23, 2009.

8. Bai Nora Ampatuan Asim – A sister of the accused.

9. Barjury B. Tuansi – He was then detailed as a member of the technical staff of the accused as Regional Governor of the ARMM.

10. Christina Roan M. Dalope – She is an Election Officer of the COMELEC. She was then the Chairperson of the Election Registration Board of Datu Hoffer, Maguindanao.

11. Marilou Rabe-Guerra – She works as an Executive Assistant at the ARMM Manila Liaison Office based in Makati City.

12. Fabian S. Fabian – He is the Supervisor of the Records Management Section of the Philippine Airlines, who is entrusted with the safekeeping of all accounting documents, tickets, and flight manifests, with the power to verify and issue certifications on travel details of passengers.

13. Parok S. Midtimbang – He is the Officer-in-Charge, Chief Administrative Officer of Datu Anggal Midtimbang municipality, and a

relative of the accused' wife, Bai Bong Ampatuan. Specifically, the grandfather of the latter is the brother of the accused.

14. Talib P. Salik – He works as the Private Secretary of Mayor Nathaniel S. Midtimbang in the municipality of Datu Anggal Midtimbang.

Witnesses presented during the Evidence-in-Chief:

15. Maribel B. Bato – She was the Administrative Assistant at the ARMM Manila Liaison Office based in Makati and at the same time, she was designated as Records Officer for outgoing communications. She testified that the accused was in the Manila Office on July 20, 2009.

16. Ricardo A. Chavez – He is the Beverage Manager of Century Park Hotel. He testified that on July 19 and 20, 2009, there was no function hall reserved or rented by the Ampatuans where they conducted the alleged meeting.

17. Ustadz, Moktar Ulama Alim – He is a shiek and religious lawyer practicing in Saudi Arabia. He distinguished an *Abd* (house help) from an *Hourr.*

18. Bai Ameerah Ampatuan Mamalapat – She is the sister of accused Zaldy Ampatuan, and the former employer of Lakmodin Saliao. She testified that Lakmodin Saliao went away and stole her belongings in 2010.

19. Buagas Tatak Sr. – He was one of the close-in security personnel of accused Zaldy Ampatuan. He testified that the security personnel and household helpers of the Ampatuans were not allowed inside the house of their masters especially during meetings.

20. Garry Franco Puaso – He is the Legal Officer of the Philippine National Police-Aviation Security Group. He testified about the Aviation Standard Operating Procedure on Firearms Facilitation issued in 2017.

Testimonies of witnesses presented during the Bail Proceedings

The witness, **BAI NORALDY M. AMPATUAN**[709] testified about the activities of her father, accused Datu Zaldy "Puti" Ampatuan, from November 21 to 23, 2009. She rememberd specifically that on November 21, 2009, her father spent the day celebrating her younger brother's (Syoti) 7th birthday party at their house in Davao City. The next day, November 22, 2009, at around 10:00 a.m., her father was then in their house when she asked permission from him to go to the mall. At around 9:00 p.m., she and her younger brother Syoti went to the room of her

[709] *See* Judicial Affidavit of Bai Noraldy M. Ampatuan, marked as Exhibit "1-Bail". *See* also TSN September 17, 18, and 24, 2014.

parents and saw them watching television. They were subsequently joined by her other siblings. Thereupon, their father asked their assistant, Arlene to bring in food. Together, they watched the accused's State of the Region Address (SORA) on DVD. She also remembered that her father already slept around 10:00 to 10:30 p.m. On November 23, 2009, after kissing her goodbye, her parents left very early in the morning.

On **cross examination,** the witness testified among others, that they have only one house in Davao. She cannot remember where she was on November 18 and 19, 2009. Neither does she recall the whereabouts of her father, during the first, second and third weekends of November 2009. What she knew was that her father went to Manila on November 23, 2009.

ARLENE KALING,[710] the cook of the accused at Juna Subd., Matina, Davao City, narrated that on November 22, 2009, the latter asked her to cook *lumpia*, and around 10:00 p.m., she brought the same to the room of the accused. The next day, November 23, 2009, while cooking breakfast, she saw the accused preparing to leave the house. The accused told her that he was leaving for Manila. She also mentioned that it was only on November 20, 2009, that she heard that the accused arrived at the house; and that he was not at home on November 16, 2009. However, on the latter date, the witness did not know where the accused was.

On cross examination, the witness testified among others, that except for her bare representation, she has no ID and no contract of employment to support her representation that she worked for the accused as a cook. She said that in 2009, the accused went home in his house in Davao about three (3) times a month, but she would not know how aften he went to Manila, Maguindanao and Shariff Aguak. She also did not notice if the accused had a cellphone in 2009.

Witness likewise testified that accused was not at home on November 16, 2009 although he was at home on November 20, 21 and 22, 2009. On the latter date, she was asked to cook lumpia by the accused.

Like Bai Noraldy, witness **DAODI T. ALI**[711] testified regarding the whereabouts of the accused from November 20 to 23, 2009. On November 20, 2009, he knew that the family, the house help, and the driver were at the house of the accused in Juna, Matina, Davao City. The next day, the accused called his attention and asked him regarding the preparation for the birthday party. The party started at 4:00 p.m. and ended at 10:00 p.m. On November 22, 2009, the witness saw the accused at home. The latter talked to him while he was watering the

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[710] *See* Judicial Affidavit of Arlene Kaling, marked as Exhibit "2-Bail". *See* also TSN September 24, 2014.
[711] *See* Judicial Affidavit of Daodi T. Adil, marked as Exhibit "3-Bail". *See* also TSN September 25, 2014.

plants. On November 23, 2009, he woke up early and prepared the bags of the accused since the latter told the former that he has a morning flight to Manila.

On cross examination, the witness mentioned that he also brought the children of the accused in their provincial house at Shariff Aguak. It takes four (4) to five (5) hours travel from Davao to Shariff Aguak.

The testimony of **JACKYLOU ALCONERA**[712] centered on the particular date of November 22, 2009. According to her, at 3:45 p.m., she was on duty at the front desk of the Galleria Hotel, Davao City. At that time, she saw the accused, the wife, and other companions at the hotel restaurant located just around three meters across the front desk. She remembered seeing the group eating snacks and staying for about an hour. Based on her recollection, they left at around 4:45 p.m. after settling their bill. She also testified that the accused is a regular customer of the hotel.

PO3 DATUALI AMIGOS ALI[713] testified on the whereabouts of the accused on November 22 to 23, 2009. He maintained that as one of the security escorts of the accused, he was with him at his house in Davao City on November 22, 2009 from morning until around 3:00 p.m. On the latter time, the accused, as accompanied by his security, went to the Galleria Hotel to have *merienda* with his wife. At 4:30 p.m., they left the hotel and returned to the house of the accused. According to the witness, the accused then stayed in the house and no longer left on that day.

The witness remembered that on November 23, 2009, while he was in the house of the accused, the latter left very early in the morning for Davao International Airport in order to go to Metro Manila. The accused told his security that he was scheduled for a meeting with then President Arroyo in Malacañang. On both dates, the witness alleged that he was with PINSP Nestor P. Chio, SPO1 Tha M. Mama, PO3 Tato K. Abo, and PO1 Mark Bryan A. Sakilan, and some others.

On cross examination, the witness testified among others, that he is a member of the Philippine National Police since 2003. In November 2009, he was assigned at the Beat Patrol of the Datu Hoffer Municipal Police Station, and not with the Police Security and Protection Group. He also did not know about any recall order, and that his detail as security escort of the accused started on October 02, 2008 and ended on December 07, 2009.

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[712] *See* Judicial Affidavit of Jackylou Alconera, marked as "Exhibit 4-Bail". *See* also TSN October 01, 2014.
[713] *See* Judicial Affidavit of PO3 Datuali Amigos, marked as "Exhibit 7-Bail". *See* also TSN October 8, 2014.

PO3 TATO KUIT ABO[714] essentially has the same testimony as his fellow security escort, PO3 Ali. He testified that he accompanied the accused in the morning of November 23, 2009 at the Davao International Airport because the latter had a flight to Manila.

On cross examination, the witness also testified that the accused, was in Davao City on November 21, 2009, together with his security escorts. He also claimed that in November 2009, he was assigned at the Datu Hoffer Police Station, and at that time, the Mayor of the municipal government was the wife of the accused, Bai Bong Midtimbang Ampatuan. Like PO3 Ali, he was not assigned at the Police Security Protection Group of the Philippine National Police. Nevertheless, he worked as security detail of the accused with more or less 10 escorts: six (6) came from the Philippine National Police (PINSP Nestor Chio who was allegedly the head of security detail, SPO1 Tha Mama, PO3 Tato K. Abo, PO2 Datuali Amil, PO1 Mark Bryan Sakilan, and PO1 Michael Samson), two (2) came from the Armed Forces of the Philippines (Sgt. Emilio Coronado, and Sgt. Alan Daud), and two (2) were civilians (Naim Zakaria, a civilian, and Ibrahim Ampatuan, CAFGU).

AHMAD R. OMAR[715] and his brother **MAULANA OMAR**[716] similarly stated in their judicial affidavits that on November 23, 2009, they and other political officials from Mindanao, met with the accused at the Century Park Hotel in Manila a little after 9:00 a.m. Subsequently, their group, with the accused, proceeded to Malacañang to attend the meeting about the political situation in Sulu with then President Gloria Macapagal-Arroyo. Both witnesses recalled that they first had a meeting with then Secretary Gabby Claudio for 20 minutes, and then with then President for 30 minutes.

At the request of the accused, they headed back to the Century Park Hotel after the meeting. At the hotel, the witnesses saw the accused sobbing. The latter allegedly received information that a massacre had taken place in Maguindanao and that the members of his family had been tagged as suspects in the massacre. The witnesses also heard the accused say: *"Kung totoong may kinalaman ang pamilya ko dito, bakit nila ito gagawin?"*

When cross examined, the witness, Ahmad R. Omar, mentioned that he considered himself as a political ally of the accused. The witness also stated that the accused received the information regarding the events in Maguindanao before noon, when they were already back at the Century Park Hotel.

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[714] *See* Judicial Affidavit of PO3 Tato Kuit Abo, marked as Exhibit "11-Bail". *See* also TSN October 8, 2014.
[715] *See* Judicial Affidavit of Ahmad R. Omar, marked as Exhibit "13-Bail". *See* also TSN October 22 and 23, 2014.
[716] *See* Judicial Affidavit of Maulana Omar, marked as Exhibit "15-Bail". *See* also TSN October 29, 2014.

BAI NORIA AMPATUAN ASIM[717] alleged that she did not attend the meeting on November 17, 2009 at 8:30 p.m. in Shariff Aguak – contrary to the testimony of prosecution witness Lakmodin Saliao. She recounted that on that day, she came from Hongkong and arrived in Manila at around 1:00 p.m. She then stayed in her apartment in Makati City, and no longer left for Shariff Aguak because there were no flights in the afternoon going to Cotabato City.

She likewise testified that on November 18, 2009, at around 2:00 p.m., she left for Davao to see her children. She was only able to come back to Shariff Aguak on November 19, after visiting them.

On cross as well as re cross examinations, the witness clarified that she did not opt to take the flight from Manila to Davao, in order to go to Shariff Aguak. She detailed that she arrived in Manila at 1:00 p.m.; it would take her one hour and thirty minutes to fly to Davao, and from Davao to Shariff Aguak, she would have to make a road trip for six hours to Shariff Aguak given the rough condition of the road.

The witness **BAJURY B. TUANSI**[718] testified that in his assignment to book the trips of the accused, he remembered that he booked for the accused for Manila from Awang Airport of Cotabato City, to depart on November 18, 2009. According to him, he and the accused flew to Manila on that date to attend the National Convention of LAKAS-Kampi-CMD at the Philippine International Convention Center scheduled the next day. The witness also remembered that he booked a Philippine Airlines flight for the accused scheduled on November 23, 2009, from Davao to Manila.

On cross and re-cross examinations, he mentioned that he made a tentative reservation on November 21, 2009 for this said flight. Then, the next day, the accused informed him that he should make a final booking of his travel for November 23, 2009. Thus, on November 22, 2009, he finally confirmed the booking of the accused' ticket.

Witness **CHRISTINA ROAN M. DALOPE**[719] alleged in her judicial affidavit about the whereabouts of the accused on November 17, 2009. On that date, she conducted an Election Registration Board hearing for the municipality of Datu Hoffer Ampatuan at the Municipal Hall. She knew that the Mayor, accused' wife Bai Bong, was present. She saw that the accused arrived at the Municipal Hall at around 7:30 p.m. She together with a fellow employee, extended a courtesy call to the accused at around 8:00 p.m. Thereafter, she returned to her office to finish her work.

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[717] *See* Judicial Affidavit of Bai Noria Ampatuan Asim, marked as Exhibit "14-Bail". *See* also TSN, October 23 and 30, 2014.
[718] *See* Judicial Affidavit of Bajury B. Tuansi, marked as Exhibit "16-Bail" and Affidavit of Bajury B. Tuansi dated January 04, 2010, marked as Exhibit "16-D-Bail". *See* also TSN, October 30, 2014.
[719] *See* Judicial Affidavit of Christina Roan M. Dalope, marked as Exhibit "17-Bail". *See* also TSN, November 05, 2014.

In open court, she testified that the hearings were conducted from 9:00 a.m. to 5:00 p.m. on November 16, 17 and 18, 2014. She also testified that their work output included the three excerpts for the proceedings on said dates as well as the signing of the forms. She also reported to her immediate supervisor, the Provincial Election Supervisor Estelita Orbase, who held office in Shariff Aguak, Maguindanao. As an Election Officer from the COMELEC, she was not answerable to the Mayor of Datu Hoffer, and even to the Regional Governor of the ARMM. Nevertheless, to pay respect and to give-updates, she mentioned that: "*Nag-up-date kami kay Mayor and at the same time since nandun si Governor nag-courtesy call na kami.*"

For her part, **MARILOU RABE-GUERRA**[720] testified about the circumstances involving the accused on July 20, 2009. According to the witness, that day was memorable for her because despite it being a Muslim holiday, she was required to work given that the accused would be in Metro Manila. July 20, 2009 was also memorable because it was the first time that she saw the accused to have seemingly suffered from a diabetic attack.

She remembered that on the aforesaid date, the accused went to their ARMM Manila Liaison Office, Makati City, at around noon. The latter asked for the paper he was supposed to sign. This important letter, purportedly prepared three days earlier, was addressed to the Department of Justice.

The witness narrated that after signing the letter, the accused left the office, and then returned between 5:00 p.m. to 6:00 p.m. She recalled that the accused tried to excuse himself from dinner because he really looked tired and weak. As observed by the witness, the accused had a diabetic attack, and thus, they gave him coke and skyflakes to increase his sugar level. They suggested to the accused that he should go to the hospital, but the latter replied that he just needed rest. The accused left the office at around past 10 in the evening.

The witness also testified that as an Executive Assistant for the ARMM officials, she was also in-charge with the scheduling, arrangement, meetings and travels of the officers. However, the witness did not know where the accused was billeted.

The witness specified that their office is located at Rada Street, Legaspi Village, Makati City. She remembered that in 2009, the accused went to their liaison office once a month. The accused went to the office on July 20, 2009, which was a Muslim holiday called the *Feast of Laylat al Miraj* (Ascension of the Prophet Mohammad). Despite it being a holiday, she, together with other officemates, went to work. However, there is no

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[720] *See* Judicial Affidavit of Marilou Rabe-Guerra, marked as Exhibit "18-Bail". *See* also TSN, November 06, 2014.

proof that they reported for work on that date. Nevertheless, their immediate superior, Datu Benzar Ampatuan, told them that because the accused only comes to Manila once a month, and given the important documents, they were required to go to work.

She also estimated that the accused went to the office after lunch, or around 1:00 p.m. But she further clarified that "after lunch" meant after eating their lunch. When the accused arrived, he only signed one document but he had other documents, invitations and other correspondences on his table. The document that the accused signed after lunch on July 20, 2009 bore a stamp stating that the same was released on July 20, 2009 (a holiday) at 12:00 noon. The witness also maintained that the accused indeed returned to the office at around 5:00 to 6:00 p.m. for the latter had to check documents and give instructions to them. She also clarified that they no longer insisted that the accused be brought to the nearby hospital because he said that coke and skyflakes would already raise his sugar level.

The contents of the testimony of **FABIAN S. FABIAN**[721] refer to flight details with the Philippine Airlines. He found that the Philippine Airlines had a record, under the name of the accused, for a flight from Davao to Manila on November 23, 2009, and a flight from Manila to Cotabato on November 24, 2009. The witness also found from the systems of the Philippine Airlines that Noria Ampatuan Asim – another witness of the defense – had no booked flights on November 17, 2009 from either Manila to Cotabato, or Manila to Davao.

PAROK S. MIDTIMBANG[722] testified regarding his encounter with the accused, as well as the latter's wife, Mayor Bai Bong, on November 17, 2009. He recounted that at that time, he sought the help of the accused for a job that had a higher salary than that of his current work, a security guard of Mindanao State University. He thus, paid a visit to the accused at his satellite office in Shariff Aguak on November 17, 2009, at around 7:00 a.m. He actually met the accused, who inquired about the purpose of his visit. As the accused told him that the latter had a business in Cotabato, witness was asked to return at 3:00 p.m. of that day. When he left the premises, he saw that the accused, together with his convoy, was en route to Cotabato.

As instructed, the witness returned to the office in Shariff Aguak at 3:00 p.m. but was told that the accused was with Bai Bong at the Municipal Office of Datu Hoffer Ampatuan. Then, the witness went to the Municipal Hall and waited for the accused. When the latter arrived at around 7:30 p.m., they both talked about his search for a better job at

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[721] *See* Judicial Affidavit of Fabian S. Fabian, marked as Exhibit "19-Bail". *See* also TSN, November 19, 2014.
[722] *See* Judicial Affidavit of Parok S. Midtimbang, marked as Exhibit "20-Bail". *See* also TSN, November 19, 2014.

ARMM, as well as his financial needs. At the conclusion of the meeting, the accused told him to wait because he and Bai Bong would have to talk. While waiting, he noticed that the accused had to talk to other persons.

At around 9:00 p.m., the accused signified to the witness that he needed to rest because he was already tired. Later on, Bai Bong told him to just go home with them and sleep at their house because she and the accused will have to stay late to finish their work in the office. At 10:00 p.m., he went home with them and slept in their house. While there, he did not notice any other persons aside from the accused, his wife, and the security personnel. In the morning of the next day, Bai Bong talked to him and mentioned that the accused would look for a job for him. According to the witness, Bai Bong gave him ₱10,000.00 as financial assistance. After saying his "thanks," the witness left at around 7:00 a.m.

On cross examination, the witness clarified that on November 17, 2009, he only saw the accused at around 7:00 a.m., and 9:00 p.m.

Witness **TALIB P. SALIK**[723] recalled the events on November 16, 2009. He testified that Mayor Nathaniel S. Midtimbang ordered him to bring documents to the accused. The witness, together with the Mayor's driver, arrived at the office of the accused in Shariff Aguak at around 10:00 a.m. Thereafter, the documents were received. When told by the accused to relay to the Mayor that the documents were incomplete, he went outside and talked to the Mayor in his cellphone, and received instructions at about about 10:30 a.m. Then he left.

The witness revealed that his superior, Mayor Midtimbang, is the brother of Bai Bong. He also mentioned that the Mayor asked him to testify and even told him that the accused had been implicated to have attended an alleged meeting on November 16, 2009. As regards his delivery of the document, there is no stamp bearing the witness' name to show that he delivered the document. He also delivered the document at the satellite office of the accused in Shariff Aguak notwithstanding that the letter indicated the delivery address at ORG Complex, Cotabato City. Nevertheless, the witness confirmed that the stamp dated November 16, 2009, 10:20 a.m., signified that the Office of the Regional Governor of the ARMM did receive the document. As for seeing the accused, he clarified that he had no personal knowledge of his whereabouts before he went, and after he left the satellite office.

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[723] *See* Judicial Affidavit of Talib P. Salik, marked as Exhibit "21-Bail". *See* also TSN, November 20, 2014.

Testimony of Maribel B. Bato (presented during accused' Evidence-in-Chief)

MARIBEL B. BATO was presented in court on August 03, 2017. In her ***Judicial Affidavit (Exhibit "22 and sub-markings),*** witness testified that in 2009, she was the Administrative Assistant in ARMM Manila Liaison Office based in Makati and at the same time, she was designated as Records Officer for outgoing communications. On July 20, 2009, she reported for work at the ARMM Liaison Office even if it was a Muslim holiday as they were instructed by Datu Benzar Ampatuan, the Executive Assistant of then Regional Governor Zaldy Ampatuan, because the latter will arrive at the office. He arrived around 10:00 or 11:00 a.m. After having brunch, he checked the documents on his table, then he left the office. Witness did not know where accused went. Accused returned at around 5:00 p.m. and proceeded with the reviewing of documents at his table. Witness said that she can vividly remember the events on said date because it was the time when the accused suffered diabetic attack. After accused had recovered, he left the office at 10:00 p.m.

On cross examination on even date, witness claimed that they have a logbook at the office but they did not record their attendance on July 20, 2009 since it was a Muslim Holiday. She said that aside from her testimony, she had no other proof to show that she reported for work on that day.

Testimony of Ricardo A. Chavez (presented during accused' Evidence-in-Chief)

RICARDO A. CHAVEZ was presented in court on August 9, 2017. In his ***Judicial Affidavit (Exhibit "23" and sub-markings),*** witness alleged that he is the Beverage Manager of Century Park Hotel, and that in availing a function room, one will make a reservation with the Banquet Sales Office, then sign a contract for the use of the area on the date and time preferred. A banquet event order is then routed to all members of the management team. He said that there were no function rooms used on July 19, 2009 while only one function room was used on July 20, 2009 by Eton Properties Philippines, Inc. from 10:00 a.m. to 3:00 p.m., then by the Philippine Christian University from 7:00 p.m. to 11:00 p.m. based on the ***banquet event orders (Exhibits "25" and "26")*** that were given to him and the ***Banquet Monthly Forecast (Exhibit "28").*** He also said that he cannot think of any other proper venue for meetings but the function rooms because the coffee shop is not conducive to conducting meetings involving more than 20 people. He also presented the ***lay out of the hotel (Exhibit "30").***

When cross examined, witness testified among others, that he did not report for work on July 19, 2009 as it was his day off, but he went for work on July 20, 2009 and his tour of duty was from 10:00 a.m. to

8:00 p.m. Since it was a long time ago, witness cannot remember who were in the dining area and the coffee shop on July 20, 2009, so he was not aware whether or not there was a meeting.

On re-direct examination, witness said that the coffee shop is an open area with a capacity of roughly about 200 people and anybody can go there. He also described that the coffee shop is at the ground floor and about seven (7) to 10 meters away from the entrance of the hotel. In his 40 years with the hotel, he has not seen a group of people exceeding ten conducting a meeting at the coffee shop.

Testimony of Ustadz Moktar Ulama Alim (presented during accused' Evidence-in-Chief)

USTADZ MOKTAR ULAMA ALIM was presented on the witness stand on August 16, 2017. In his ***Judicial Affidavit (Exhibit "31" and sub-markings),*** witness alleged that he is a shiek, a leader in a Muslim community and a religious lawyer, sent by the OWWA as a case officer who represents Filipinos before a Sharia Court.

He said that in Islam, there are two (2) kinds of persons, an *Hourr* who is a person with freedom and an *Abd* who is a slave or house help. An *Abd* has certain duties to his master, and Islam imposes certain limitations on his being. Since a house help is an *Abd*, he is not allowed to give his opinion on matters pertaining to his employer and is prohibited from mingling with his employer unless summoned. Under Qu'ran, it is absolutely prohibited for any house help to get involved and meddle with their employer's affairs especially in meetings but there are only two (2) expections: when the house help would be elevated to the status of spouse of the employer or when he is emancipated – when the employer publicly announces that his house help is no longer an *Abd.*

On cross examination, witness confirmed that he fulfills his work or profession as a religious lawyer not in the Philippines but in Saudi Arabia. He affirmed that he did not know personally Zaldy Ampatuan or any of the Ampatuans charged in these cases. He cannot tell how Andal, Sr. treated his househelps when the latter was still living.

Testimony of Bai Ameerah Ampatuan Mamalapat (presented during accused' Evidence-in-Chief)

BAI AMEERAH AMPATUAN MAMALAPAT, the Vice-mayor of Shariff Saydona in 2008, appeared in court on August 23, 2017. She executed her ***Judicial Affidavit (Exhibit "32" and sub-markings).***

She testified among others, that prosecution witness Lakmodin Saliao was her former household helper stationed at her house in Shariff

Aguak, Maguindanao. She employed Saliao in 2006 until she fired him in 2010 for stealing her bag containing her Rolex watch and ₱100,000.00. She further testified that her policy in the house is that after the household helpers do their specific tasks, they cannot linger inside the house and they should stay in their quarters or in the kitchen because it has been the tradition in Muslim culture that they do not co-mingle with their helpers. She said that Saliao had no access to confidential and sensitive matters because such cannot be given to household helpers. She recalled that she only brought Saliao with her once in the mansion of her father, Andal Sr. in Shariff Aguak during the latter's thanksgiving. Though his father knew Saliao, the latter did not report to the needs and commands of his father. She was not sure if her siblings knew Saliao.

On cross examination, witness confirmed that she was appointed by accused Zaldy Ampatuan as Vice-Mayor of Shariff Saydona in 2008. She clarified that she did not fire Lakmodin Saliao but he voluntarily went away when he stole something in the office in 2010. She had the incident blottered in May 2010, but she admitted that it was only in 2015 when she filed a complaint against Saliao because she got busy and became sick for almost two (2) years from 2014 to 2015. She affirmed that from November 13 to 17, 2009, she was in Manila and she was not with accused Zaldy Ampatuan and Lakmodin Saliao so she cannot confirm whether they attended a meeting or not.

Testimony of Buagas Tatak Sr. (presented during accused' Evidence-in-Chief)

BUAGAS TATAK SR. was presented in court on August 24, 2017 and September 14, 2017. In his ***Judicial Affidavit (Exhibit "33" and sub-markings),*** witness alleged that he was the close-in security of accused Zaldy Ampatuan from 2008 until 2010. There were around 10 security personnel from AFP, PNP and ARMM. He became familiar with the daily routine of the accused. The accused had two offices, one in Shariff Aguak and in Shariff Kabunsuan, and the accused did not conduct meetings in his own house because the latter values his privacy. He knew Lakmodin Saliao as the household helper of Bai Ameerah. He further stated that in Islam, household helpers and the security are prohibited from joining family meetings, and they regard and respect their *datus* highly, so they do not intervene in their meetings.

When cross examined on September 14, 2017, witness presented a ***Certificate of Employment dated September 4, 2017 (Exhibit "34" and sub-marking)***, which indicates that he was a security officer of ARMM from 2008 to 2010 (though the prosecution noted that there was no statement therein that he was assigned specifically to accused Zaldy). Aside from this document, witness confirmed that he had no other proof that he was detailed with accused Zaldy. He said that he only met Lakmodin Saliao once during a "kanduli"

held by Bai Ameerah and he never talked to him. He further testified that he had no personal knowledge of the activities of Saliao from 2008 to 2009. He did not even know that Saliao testified in Court for these cases. He also mentioned that it was Andal, Sr. who goes to his son, Zaldy when the meeting is about politics, but when it comes to family matters, it was Datu Zaldy who goes to the house of his father, Andal, Sr. He also said that he had no personal knowledge what transpired during those meetings in the house of accused Zaldy because he was not staying inside the house.

On re-direct examination, witness confirmed that he was hired by the Office of the Regional Governor. He said that aside from the family members of the Ampatuans, no one was allowed to stay inside the house.

Testimony of Garry Franco C. Puaso (presented during accused' Evidence-in-Chief)

GARRY FRANCO C. PUASO appeared in court on January 25 and February 01, 2018. In lieu of his direct testimony, he executed his ***Judicial Affidavit (Exhibit "35" and sub-markings).***

In said affidavit, Puaso claimed that he is the Legal Officer of the Philippine National Police-Aviation Security Group (PNP-AVS). He presented the ***Aviation Standard Operating Procedure on Firearms Facilitation issued in 2017 (Exhibit "35-D").*** He explained that the procedure prior to 2017 was the same as that appearing in the above-mentioned protocol since the document essentially reduced the protocol in written form. The only difference, however, is that prior to 2017, it was the owner of the firearm who clears it of the magazine, while starting 2017, under the said protocol, it is the Firearms Facilitator and not the owner who would clear the firearms of the magazine. As to the limit on the number of firearms that can be transported in a passenger flight, witness said that a civilian passenger is allowed to transport only one (1) short licensed firearm, unless authorized by the appropriate authority such as Chief, PNP, PNP/CSG, FEO/CS, AFP. He further explained that long firearm/s may not be transported by passengers unless specifically authorized by the appropriate authority and only for a specific purpose. If allowed, the long firearm should be placed in a case or crate before entering the airport vicinity, and all other requirement that pertains to documentation and legality of the owner shall be also applied for long firearms transport. Gun club member/s and security agencies may be allowed to transport more than two (2) licensed firearms, provided that it should be properly secured and separated in different cases/box and must be escorted by at least two (2) security personnel and accompanied by the firearms facilitator. He mentioned that it is prohibited to hand-carry the firearms or place them inside the passenger's cabin baggage. If the number of firearms to be transported is more than three, an additional Special Permit issued by PNP-Camp Crame, and sometimes, a

representative from PNP-Camp Crame will be there to escort the facilitation of firearms.

When cross examined on February 01, 2018, witness testified that he was assigned in his unit since mid-October 2017. He had no personal knowledge as to firearms facilitation or transporting it into commercial flight before 2017.

During re-direct examination, when asked if his office received any report or any document showing that the protocol has ever been violated, the witness answered in the affirmative stating that his office received a report coming from the airport that the Mayor of a certain tourist area in Mindanao which is covered by Martial Law, tried to transport his firearm but the witness did not allow him. Other than that, he cannot recall of any other similar incident.

On re-cross examination, witness was asked if the protocol can be breached to which he reiterated that the Mayor was not allowed to transport his firearm so there was no breach in the protocol, although there was an intention, but his office did not allow it.

Witnesses for accused Datu Anwar Ampatuan, Sr.:
(IDENTIFIED)
WITH REBUTTAL EVIDENCE

1. Accused Datu Anwar Ampatuan, Sr. – He is the former Mayor of Shariff Aguak from October 2005 to June 2010. He is the son of accused Datu Andal, Sr.; brother of Datu Zaldy, Datu Andal, Jr., and Datu Sajid Islam; the brother-in-law of Datu Akmad "Tato"; and the father of Datu Anwar "Datu Ipi", Jr. and Datu Anwar Sajid "Datu Ulo", all surnamed Ampatuan. He claimed that he was presiding a Regular Session of the Sanggunian Bayan on November 23, 2009. He denied attending the alleged meetings in connection with the plan to kill the Mangudadatus on November 17 and 22, 2009. ***(His testimony was adopted for accused Datu Ulo and Datu Ipi Ampatuan)***

2. Wahabin Samalan Malawan – He was the personal assistant of Datu Anwar "Ipi" Ampatuan, Jr. He corroborated the testimony of accused Datu Anwar, Sr. that the latter together with his sons, Datu Ipi and Datu Ulo attended a session at the Municipal Hall on November 23, 2009. ***(His testimony was adopted for Datu Ulo and Datu Ipi)***

3. Yasser Andal Upam – He was the personal assistant of Datu Anwar Ampatuan, Sr. He corroborated the testimony of Datu Anwar, Sr. and Wahabin Samalan Malawa as to their whereabouts on November 23, 2009. ***(His testimony was adopted for Datu Ulo and Datu Ipi)***

4. Bai Farisha Imam Ampatuan – She is the wife of Datu Anwar Sajid "Ulo" Ampatuan. She claimed that her husband, brother-in-law Datu Ipi and father-in-law Datu Anwar attended the regular session at the Municipal Hall on November 23, 2009. She also claimed that the accused were only implicated because of their surname. ***(Her testimony was adopted for Datu Ulo and Datu Ipi)***

5. Kamad Guiamat Hasim – He saw the three accused arrived at the Municipal Hall on November 23, 2009 at around 8:00 a.m., and when he left said place at around 10:00 a.m. that day, he still saw the three inside the hall.

6. Alonto Guiamadil – He is the cousin of witness Kamad Guiamat Hasim, who corroborated the latter's testimony. ***(His testimony was adopted for Datu Ulo and Datu Ipi)***

Testimony of Datu Anwar Ampatuan, Sr.

DATU ANWAR AMPATUAN, SR. appeared in court on March 01, 2017. For his direct testimony, he executed his ***Judicial Affidavit (Exhibit "14" and sub-markings).*** In his affidavit, witness alleged that he was the Mayor of the Municipality of Shariff Aguak from October 2005 to June 30, 2010.

On November 16, 2009, he narrated that he took the Davao-Manila flight aboard Philippine Airline (PAL) flight PR 812 and took the return flight Manila-Cotabato on November 20, 2009 in PAL flight PR 187. He explained that he was in Manila during said period because he was going to fetch his son Anwar Ampatuan, Jr. who arrived from the United States at the NAIA airport on November 18, 2009, and he attended the Lakas-Kampi Christian Muslim Demoractic Convention at the PICC on November 19, 2009. This was in contravention of the testimony of prosecution witness Lakmodin Saliao that the accused attended a conspiracy meeting to ambush and kill the Mangudadatu convoy, allegedly held on November 17, 2009 at the house of Datu Zaldy Ampatuan. To support his claim, witness presented ***Certifications from PAL dated November 11, 2011 (Exhibits "12"[724] and "13").***

Witness also belied the testimony of Kenny Dalandag that he was present in the meeting on November 22, 2009. He testified that the whole day of said date, he was inspecting a project site of the DSWD Housing Project located at Brgy. Poblacion Mother, Shariff Aguak, together with Engr. Halil A. Lucas, the Municipal Engineer; Jakere S. Baganian, then Municipal Planning and Development Coordinator; and Dancy L. Laguda, contractor-supplier. After the inspection, they proceeded to the Municipal Hall to finalize the details of the housing project and to prepare for the

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[724] Previously marked as Exhibit "15" during the preliminary conference; *See* Order dated October 18, 2017.

Regular Joint Session of the Sangguniang Bayan with the Barangay Captains to be held the next day. He presented the ***Affidavits of Engr. Lucas and Jakere Baganian (Exhibits "2"*** [725] ***and "3",*** [726] ***respectively),*** but the same were denied admission.

In the morning of November 23, 2009, he presided the meeting of the Regular Joint Session of the Sangguniang Bayan and the Barangay Captains of the Municipality of Shariff Aguak at the Municipal Hall. He alleged that he was with his sons, Anwar Ampatuan, Jr. and Anwar Sajid Ampatuan at the meeting who were also members of the Sanggunian. He then received an information that there was a gunfight which took place at the other town, so he adjourned the session at lunch time to verify the said information. As proof that he was attending a session on said date, he presented the following documents: 1) ***Attendance of the Joint Session marked (Exhibit "4");***[727] 2) ***Minutes of the Regular Officials held on November 23, 2009 (Exhibit "5");*** [728] 3) ***Forum/Dialogue among Sangguiniang Bayan Members and Barangay Handwritten draft of the Minutes of the Regular Meeting on November 23, 2009 (Exhibit "6");***[729] ***4) Attendance Sheet of the Barangay Chairwomen on November 23, 2009 (Exhibit "7");*** [730] ***5) another Attendance Sheet dated November 23, 2009 (Exhibit "8");*** [731] ***and 6) Letter of Appeal prepared by Sanggunian Bayan members, employees and Barangay Officials of Municipality of Shariff Aguak (Exhibit "9").*** [732] **He also presented the** ***Karagdagang Salaysay of PINSP Rex Ariel Tabao Dingon (Exhibit "11" and sub-marking)***[733] as part of his evidence where Diongon mentioned that he did not see the accused at Brgy. Salman, Ampatuan, Maguindanao at any time on November 23, 2009.

When cross-examined on even date, witness said that he cannot recall when Sukarno Badal testified and pinpointed him as one of

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[725] Previously marked during the preliminary conference; This document was denied admission as part of accused's evidence because during the hearing on May 31, 2017, accused was ordered to have waived the right to present intended witnesses Engr. Halil Lucas and Jakere Baganian for failure to present said witnesses; *See* Order dated October 18, 2017.

[726] Previously marked as Exhibit "4" during the preliminary conference; This document was denied admission as part of accused's evidence because during the hearing on May 31, 2017, accused was ordered to have waived the right to present intended witnesses Engr. Halil Lucas and Jakere Baganian for failure to present said witnesses; *See* Order dated October 18, 2017.

[727] Previously marked as Exhibit "6" during the preliminary conference; *See* Order dated October 18, 2017.

[728] Previously marked as Exhibit "7" during the preliminary conference; *See* Order dated October 18, 2017.

[729] Previously marked as Exhibit "8" during the preliminary conference; *See* Order dated October 18, 2017.

[730] Previously marked as Exhibit "9" during the preliminary conference; *See* Order dated October 18, 2017.

[731] Previously marked as Exhibit "10" during the preliminary conference; *See* Order dated October 18, 2017.

[732] Previously marked as Exhibit "11" during the preliminary conference; *See* Order dated October 18, 2017.

[733] Previously marked as Exhibit "13" during the preliminary conference; the same exhibit was likewise offered by the prosecution as part of their evidence which was marked as Exhibit "Nona-M" and sub-markings; *See* Order dated October 18, 2017.

those who attended the meeting conducted on July 16, 2009 at Century Park. He confirmed that before his flight on November 16, 2009, he came from Shariff Aguak, that there was no time indicated in the Certification from PAL as to what particular time he indeed boarded the plane, and that his only proof that he boarded the plane was the said Certification. He also affirmed that on November 22, 2009, he was in Shariff Aguak where the place of residences of his father, Andal, Sr., Zaldy Ampatuan and Andal, Jr. were also located. Witness explained that the session of the members of the Sanggunian Bayan can be presided by the Vice-Mayor, Mayor or even the councilors as decided upon by the body. He admitted that in any of the Attendance Sheets he presented as well as in the Minutes of the Meeting, his name and signature can nowhere be found. He said that aside from these documents, he had no other documents to support his claim. He confirmed that his defense that his family was framed up for these massacres did not reflect on his Counter-Affidavit submitted to the DOJ. He was not aware that when witness Diongon was presented in Court, there were several stipulations entered into by his counsel stipulating among others that if said witness will be asked to identify the accused, Diongon will be able to identify him. He cannot estimate how far Shariff Aguak is from Barangay Salman, Ampatuan despite the fact that he was born at the former and lived there until December 2009.

The prosecution sought the marking as part of its rebuttal evidence the ***Attendance Sheet of the Barangay Chairwoman*** *(Exhibit "7" for the accused –* ***Exhibit "(18) T-rebuttal" and sub-markings)****.*

On re-direct examination, witness explained that his signature does not appear on the Attendance Sheet of Barangay Captains because he was not a member of the Barangay Captains, same is true with the Attendance Sheet for the members of the Sanggunian because he was not an SB member. He further explained that it is not necessary that a Presiding Officer signs the attendance sheet. He said that his defense of frame up was not included in his Counter Affidavit because at first, the person who mentioned this was Kenny Dalandag.

Testimony of Wahabin Samalan Malawan

WAHABIN SAMALAN MALAWAN appeared in court on March 01, 2017. Based on his ***Judicial Affidavit (Exhibit "15" and sub-markings),*** he was the personal assistant of Datu Anwar "Ipi" Ampatuan, Jr. He testified that on November 23, 2009, he was with Datu Ipi and Datu Anwar Sajid "Ulo" Ampatuan who will attend the session of the Sanggunian Bayan. He said that he also saw Datu Anwar Ampatuan, Sr. attended the session at the Municipal Hall who was then the Mayor of Shariff Aguak. He stayed outside the SB room from the time the session started at 9:00 a.m. until past 10:30 a.m. Around 11:30 a.m., they left

the Municipal Hall and went to the house of Datu Anwar, Sr. to take lunch. After they had lunch, they heard about the massacre.

On cross examination, witness testified that after eight (8) years from the incident, it was his first time to execute an affidavit to help Datu Anwar, Sr., Datu Ipi and Datu Ulo. He did not prepare any document pertaining to what occurred on November 23, 2009. He said that he did not attend the meeting and he was not able to see the participants as he was only an outsider. He also confirmed that he did not see Anwar, Sr. on November 16, 2009. He cannot provide any document to prove that he was indeed the personal assistant of Datu Ipi. He affirmed that Datu Anwar, Sr., Datu Ipi and Datu Ulo were all in Maguindanao on November 23, 2009.

On re-direct examination, witness explained that he brought Datu Ipi and Datu Ulo to the Municipal Hall on November 23, 2009 and then he stayed outside. He also brought their things inside their office.

Testimony of Yasser Andal Upam

YASSER ANDAL UPAM appeared in court on March 01, 2017. In his ***Judicial Affidavit (Exhibit "16" and sub-markings),*** he mentioned that he was the personal assistant of Datu Anwar Ampatuan, Sr., a childhood friend of Datu Ipi and Datu Ulo, and that he lived in one house with them. He corroborated the testimony of earlier witness Wahabin Samalan Malawan regarding their whereabouts on November 23, 2009.

During his cross examination, witness testified that he served as the accused's personal assistant from 2004 until 2009. He said that it was only after seven (7) years that he executed an affidavit for this case because there were people like him who wanted to testify but they were afraid because they were being threatened by Akmad Ampatuan, who is one of the people of Toto Mangudadatu. He admitted though that he had no document to back up his claim. He manifested that it was him who approached the counsel of the accused to give his testimony. He said that in 2009, there was no one who threatened him to speak the truth and despite said fact, he did not execute any affidavit to help the accused and his sons. He also had no proof to show that he was indeed a personal assistant of Datu Anwar, Sr. He cannot estimate how far Shariff Aguak is from Ampatuan town. He did not know Sukarno Badal and Norodin Mauyag, but he included those names in his affidavit.

On re-direct examination, he confirmed that Datu Anwar, Sr., Datu Ipi and Datu Ulo were inside the room where the session was being held on November 23, 2009.

Testimony of Bai Farisha Imam Ampatuan

BAI FARISHA IMAM AMPATUAN appeared in court on March 29, 2017. For her direct testimony, she executed her ***Judicial Affidavit (Exhibit "17" and sub-markings).*** She is the wife of Datu Anwar Sajid "Ulo" Ampatuan. They were living with her parents-in-law, Datu Anwar Ampatuan, Sr., and her brother-in-law and family, Datu Anwar Sajid "Ipi" Ampatuan.

In her Judicial Affidavit, she alleged that on November 23, 2009 after they had breakfast, her husband, brother-in-law and father-in-law left for work to the Municipal Hall of Shariff Aguak to attend the regular session. At around noon, they arrived home to have lunch. While having lunch, they received the news about the gunfight, but they were not bothered as such incident was not unusual in their area. Later that day, they learned from the news about the ambush of the Mangudadatu convoy and that the Ampatuans were blamed for the incident. At the said news report, her husband was not yet mentioned because he was still a minor then. But when he reached the age of majority, her husband was eventually charged as one of the suspects. She claimed that her family was only involved because of their last name.

On cross examination, witness admitted that she had no proof to support her allegations stated in her affidavit and that it was her first time to execute an affidavit in connection with these cases. She testified that she is not familiar with the town of Ampatuan and Sitio Masalay, but she confirmed that Sitio Masalay, Brgy. Salman, is just adjacent to Shariff Aguak. She cannot however, estimate how far would be the travel time between these places. She also said that the town of Ampatuan and Shariff Aguak are also adjacent to each other. When asked if she or any of her relatives filed any case against the persons who filed cases against her husband, brother-in-law and father-in-law, she answered in the negative. According to her, she was not disputing the presence of her husband, father-in-law and brother-in-law in any meetings they have attended in July 2009, November 20, 2009 and those dates prior to November 23, 2009 because she had no personal knowledge.

Testimony of Kamad Guiamat Hasim

KAMAD GUIAMAT HASIM appeared in court on May 31, 2017. In his ***Judicial Affidavit (Exhibit "19" and sub-markings),*** he alleged that on November 23, 2009, he saw accused Datu Anwar, Sr., Datu Ipi and Datu Ulo alighted from their cars and proceeded inside the Municipal Hall of Shariff Aguak. He was then in front of the Municipal Hall about to enter to secure a Birth Certificate for his child. He stayed there for about an hour. Thereafter, he hurriedly left as he received news that his uncle died. Before leaving, he was able to see the three accused inside the hall.

On cross examination, witness confirmed that he lives in Shariff Aguak since 2004, but he cannot estimate its distance from Brgy. Salman. He said that if using a motorcycle as transportation, it will take around 10 to 15-minute travel, if no traffic. He described Datu Anwar, Sr. as wearing white shirt and black shoes while Datu Ipi was wearing something gray and maong pants, and Datu Ulo was wearing black shirt and maong pants on that day.

Testimony of Alonto Guiamadil

ALONTO GUIAMADIL appeared in court on May 31, 2017. In his ***Judicial Affidavit (Exhibit "20" and sub-markings),*** he said that he is the cousin of witness Kamad Guiamat Hasim whose testimony he is corroborating. He testified that on November 23, 2009, their uncle died. Since he cannot contact Kamad to inform him of the news, he went to the latter's house but he was informed that Kamad went to the Municipal Hall. He thus, proceeded to the Municipal Hall where he was able to talk to Kamad, and saw Datu Ipi and Datu Ulo inside the hall.

On cross examination, witness said that he cannot remember the outfit of Datu Ulo because he was in a hurry. He also said that it was the first time that he saw the two brothers and even confirmed their identity to his cousin Kamad. He confirmed that it was Bai Zahara Ampatuan, wife of Datu Anwar, Sr. who paid for their tickets to testify.

Witnesses for accused Datu Anwar "Datu Ipi" Ampatuan, Jr.:
(IDENTIFIED)
WITH REBUTTAL EVIDENCE

1. Accused Datu Anwar "Datu Ipi" Ampatuan, Jr. – He was a member of the Sangguniang Bayan of the Municipality of Shariff Aguak from 2002 to 2010. He is the son of Datu Anwar Ampatuan, Sr. and brother of Datu Anwar Sajid "Datu Ulo" Ampatuan. He claimed that he never attended the alleged meeting on November 16, 2009 at the mansion of Datu Andal Ampatuan, Sr. because he left for the United States on November 9, 2009 and returned to the Philippines on November 18, 2009 only. He also claimed that he attended the Regular Session of the Sanggunian Bayan on November 23, 2009.

2. Menze Mendeg Balabaran – He was a member of the Sanggunian Bayan of the Municipality of Shariff Aguak. He testified that he was with Datu Ulo and Datu Ipi on November 23, 2009, attending a regular joint session presided by then Mayor Datu Anwar Ampatuan, Sr. ***(His testimony was adopted for Datu Ulo)***

3. Mohammad Sali Upam – He is the son of Hadja Labi Upam, who was then the Barangay Captain of Brgy. Bagong Upam, Shariff Aguak. He

claimed that he accompanied his father who attended the regular joint session at the Municipal Hall on November 23, 2009. ***(His testimony was adopted for Datu Ulo)***

<u>Adopted Testimonies</u>

4. Accused Datu Anwar Ampatuan, Sr. – He is the former Mayor of Shariff Aguak from October 2005 to June 2010. He is the son of Datu Andal Ampatuan, Sr. brother of Datu Zaldy, Datu Sajid Islam and Datu Andal Ampatuan, Jr., and the father of Datu Anwar "Datu Ipi" Ampatuan, Jr. and Anwar Sajid "Datu Ulo" Ampatuan. He claimed that he was presiding a Regular Session of the Sanggunian Bayan on November 23, 2009. He also denied attending the alleged meetings in connection with the plan to kill the Mangudadatus on November 17 and 22, 2009.

5. Accused Datu Anwar Sajid "Datu Ulo" Ampatuan - He was a member of the Sanggunian Bayan of the Municipality of Shariff Aguak from 2007 to 2010. He is the son of Anwar Ampatuan, Sr. and brother of Anwar "Datu Ipi" Ampatuan, Jr. He claimed that he was with his father and brother Datu Ipi on November 23, 2009 at the Municipal Hall of Shariff Aguak attending a regular session.

6. Wahabin Samalan Malawan – He was the personal assistant of Datu Anwar "Ipi" Ampatuan, Jr. He corroborated the testimony of accused Anwar, Sr. that the latter together with his sons, Datu Ipi and Datu Ulo attended a session at the Municipal Hall on November 23, 2009. ***(His testimony was adopted for Datu Ipi and Datu Ulo)***

7. Yasser Andal Upam – He was the personal assistant of Datu Anwar Ampatuan, Sr. He corroborated the testimony of Datu Anwar, Sr. and Wahabin Samalan Malawa as to their whereabouts on November 23, 2009. ***(His testimony was adopted for Datu Ipi and Datu Ulo)***

8. Bai Farisha Imam Ampatuan – She is the wife of Datu Anwar Sajid "Ulo" Ampatuan. She claimed that her husband, brother-in-law Datu Ipi and father-in-law Datu Anwar attended the regular session at the Municipal Hall on November 23, 2009. She also claimed that the accused were only implicated because of their surnames. ***(His testimony was adopted for Datu Ipi and Datu Ulo)***

9. Alonto Guiamadil – He is the cousin of witness Kamad Guiamat Hasim, who corroborated the latter's testimony. ***(His testimony was adopted for Datu Ipi and Datu Ulo)***

Testimony of Datu Anwar "Datu Ipi" Ampatuan, Jr.

DATU ANWAR "DATU IPI" AMPATUAN, JR. appeared in court on November 08, 2017. For his direct testimony, he executed his ***Judicial Affidavit (Exhibit "5" and sub-markings).***

In his affidavit, witness narrated that on November 23, 2009, he, together with his father and brother were in the Municipal Hall of Shariff Aguak to attend the regular joint session/meeting which was presided by his father, the then Mayor of the Municipality of Shariff Aguak. To support his claim, he presented the ***Attendance Sheet dated November 23, 2009 (Exhibit "1" and sub-marking);*** **the *Minutes of the Meeting (*Exhibit "2"); and the *handwritten draft of the said Minutes (Exhibit "3").*** Said meeting started at 9:00 a.m. and ended a little past 11:00 a.m. They left the Municipal Hall and proceeded home to have lunch then they received reports about the massacre of the Mangudadatu convoy which took place at Brgy. Salman, Ampatuan. Later that day, they learned that the Ampatuans were the prime suspects after Toto Mangudadatu was interviewed.

He further testified that his mother was already talking to a certain Col. Mayoralgo Dela Cruz to surrender him to the authorities so he can clear his name, but on March 25, 2012 at Brgy. Libutan, Mamasapano, there was an assault to him when someone threw a bomb at him. It cost his legs due to said incident. He also stated that Col. Dela Cruz brought him to the hospital and that he surrendered to the authorities. Lastly, he mentioned that it was not the first time that he executed an affidavit for these cases since he also testified during the bail hearing of Datu Unsay where his *Judicial Affidavit dated September 24, 2015* was marked as **Exhibit "4" (marked for Datu Unsay as Exhibit "15" – rebuttal bail).**

During his cross examination, witness confirmed that he had no document to show that he surrendered to a particular colonel of the AFP. He was aware that the Sangguniang Bayan meeting should be presided by a Vice-Mayor not by a Chief Executive, but he reasoned out that it was not the first time that his father who was the Mayor, presided the joint session and that the same was allowable. He said that he did not know Sukarno Badal and he cannot think of any ill motive on the part of the latter to implicate him in these cases. He narrated that the Attendance Sheet was prepared by the Sangguniang Bayan Clerk Linang Guimpaca and that the latter asked him to sign said Attendance Sheet after the session. He insisted that there was a session which happened on November 23, 2009 despite the ***notarized affidavit*** executed by Linang Guimpaca stating that there was no session on said day which was

reserved for marking by the prosecution as its rebuttal evidence marked as ***Exhibit "(19) S".***[734]

On re-direct examination, witness said that after the incident, he stayed in a farm in Mamasapano and he did not leave the country or Maguindanao. He explained that every session, there is an attendance sheet which was signed by those who were present, and that on November 23, 2009, as a member of the Sanggunian Bayan, he was present on the regular session.

At the hearing on November 23, 2017, the prosecution adopted the ***Judicial Affidavit of PO1 Rainer T. Ebus dated November 06, 2017 as its rebuttal evidence against Datu Ipi and Datu Ulo (Exhibit "(19) U")***.

Testimony of Menze Mendeg Balabaran

MENZE MENDEG BALABARAN appeared in court on November 08, 2017. For his direct testimony, he executed his ***Judicial Affidavit (Exhibit "6" and sub-markings).*** He testified that on November 23, 2009, he was with Datu Ulo and Datu Ipi at the Municipal Hall of Shariff Aguak, attending a regular session presided by then Mayor Anwar Ampatuan, Sr. from 8:00 a.m. to 11:00 a.m. After the session, they all left. He identified his signature in the ***Attendance Sheet dated November 23, 2009 (Exhibit "1" and sub-markings).***

On cross examination on even date, witness said that aside from his present affidavit, he did not execute any other document to show that he was with Datu Anwar, Sr. and his children on November 23, 2009 because at that time, he was afraid since there were some people who were just pointing to anyone who will be implicated in these cases even if they were innocent. He testified that he was appointed by Anwar Ampatuan, Sr. in 2009 because a member of the Sanggunian resigned. He said that it was the Mayor who presided the session on November 23, 2009 because they did not know the whereabouts of then Vice-Mayor Ato Asim. But appearing in the Attendance Sheet was the signature of a certain Honorable Datu Munir Ampatuan Asim, Jr., the Vice-Mayor. Witness explained that Vice Mayor Asim may have signed the attendance in the afternoon. He said that he is not aware of the signature of Linang Guimpaca on the attendance sheet. He is also not aware of the Minutes of the Meeting and that it was the first time that he saw it.

On re-direct examination, he said that he is not aware of the signature of Linang Guimpaca because only the members of the Sanggunian who signed the Attendance Sheet. He did not know of any other people who signed thereat.

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[734] This document was declared inadmissible as the affiant was not presented in court to identify her affidavit. *See* Order dated June 11, 2018.

Testimony of Mohammad Sali Upam

MOHAMMAD SALI UPAM appeared in court on November 09, 2017. In his ***Judicial Affidavit (Exhibit "8" and sub-markings),*** he narrated that his father, Hadja Labi Upam was the former Barangay Captain of Brgy. Bagong Upam, Shariff Aguak, Maguindanao. On November 23, 2009 at around 8:00 a.m., he was at the Municipal Hall of Shariff Aguak because he accompanied his father who attended the joint session. When Datu Ulo and Datu Ipi saw his father, they kissed his father's hands. Then, Datu Anwar, Sr. signaled the people to go inside the session hall as the meeting was about to start. He waited until the session was finished at around 11:00 a.m. As evidence that his father attended said session, witness identified his father's signature at the ***Attendance Sheet of the Barangay Chairman/Chairwoman (Exhibit "7" and sub-marking).***[735] He said that he saw Datu Ipi and Datu Ulo at the hallway who were also about to leave. He had no idea though where they proceeded after the session.

On cross examination, he confirmed that the Attendance Sheet which he identified, did not bear the letterhead of the Municipal government. He also had no other evidence to prove that the signature which he earlier identified belonged to Mr. Labi Upam. He also affirmed that in the said Attendance Sheet, the names of Datu Ulo and Datu Ipi did not appear. He confirmed that aside from said Attendance Sheet, he had no other evidence to show that there was indeed a Joint session that happened.

During re-direct examination, he explained that he had no other evidence to prove that it was indeed his father's signature because he is familiar with it. He reiterated that there was a session which happened on November 23, 2009, and that he saw Datu Ipi and Datu Ulo because they kissed the hand of his father.

Witnesses for accused Datu Anwar Sajid "Datu Ulo" Ampatuan:
(IDENTIFIED)
WITH REBUTTAL EVIDENCE

1. Accused Datu Anwar Sajid "Datu Ulo" Ampatuan - He was a member of the Sanggunian Bayan of the Municipality of Shariff Aguak from 2007 to 2010. He is the son of Datu Anwar Ampatuan, Sr. and brother of Datu Anwar "Datu Ipi" Ampatuan, Jr. He claimed that he was with his father and brother Datu Ipi on November 23, 2009 at the Municipal Hall of Shariff Aguak attending a regular session. ***(His testimony was adopted for Datu Ipi)***

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[735] The document was a photocopy only, but the same was also marked by the prosecution as Exhibit "(18) T" and sub-markings (rebuttal).

Adopted Testimonies

2. Accused Datu Anwar Ampatuan, Jr. – He was a member of the Sangguniang Bayan of the Municipality of Shariff Aguak from 2002 to 2010. He is the son of Datu Anwar Ampatuan, Sr. and brother of Datu Anwar Sajid "Datu Ulo" Ampatuan. He claimed that he never attended the alleged meeting on November 16, 2009 at the mansion of Datu Andal Ampatuan, Sr. because he left for the United States on November 9, 2009 and returned to the Philippines on November 18, 2009 only. He also claimed that he attended the Regular Session of the Sanggunian Bayan on November 23, 2009.

3. Accused Datu Anwar Ampatuan, Sr. – He is the former Mayor of Shariff Aguak from October 2005 to June 2010. He is the son of Datu Andal Ampatuan, Sr., brother of Datu Zaldy, Datu Andal, Jr. and Datu Sajid Islam; and the father of Datu Anwar "Datu Ipi" Ampatuan, Jr. and Datu Anwar Sajid "Datu Ulo" Ampatuan. He claimed that he was presiding a Regular Session of the Sanggunian Bayan on November 23, 2009, and denied attending the alleged meetings in connection with the plan to kill the Mangudadatus on November 17 and 22, 2009.

4. Menze Mendeg Balabaran – He was a member of the Sanggunian Bayan of the Municipality of Shariff Aguak. He claimed that he was with Datu Ulo and Datu Ipi on November 23, 2009, attending a regular joint session presided by then Mayor Anwar Ampatuan, Sr.

5. Mohammad Sali Upam – He is the son of Hadja Labi Upam, who was then the Barangay Captain of Brgy. Bagong Upam, Shariff Aguak. He claimed that he accompanied his father who attended the regular joint session at the Municipal Hall on November 23, 2009.

6. Wahabin Samalan Malawan – He was the personal assistant of Datu Anwar "Ipi" Ampatuan, Jr. He corroborated the testimony of accused Datu Anwar, Sr. that the latter together with his sons, Datu Ipi and Datu Ulo attended a session at the Municipal Hall on November 23, 2009.

7. Yasser Andal Upam – He was the personal assistant of Datu Anwar Ampatuan, Sr. He corroborated the testimony of Datu Anwar, Sr. and Wahabin Samalan Malawan as to their whereabouts on November 23, 2009.

8. Bai Farisha Imam Ampatuan – She is the wife of Datu Anwar Sajid "Ulo" Ampatuan. She claimed that her husband, brother-in-law Datu Ipi and father-in-law Datu Anwar attended the regular session at the Municipal Hall on November 23, 2009. She claimed that the accused were only implicated because of their surname.

9. Alonto Guiamadil – He is the cousin of witness Kamad Guiamat Hasim, who corroborated the latter's testimony.

Testimony of Datu Anwar Sajid "Datu Ulo" Ampatuan

DATU ANWAR SAJID "DATU ULO" AMPATUAN appeared in court on November 09, 2017. Based on his ***Judicial Affidavit (Exhibit "5" and sub-markings; Exhibit "14" and sub-markings for Datu Ipi),***[736] he was a member of the Sanggunian Bayan of the Municipality of Shariff Aguak from 2007 to 2010. He is the son of Datu Anwar Ampatuan, Sr. and brother of Datu Anwar "Datu Ipi" Ampatuan, Jr.

He alleged that in the morning of November 23, 2009, he, together with his father and brother Datu Ipi, were in the Municipal Hall of Shariff Aguak to attend the regular session of the Sanggunian Bayan. He was then the overall Chairman of the SK Federation. He said that the session started at around 9:00 a.m. and ended past 11:00 a.m. He presented an ***Attendance Sheet (Exhibit "1" and sub-markings); Minutes of the Meeting and the handwritten draft of said Minutes (Exhibits "2" and "3", respectively).*** After the session, they left the Municipal Hall and went home for lunch. While having lunch, they received reports that a shooting incident took place at Brgy. Salman, Ampatuan. They learned later that day that it involved the convoy of Mangudadatu and the Ampatuans were pointed to as the prime suspects. He mentioned that he was not right away charged as one of the suspects, and that he was arrested only on August 28, 2012 in Las Piñas.

On cross examination, witness confirmed that the Attendance Sheet did not bear the letterhead of the Office of the Sanggunian Bayan of Shariff Aguak. He narrated that the meeting held on November 23, 2009 was about the water works, and a certain Mr. Vinancio Vilarma from the Metro Cotabato Water District attended the meeting, but upon checking the Attendance Sheet, he confirmed that the name and signature of said guest was not included therein. Upon learning about the incident, and that his uncle Datu Unsay was the one suspected, he and his father did not bother to call Datu Unsay. When asked who was the Mayor of the adjoining municipality (Ampatuan), witness answered that he did not know (the Mayor then was his uncle Datu Unsay).

He confirmed that when he was arrested on August 28, 2012, he was in possession of a submachine gun registered under the name of his uncle, Datu Zaldy Ampatuan, and a pistol registered under his father's name. He knew Lakmodin Saliao as worker of his aunt, but he said that he did not know Sukarno Badal and since the latter was at the side of

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[736] Previously marked as Exhibit "15" for Datu Ipi.

Toto Mangudadatu, Badal implicated him in these cases. He also said that he did not know Efren Macanas.

Witness also confirmed that on November 16 and 21, 2009 he was in Shariff Aguak. He estimated that their house is about two (2) to three (3) kilometers from the house of Datu Unsay and the same distance with respect to the house of Gov. Andal, Sr. From the Municipal Hall of Shariff Aguak to the place of the incident, he said that it is (maybe) about seven (7) to 10 kilometers, about 15 to 20 minutes. He also said that on July 20, 2009 he was in Davao with his wife and siblings because it was his birthday. He knew Linang Guimpaca because the latter was the one who was in-charge with the attendance sheet. He denied the statement of Linang Guimpaca in her Affidavit which was marked as **Exhibit "(19) S rebuttal"** [737]that there was no regular joint session which took place on November 23, 2009.

On re-direct examination, witness identified a ***Certificate of Canvass both in proclamation of Winning Candidates for Chairman and Members of Sangguniang Kabataan by the Barangay Board of Canvassers, Sangguniang Kabatan Elections, October 29, 2007*** which showed that he ran for presidency of Sangguniang Kabataan and he won, marked as ***Exhibit "4".*** He explained that at the time he was arrested, they were just renting the place, and the firearms found were hidden in a cabinet, not in his possession and registered under the name of his uncle and father. He said that there is a pending case in Las Piñas with respect to said firearms. He also said that he did not bother to call his Uncle Datu Unsay upon learning about the incident because they were not close, and he did not have his Uncle's number.

The parties stipulated that the birthdate of the accused is July 20, 1991 as shown in his Driver's License.

During the hearing on November 23, 2017, the prosecution adopted the ***Judicial Affidavit of PO1 Rainer T. Ebus dated November 06, 2017* as** its rebuttal evidence against Datu Ipi and Datu Ulo marked as ***Exhibit "(19) U"***.

Witness for accused Datu Sajid Islam Ampatuan:
(IDENTIFIED)
WITH REBUTTAL EVIDENCE

1. Accused Datu Sajid Islam Ampatuan – He is the former Vice Governor of Maguindanao Province from June 2007 to June 30, 2010. He was also designated as Officer-in-Charge Governor of the said province from January 26, 2009 to October 14, 2009. This designation was revoked

[737] This document was inadmissible as the affiant was not presented in court to identify her affidavit. *See* Order dated June 11, 2018.

by Regional Governor of ARMM and due to said termination, he allegedly went into reclusion and avoided his brothers and parents. Thus, the alleged meeting on November 17, 2009 where he was allegedly present was not true because he was not in a harmonious relationship with his family.

Testimony of Sajid Islam Ampatuan

DATU SAJID ISLAM AMPATUAN appeared in court on January 31, 2018. For his direct testimony, he executed his ***Judicial Affidavit (Exhibit "2" and sub-markings).***

In his affidavit, witness alleged that on November 23, 2009 at around 8:00 a.m., he and his wife, together with the latter's co-candidates were already at the COMELEC office located at the Municipal Hall of Shariff Saydona to file their respective Certificates of candidacy. They finished at around 11:00 a.m., then went home. While at home, they heard the news about the ambush somewhere in Ampatuan, Maguindanao.

He denied the statement of one prosecution witness (Lakmodin Saliao) that on November 17, 2009 he was present at the house of Datu Zaldy for an alleged meeting to plan the killing of the Mangudadatus. He said that it was not true because he had avoided seeing his father and brothers because he was harboring ill feelings against them due to disappointment and embarrassment he felt when his designation as Officer-in-Charge (Governor) from January 26, 2009 till October 14, 2009 was revoked, and his father, Datu Andal, Sr. was installed as Governor while his brother, Datu Akmad was designated as Vice Governor despite him being the elected Vice Governor during the 2007 elections. He presented a ***letter dated October 12, 2009 (Exhibit "1")*** informing him of the revocation of his duties.

He also denied the statement of a witness (Anok Akil) that he was seen at the house of his father on November 24, 2009 after the incident together with Atty. Cynthia Guiani and Nori Unas discussing about the backhoe.

On cross examination by the Public Prosecutor, witness said that he did not know the reason why he was terminated. He also identified his ***Counter-Affidavit dated December 28, 2009 (marked by the prosecution as its rebuttal evidence – Exhibit "(19) X" and sub-marking),*** and he confirmed that he did not mention in the said affidavit about his ill feelings towards his father and brothers. However, there was a statement of Kenny Dalandag referring to a meeting that the witness had with his father, Datu Andal, Sr. He mentioned that before elected as Vice Governor of Maguindanao in 2007, he was elected as a Vice-Mayor of the Municipality of Datu Unsay in 2004. He stated that the Regional Governor has the power to appoint any position and also has

the power to revoke appointment. Upon receipt of his termination letter, he chose to keep it to himself and subjected himself to self-reclusion because he felt that the revocation of his appointment as OIC was improper.

He also denied that there were meetings which happened on November 17, 2009 at the house of Datu Zaldy Ampatuan and on November 24, 2009. He confirmed that he knew Ibrahim Jong Mangudadatu and Lakmodin Saliao, and that he had no ill feeling against them. He said that he did not know Sukarno Badal and Anok Akil, and he also had no grudge against said people. He also affirmed that he knew then PINSP Rex Ariel Diongon but the latter was not his aide-de-camp. Only during his time as OIC that the latter acted as his security.

When cross examined by the private prosecutor, witness confirmed that there was a meeting on July 20, 2009 at the Department of National Defense together with the Mangudadatus. As an OIC-Governor in September 2009, he had not written any letter to the COMELEC for the transfer of its office from Cotabato City to Shariff Aguak. He clarified that he was the Vice-Governor of Maguindanao from 2007 to January 26, 2009, then on the latter date, he was designated as OIC-Governor. Thus, from the time he acted as OIC-Governor, Akmad Tato Ampatuan acted as the OIC-Vice Governor.

On re-direct examination, witness claimed that he did not know Kenny Dalandag and he only came to know the latter's name because of his affidavit. He however, denied the statements therein.

On re-cross examination*,* he was asked by the prosecutor about the content of the affidavit of Kenny Dalandag that he denied, and he answered that it was the allegation of Kenny Dalandag that there was a meeting on November 22, 2009 which according to the witness did not take place.

Witnesses for accused Datu Akmad "Tato" Ampatuan:
(IDENTIFIED)
WITH REBUTTAL EVIDENCE

1. Accused Datu Akmad "Tato Ampatuan" – He was the OIC Vice Governor of Maguindanao Province from January to December 2009. He is the nephew and son-in-law of Datu Andal Ampatuan, Sr. He claimed that he was attending a medical mission on November 23, 2009 at Mamasapano Municipal Gymnasium, Mamasapano, Maguindanao from 7:00 a.m. to 5:00 p.m.

2. Dr. Clarissa B. Cantero - She was the Municipal Health Officer of the Municipality of Mamasapano who spearheaded the medical mission

on November 23, 2009. She testified that she saw the accused that day from 9:00 a.m. until she left the mission at 3:00 p.m.

Corroborative Witnesses

3. Sherwin Petre Louis Gerona – He was the Municipal Nurse who assisted in the medical mission on November 23, 2009. He saw accused on said date at the medical mission.

4. Mansor N. Akmad – He was the Municipal Planning Officer who took some of the pictures and videos during the medical mission on November 23, 2009.

5. Maceda T. Abdillah – He was the Administrative Officer I of the Municipality of Mamasapano who was also tasked to take photos during the medical mission on November 23, 2009.

6. Alhamde A. Kadtong – He was working for the Municipality of Mamasapano assigned at the Planning Office and was with witness Mansor Akmad during the medical mission.

7. Faisal P. Pananggulon – He was the Barangay Chairman of Brgy. Lusay, Mamasapano in November 2009. He attended the medical mission on November 23, 2009 and saw accused Datu Akmad at said event.

Testimony of Datu Akmad "Tato" M. Ampatuan, Sr.

DATU AKMAD "TATO" AMPATUAN, SR. appeared in court on May 03, 2017. For his direct testimony, he executed his ***Judicial Affidavit (Exhibit "28" and sub-markings).***

In his affidavit, witness alleged that he boarded a PAL flight from Davao enroute to Manila on July 19, 2009 because he attended a meeting in the morning of July 20, 2009 at the Department of National Defense in Camp Aguinaldo with the Mangudadatus and Ampatuans as he was invited by then Secretary of Defense, Gilbert Teodoro. The next day, July 21, 2009, he again boarded a PAL flight from Manila to Davao. As proof, he presented ***Travel Certifications from PAL both dated August 01, 2016 (Exhibits "22" and "22-A").***

On November 12, 2009, he took a flight from Davao to Manila, and stayed in an apartment in Makati City. On November 19, 2009, he took his breakfast at Century Park Hotel and then attended the LAKAS-NUCD Caucus Convention at PICC. Later that afternoon, he took his flight from Manila to Davao, as evidenced by the ***PAL Travel Certifications dated May 03, 2017 (Exhibits "2" and "3").***

He also alleged that on November 23, 2009, he attended a Medical Mission at Mamasapano Municipal Gymnasium, Mamasapano, Maguindanao, from 7:00 a.m. to 5:00 p.m. which was attended by at least 400 to 500 people. At past 2:00 p.m. that day, he heard reports that there was an unusual incident that happened at Sitio Masalay, Brgy. Saniag, Ampatuan, where several persons and media people were killed. Despite this, the medical activities continued until it ended at 5:00 p.m. Thereafter, he left the place and went home. As proof, he presented ***pictures/videos taken during the medical mission (Exhibits "7-A-3", "7-A-4", "7-A-15", "7-A-16", "7-A-26", "7-A-27", "7-A-28", "7-A-29", "7-A-30", "7-A-33", "7-A-2" to "7-A-57", "11-A" to "11-B".***

On November 24, 2009, they did not continue the medical mission because of what happened the previous day. He went to his uncle and father-in-law, Datu Andal Sr. and asked him about what happened. The latter was deeply saddened by the incident.

On December 05, 2009 at 8:00 a.m., the Battalion Commander of the 37th Infantry of the Philippine Army arrived in his house and invited him to their headquarters with no warrant of arrest issued or shown to him. Later that day, he learned that the Writ of Habeas Corpus was suspended and Martial Law was declared in the province of Maguindanao by then President Gloria Macapagal Arroyo as evidenced by ***Proclamation No. 1959, s. 2009*** marked as ***Exhibit "23".***[738] Then, he was handcuffed, detained, and was brought to CIDG headed by Col. Benito, together with Datu Sajid Islam Ampatuan and Datu Anwar Ampatuan, and transferred to the Division Armed Forces of the Philippines in Awang, Maguindanao. They were again transferred to Camp Lira, General Santos through a helicopter on December 08, 2009 and detained thereat until April 16, 2010. After, they were brought to Camp Bagong Diwa, Taguig, where they are presently detained.

On cross examination, witness confirmed that he was appointed as OIC Vice-Governor of the Province of Maguindanao on January 26, 2009 until December 2009, and it was Datu Sajid Islam Ampatuan who was the Governor at that time. He denied the statement of Sukarno Badal when the latter was presented on February 20, 2013, pointing to him as one of those who attended the meeting at Century Park on July 20, 2009, and justified that he only attended a meeting at the Department of National Defense (DND) and there was no meeting at Century Park that day. But he confirmed that he and those who attended the meeting at the DND namely: Datu Andal Sr., Anwar, Zaldy, Sukarno Badal and other

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[738] Although not actually marked, there was a reservation made by accused's counsel to mark the same during the hearing on May 3, 2017; also, said document indicating the proclamation of martial law in Mindanao on December 04, 2009, was likewise offered as exhibit for the prosecution marked as Exhibit "O-2"; *See* Order dated October 18, 2017.

mayors, were at Century Park for lunch. They were around 60 to 70 people and they had lunch at an open space in the hotel.

Witness also denied the statement of Sukarno Badal that he attended the alleged meetings on November 16, 2009 held at the mansion of Datu Andal Sr., November 17, 2009 in the house of Zaldy, and the meeting in November 2009 at the house of Datu Andal Jr. He estimated that from the Municipality of Mamasapano to Barangay Saniag, it is around 30-minute travel using a private car. He confirmed that he did not include in his *Counter-Affidavit dated December 24, 2009* marked as **Exhibit "1"**, that the medical mission was from 7:00 a.m. to 5:00 p.m. and that he stayed the whole time at the gymnasium.

During re-direct examination, witness explained that the primary purpose of the meeting at the DND on July 20, 2009 was for the reconciliation of the Ampatuans and the Mangudadatus.

On re-cross examination, he confirmed that from the meeting with Sec. Gilbert Teodoro, there was no agreement reached by both parties.

Testimony of Dr. Clarissa B. Cantero

DR. CLARISSA B. CANTERO appeared in court on February 15, 2017. For her direct testimony, she executed her ***Judicial Affidavit (Exhibit "13" and sub-markings).*** She alleged that she was the Municipal Health Officer of Mamasapano, Maguindanao Province. A week before November 23, 2009, accused Datu Akmad told her about a scheduled non-government organization medical mission to be held on November 23 to 24, 2009. The witness, being the Municipal Health Officer, was asked to be the organizer and to spearhead the conduct of the activity.

On November 23, 2009 at around 8:00 a.m., she arrived at the Mamasapano gymnasium where the medical mission took place. At about 9:00 a.m., she saw Datu Akmad "Tato" Ampatuan going around the gym, talking to the health workers, nurses, etc. She was introduced by accused Datu Akmad to a certain Dr. Joey of the non-government organization, Smart Network International, Inc. She stayed at the venue until 3:00 p.m. until one of her staff relayed to her to hurry and end the activity because there was an incident that happened along the way. She still saw accused Datu Akmad at the venue at 3:00 p.m.

On additional direct examination, witness said that the information given to her by accused Datu Akmad about the medical mission was only verbal. She gave the complete name of the team leader of the Smart Network International, Dr. Joey Sinchioco.

On cross examination, witness explained that she applied for the position of Rural Health Physician of the Province of Mamasapano and she was appointed by then Provincial Health Officer, Dr. Tahir V. Sulaik, and not by the Governor. She receives her salary from the Provincial Health Office and not from the Municipality. As proof, she presented her ***Appointment coming from the ARMM as Rural Health Physician (Exhibit "14").***

She confirmed that she coordinated verbally with the Provincial Health Officer, as well as with the Municipal Mayor about the medical mission. At that time, the Mayor was Bahnarin Ampatuan, son of the accused. She said that from Mamasapano to Shariff Aguak, it is only seven (7) kilometers, a 15 to 20-minute travel. She confirmed that she was also attending to patients during the medical mission, so she did not see the accused all the time.

On re-direct examination, she affirmed that the first time she saw the accused until the time she left at 3:00 p.m., Datu Akmad was still at the medical mission.

Testimony of Sherwin Petre Louis Gerona

SHERWIN PETRE LOUIS GERONA was presented in court on February 15, 2017. In his ***Judicial Affidavit (Exhibit "15" and sub-markings,*** he alleged that he is a Municipal Nurse assisting the Municipal Health Officer, Dr. Clarissa Cantero, in implementing the different programs of the Department of Health. He identified a ***Memorandum Report signed by Mohammad Bahnarin A. Ampatuan, Municipal Mayor (Exhibit "12").*** He corroborated the testimony of Dr. Cantero that there was a medical mission on November 23, 2009, and that he saw accused Datu Akmad "Tato" that day from the time the medical mission started until it ended in the afternoon.

On cross examination, witness testified that he received his salary from the national government. He confirmed that they served almost 400 to 500 patients that time. He said that he was not accompanying accused Akmad as the latter was moving around the gymnasium because he was focused on assisting the patients, so he did not see the accused at all times.

Testimony of Mansor N. Akmad

MANSOR N. AKMAD appeared in court on February 15, 2017. In his ***Judicial Affidavit (Exhibit "16" and sub-markings),*** he alleged that he is the Municipal Planning and Development Coordinator of the Municipality of Mamasapano. Part of his duties is to coordinate with the different agencies and non-government organizations and formulate sectoral and economic plans for the municipality.

He also alleged that on November 22, 2009, he went to Awang Airport in Dos, Maguindanao to fetch the group of Smart Network International, Inc. for the scheduled medical mission on November 23 to 24, 2009. On November 23, 2009 at around 7:30 a.m., he was with accused Datu Akmad, the latter's Executive Assistant, Samuel Bayog, and the witness' staff, Alhamde Kadtong when they arrived at the municipal gymnasium to prepare for the medical mission. He said that the medical mission lasted for not less than eight (8) hours. He mentioned that he saw the accused at the event roaming around and never left the gymnasium.

On additional direct examination, witness testified that he took some of the pictures and videos during the medical mission on November 23, 2009. He was also the one who printed the pictures and it was his office that received these pictures and videos in his capacity as Planning Officer. He said that he used a Sony digital camera owned by the Municipal Planning and Development Office in taking the pictures and videos. After printing the pictures and recording the video, he submitted the same to the Municipal Administrator Totoy Kesid. The video was played during the direct examination. The ***disc*** containing the video was marked as ***(Exhibits "11-A" and "11-B").***

On cross examination, witness testified that it was the Municipal Administrator who instructed him to take photos and videos but said instruction was not reduced into writing. He confirmed that the assistance that his office requested from the Vice Governor was for services for the people of Mamasapano. He also affirmed that the video footage which was played did not indicate the specific time that the same was taken.

Testimony of Maceda T. Abdillah

MACEDA T. ABDILLAH appeared in court on February 16, 2017. In his ***Judicial Affidavit (Exhibit "17" and sub-markings),*** he alleged that on November 23, 2009, he was at the Mamasapano Municipal Gymnasium taking photos during the medical mission. He described himself as an amateur photographer but as an Administrative Officer I of the Municipal government at that time, one of his duties was to take pictures for documentation. He covered the event for at least seven (7) hours and there he saw accused Datu Akmad until he left at 3:00 p.m. He used a Sony camera in taking pictures and he was with Mark Edward Lim when he took the photos. He gave the electronic copy of these pictures to the Municipal Planning Officer and it was the latter who developed the pictures.

On cross examination, witness testified that he is familiar with Shariff Aguak and it is more than seven (7) kilometers from the Mamasapano gymnasium which is about 10-minute travel using a private

car. He confirmed that the pictures he took did not bear any date and time. Aside from the photos, witness said that he had no other proof when the pictures were printed.

Testimony of Alhamde A. Kadtong

ALHAMDE A. KADTONG was presented on the witness stand on February 16, 2017. In his ***Judicial Affidavit (Exhibit "18" and sub-markings),*** he alleged that in 2009, he was working at the Municipality of Mamasapano under a Job Order and was assigned at the Planning Office. On November 22, 2009, he accompanied witness Mansor N. Akmad to fetch the medical team of Smart Network International, Inc. headed by Dr. Joey Synchioco at the Awang Airport, Datu Odin Sinsuat, Maguindanao. The next day, November 23, 2009 at around 7:00 a.m., they went to the municipal gymnasium to prepare for the medical mission. Before 8:00 a.m., he already saw accused Datu Akmad at the gymnasium until the medical mission ended in the afternoon.

On cross examination, witness testified that it was Mayor Bahnarin Ampatuan, son of the accused, who hired him in 2009. He mentioned that Mamasapano is near Shariff Aguak, yet he cannot estimate the distance, but he further said that if you travel by private car, it is about 10 to 15-minute travel. He said that other than his testimony, he has no proof or documents to show that he saw accused Datu Akmad during the medical mission.

On re-direct examination*,* he testified that he was at the venue from 7:30 a.m. until 5:00 p.m., and he saw the accused left before 5:00 p.m.

Testimony of Faisal P. Pananggulon

FAISAL P. PANANGGULON was presented on the witness stand on February 16, 2017. He executed a ***Judicial Affidavit (Exhibit "19" and sub-markings)*** in lieu of his direct testimony. He alleged that he was the Barangay Chairman of Brgy. Lusay, Mamasapano, Maguindanao in November 2009. He received a Memorandum about a medical mission to be held at the municipal gymnasium on November 23-24, 2009. Pursuant thereto, he disseminated the information to the whole barangay. On November 23, 2009 at around 8:00 a.m., he went to the medical mission together with Farida Ali, Normiya Sinsuat and Saban Ali. At about 9:00 a.m., he saw accused Datu Akmad at the venue. At around 1:00 p.m. before they went home, he still saw Datu Akmad at the medical mission.

On cross examination, witness said that no one asked him to testify in court. Aside from his testimony, he has no other basis or proof to support his statements.

II. ACCUSED SOUGHT TO BE DISCHARGED AS STATE WITNESSES

Witness for accused PO1 Rainer T. Ebus: [739] ***(IDENTIFIED)***

1. Accused PO1 Rainer T. Ebus – He was a member of the Philippine National Police assigned at Unsay Municipal Police Station (MPS) with specific assignment as police escort of Datu Andal "Unsay" Ampatuan, Jr.

Testimony of PO1 Rainer T. Ebus

PO1 RAINER T. EBUS appeared in court on November 09 and 16, 2017. For his direct testimony, witness executed and identified his ***Judicial Affidavit*** which was marked as ***Exhibit "2" and sub-markings.***

In his Affidavit, witness alleged that from what he heard from the men of Datu Unsay, the members of the Civilian Volunteer Organization (CVO) on November 19, 2009, they will prevent then Vice-mayor Toto Mangudadatu from filing his Certificate of candidacy. He can remember that since November 19, 2009, all police officers were put on alert status. They were instructed that they should be intact in the house of Datu Unsay, so he just complied as they were with the OIC of Unsay MPS, PO1 Abbey Guiadem. From November 19 to 23, 2009, they were never allowed to go home, and whenever Datu Unsay and his men with some soldiers leave and go to Crossing Saniag and in Sitio Malating during this period, the witness and other police from Unsay Municipal Police Station (MPS) joined them as escorts. Their convoy composed of six (6) vehicles: led by a Hummer mounted with a .50 caliber which was driven by Datu Unsay's men, a Toyota HiLux-Vigo where Datu Unsay was boarded, one (1) D-Max where the witness was onboard, one (1) black Toyota Revo, and two (2) police vehicles.

On November 23, 2009 at about 8:00 a.m., he and other police officers of Unsay MPS were at the barracks near the residence of Datu Unsay when they were called as the latter and his group was about to leave. They went to Tweeny Restaurant and had breakfast then they proceeded to the crossing in Saniag and in Sitio Malating where there was a checkpoint. Witness said that the number of Datu Unsay's men numbered to more or less 50 persons. They boarded the same convoy of vehicles but when they arrived in Crossing Saniag, other vehicles joined their convoy.

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[739] Counsel of the accused/witness: Atty. Jayson Jay Parra Ison/Atty. Yasser B. Lumbos.

The police officers from Unsay MPS who were with them were the following: **PO1 Abbey Guiadem, PO1 Musa Ibad, PO1 Joharto Kamindan, PO1 Datu Not Kadir, and PO1 Jonathan Engid,** and the soldiers present were **Abdul Sokor Abdullah, Abdulkarim Falcon, Alnor Ampatuan, Benzar Maulana and Master Andrada.** While those who were riding the other vehicles which joined their convoy were the nephews of Datu Unsay, namely: **Datu Ulo, Datu Ipi, Datu Harris, Datu Moning and other CVOs armed with high caliber firearms.**

Thereafter, witness noticed that there were six (6) vehicles approaching including a red Vios, an FX, a Pajero with a sticker *"Bubuwit",* and three (3) vans. At that time, he saw Datu Unsay suddenly stood up while talking through his cellphone and the men he was with suddenly ran towards their vehicles which prompted the witness to also run towards the D-Max he was boarding.

They then proceeded to the checkpoint in Sitio Malating and the witness saw that the six (6) vehicles he earlier described were already intercepted and the passengers of those vehicles have already alighted. He then saw Datu Unsay and the other men belonging to their convoy who were armed with high caliber firearms, hitting the passengers.

Among the passengers, only one was recognized by the witness as his cousin Norton Edza y Ebus who they called "Sedik". He was one of the drivers of the van included in the intercepted vehicles. It was only later that he came to know that the other passengers were family members and supporters of Vice-Mayor Toto Mangudadatu.

Upon seeing what happened, witness decided to stay for a while inside his vehicle as he cannot do anything because he knew he cannot prevent Datu Unsay and his men. Witness got scared because if "Sedik" will recognize him, the latter will surely ask for help and witness feared that Datu Unsay might hurt him too. Before he alighted from his vehicle, witness wore a bonnet so that he will not be recognized. He then joined the other police officers at the checkpoint. He saw Datu Unsay and the CVOs checking the vehicles that were blocked and then Datu Unsay took some papers from the car and ordered them to board said vehicles. Witness was not able to move then Datu Unsay approached him and scolded him saying *"Busit ka Rainer idrive nengka e niya!"* while pointing at the Pajero then handed to him a car key which he took out of fear.

Then, two (2) CVOs brought five (5) passengers in the Pajero while pointing their firearms to the latter. Other passengers boarded other vehicles driven by the men of Datu Unsay. They proceeded to Sitio Masalay, Brgy. Salman, Ampatuan. When Datu Unsay arrived together with Datu Kanor Ampatuan, he ordered his men to ask the passengers to disembark from the vehicles. Thereafter, Datu Unsay lined up some passengers and said that he will be the only one to shoot those people.

Witness was not able to do anything because he got afraid sensing that Datu Unsay really meant what he said.

Before all the passengers can disembark, Datu Unsay and the others started to shoot them using an M16 rifle mounted with an M203 grenade launcher. At the start, it was only Datu Kanor who was shooting with Datu Unsay, but when some passengers jumped out of the vehicles, the CVOs also fired at them.

Witness again was not able to do anything because he got scared. He just got inside a Toyota Vios until the shooting stopped and got out only when he saw a backhoe approaching. He then saw Datu Unsay and Mayor Bahnarin Ampatuan together with their men leaving the crime scene while Datu Kanor and his men stayed while the backhoe was digging and burying the dead bodies and vehicles. Then, PO1 Ibad and two (2) CVOs told Datu Kanor that they will be leaving together with the witness to follow Datu Unsay.

Witness and his companions proceeded to their barracks near the house of Datu Unsay knowing that the latter went home. At around 2:00 to 3:00 p.m., PO1 Guiadem called and he directed the witness, PO1 Ibad and two (2) CVOs to proceed to a mountain in Limpongo which is part of Shariff Aguak. When they arrived, they met PO1 Guiadem and told them that Datu Unsay was there, but they were able to see him at about 10:00 p.m. They were ordered to separate and not to see each other. Witness and his companions just went back to the barracks near Datu Unsay's house. Witness did not proceed to their house because he was afraid that his family might get involved. He stayed in the barracks until November 27, 2009 when he received an order from the Maguindanao Provincial Police Office (MPPO) directing them to report for accounting of personnel on November 28 to 30, 2009.

Witness reported at the Provincial Police Office (PPO) from November 28 to 30, 2009. They were brought to the Police Regional Office in Camp Brigadier General Salipada Pendatun in Parang, Maguindanao on December 01, 2009. On December 02, 2009, they were brought to Camp Crame where an investigation was conducted on December 03 to 04, 2009. He executed a ***"Sinumpaang Salaysay"*** dated December 05, 2009 marked as ***Exhibit "1".***

Witness also stated that he does not know if it was him who should have reported the incident since the Officer-in-charge (OIC) of Unsay MPS, PO1 Guiadem, was also present when the incident happened. He was not sure of his safety if he reports the same considering that the Ampatuans control the whole of Maguindanao. He also denied any involvement in these cases. He also stated that he was just a Police Officer 1 (PO1) and barely a year in service when the incident happened, and his brother was shot and eventually died due to these cases.

He also narrated that on January 03, 2010, his brother, Engr. Esmael Tan Ebus visited him in Camp Crame and told him that Mayor Samer Uy of Datu Piang, Maguindanao, sent him to tell him to change his statements. Witness told his brother that he will stand by with what was stated in his "*Sinumpaang Salaysay*". Less than two (2) months after, his brother was shot inside their house and was hit in the kidney. After several years, his brother eventually died because of the injury he sustained. No case was filed as there was no one to charge for the shooting. Their family was also afraid to ask for investigation which is the usual case in Maguindanao.

On cross-examination by the prosecution on November 16, 2017, the latter and the counsel of accused Datu Unsay stipulated that the witness will be able to identify said accused as the same Datu Unsay whom he mentioned in his Judicial Affidavit. Witness however, said that he cannot recall the names of the two (2) CVOs he was with when he drove the Pajero.

When asked by the prosecution if he can identify the persons he mentioned in his Judicial Affidavit, and if they are inside the courtroom, namely: Datu Kanor Ampatuan, Datu Ulo, Datu Ipi, Datu Harris, Datu Muning, and CVOs armed with high powered guns, witness pointed to a person who when asked, identified himself as **Anwar Sajid Ampatuan *a.k.a.* "Datu Ulo"**. Witness confirmed that he saw Datu Ulo and Datu Ipi on November 23, 2009 at Crossing Saniag. He also mentioned that the CVOs were armed with high caliber long firearms like armalite, K3, baby armalite, and baby M203.

He knew Datu Kanor Ampatuan because the latter was the Vice-mayor of Pagatin Municipality, which is now called Salibo and that the house of Datu Kanor is near the house of Datu Unsay, while Datu Bahnarin Ampatuan was the Mayor of Mamasapano then, and a nephew of Datu Unsay.

Witness also said that when he was riding the Isuzu D-Max, there were more or less 11 persons inside said vehicle, with 5 persons seated at the back. He is just familiar with the driver, **Nasser Esmael.** When asked by the prosecution if he can identify said accused, witness said he can and when asked if said accused was inside the courtroom, witness answered in the negative.

When cross-examined by the counsel of accused Datu Andal Ampatuan Jr. on even date, witness confirmed that he only heard of the reason for the establishment of the checkpoints at Sitio Malating and Crossing Saniag, from the men of Datu Unsay.

He also confirmed that he and Datu Unsay went to the two (2) checkpoints from November 19 to 23, 2009. On November 23, 2009, many bullets were fired and an equivalent number of shells expended from the gun and dropped where the gun was fired at the crime scene. He confirmed that his wife is a nurse working at the Ampatuan Municipality and his brother is also an employee thereat. At the time when witness testified, he said that the mayor of Ampatuan is Mayor Rasul Sangki.

The witness was also cross-examined by the counsel[740] of Datu Anwar Ampatuan Sr., Datu Anwar Sajid Ampatuan and Datu Anwar Ampatuan Jr. on even date. He confirmed that he executed his Judicial Affidavit only in November 2017 or eight (8) years after the incident, but he failed to mention the particular vehicles allegedly used by Datu Ulo and Datu Ipi as well as whether they were together in one vehicle or using several vehicles, or that they were armed. He also said that he did not see Datu Ipi and Datu Ulo fired shots towards the victims at Sitio Masalay and he cannot narrate the actual participation of said accused in November 2009. He also affirmed that he did not mention Datu Anwar Sr. in his Judicial Affidavit because the latter was not present at the checkpoints in Brgy. Malating and Crossing Saniag neither in Barangay Salman.

Witnesses for accused Mohamad S. Sangki:

1. Alma S. Evangelio – She was a neighbor of accused Mohamad S. Sangki who was with the latter on November 20, 2009 from 1:00 p.m. to 5:00 p.m.

2. Johaipa Ampatuan Basilan – He was with accused Mohamad Sangki on November 23, 2009, when Rasul Sangki asked them to go with them in Crossing Saniag and Sitio Malating.

3. Jainudin S. Abdul – He was the driver of Rasul Sangki in November 2009. He testified that accused Mohamad Sangki was not in the house of Rasul Sangki on November 22, 2009 and he was with the accused on November 23, 2009 when Rasul asked them to go with them in Crossing Saniag and Sitio Malating.

Testimony of Alma S. Evangelio

ALMA S. EVANGELIO appeared in court on September 13, 2017. She executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings*** in lieu of her direct testimony. She alleged that she and accused Mohamad Sangki were neighbors when they were both living in Ampatuan, Municipality, and then became neighbors again when they

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[740] Atty. Reena Mae Collado.

transferred to Esperanza, Sultan Kudarat. She said that Ampatuan, Maguindanao is more or less 20 kilometers away from Esperanza, Sultan Kudarat.

She also alleged that on November 20, 2009, around 1:00 p.m., she was at the house of accused Mohamad Sangki because she will borrow money from him. She was able to talk to the accused at 2:00 p.m. and their conversation lasted till 5:00 p.m. She knew Rasul Sangki as the nephew of accused Mohamad Sangki and then Vice-Mayor of Ampatuan, Municipality. She was not aware of the whereabouts of Rasul Sangki on November 20, 2009, but she confirmed that the latter was not in Sultan Kudarat particularly in the house of accused Mohamad Sangki.

On cross examination, she confirmed that her judicial affidavit was the only affidavit she executed in connection with the defense of accused Mohamad Sangki and it is only now that she came up in the open to say that on November 20, 2009 she did not see Rasul Sangki at the house of Mohamad Sangki. She herself requested to testify for Mohammad Sangki and she is well aware that her testimony will definitely help him.

Testimony of Johaipa Ampatuan Basilan

JOHAIPA AMPATUAN BASILAN appeared in court on September 13, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "2" and sub-markings***. Based on his affidavit witness alleged that he was a Sangguniang Bayan Councilor of the Municipality of Ampatuan, Maguindanao from 2007 until 2016. On November 23, 2009, a Monday, a session was scheduled at the Ampatuan Sangguniang Bayan Municipal Hall that is why he was at the Municipal Hall at 7:00 a.m. It was Rasul Sangki who was supposed to preside the session but the same did not push through. When Rasul saw him, Mohamad Sangki, Jainudin Abdul and kagawad Zainodin Sangki, Rasul told them to accompany him and leave the Municipal Hall.

They all went inside the car. It was Jainudin who started the car, but it was Rasul who drove. They did not have any idea where they were going. He further described that Rasul was also quiet and not saying anything to them. Rasul then brought them to crossing Saniag where they saw Datu Unsay Ampatuan at a waiting shed. Datu Unsay told Rasul to alight from their vehicle and join him. Rasul then instructed the witness to park the car somewhere far and wait for him. Rasul alighted from the car and nobody joined him. The witness, Mohamad, Zainodin and Jainudin were left inside the car.

They were wondering why Datu Unsay was there but they were not bothered because there where policemen around. Many vehicles then passed by, and Rasul suddenly rode their vehicle and ordered Jainudin to follow the vehicles. When they reached Malating, Rasul went down from

the vehicle and told the witness, Mohamad, Jainudin and Zainodin to just wait for him in the car. There were people who went down from the vehicles. Datu Unsay was there with so many armed men. Thereafter, the people went back to their cars and drove away. Rasul told them to just wait inside the car. A few minutes later, they heard several gunshots being fired from afar. They were stunned and did not know what was happening. Later, they saw the cars coming back to where they were. Rasul went back to the car and told Jainudin to leave the area and return to the Municipal Hall. It was then Rasul told them that people of Mangudadatu were gunned down.

On cross examination by the prosecution on even date, witness testified that he was a Councilor of the Municipality of Ampatuan, Maguindanao while Mohamad Sangki was a Councilor of Datu Abdula Sangki Municipality in 2009. The latter is far from Ampatuan, Municipality at a distance of about 15 kilometers. He said that Mohamad Sangki came from Datu Odin Municipality and passed by that morning of November 23, 2009 at the Ampatuan Municipality. He further testified that they passed by in the early morning of November 23, 2009, in Crossing Saniag in Ampatuan town. He also confirmed that while in Crossing Malating he heard gunshots from afar. They heard about the massacre a few hours after. He did not execute affidavit in 2009 regarding the massacre because of extreme fear that he felt during that time. Neither did he execute any other affidavit except for his present Judicial Affidavit. He executed the same not just to help Mohamad Sangki, but to show the truth about what happened.

On cross examination by the counsel[741] of accused Datu Andal "Unsay" Ampatuan, **Jr.**, he confirmed that he saw Datu Unsay at crossing Saniag and Malating in the early morning of November 23, 2009 but he has no documentary evidence to support his claim except the Judicial affidavit he executed.

When asked by the Court what was Datu Unsay wearing when he saw him in Malating, witness answered that Datu Unsay was wearing black pants and black jacket.

On his re-direct examination, he learned from the news that it was the Mangudadatus who were killed from the place afar from them. He first came to know about the massacre from Rasul Sangki while they were in crossing Saniag on November 23, 2009. He confirmed that the massacre did not occur either in Crossing Saniag and Crossing Malating.

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[741] Atty. Ernest P. Levanza of Fortun and Santos Law Office.

Testimony of Jainudin S. Abdul

JAINUDIN S. ABDUL appeared in court on September 13, 2017. He executed a ***Judicial Affidavit*** marked as ***Exhibit "3" and sub-markings*** as his direct testimony. Based on his affidavit, witness testified that on November 20, 2009, he was serving as the driver of then Vice Mayor Rasul Sangki and he was at the house of the latter in Ampatuan, Maguindanao from 7:00 a.m. to 12 noon. He knew accused Mohamad Sangki as the uncle of Rasul. He confirmed that accused Mohamad was not in the house of Rasul on said date.

On November 23, 2009 at around 7:00 a.m., he was at the Ampatuan Sangguniang Bayan Municipal Hall because it was a Monday and there would be a session to be presided by Rasul Sangki. He saw Sangguniang Bayan Councilors Johaipa Ampatuan Basilan and Zainodin Sangki, and Mohamad Sangki. They were chatting when Rasul arrived and told him to start the car. Then, Rasul told Mohamad, Johaipa and Zainodin to come with them.

The rest of the testimony of the witness corroborated the testimony of previous witness Johaipa Ampatuan Basilan.

On cross examination by the prosecution on even date, he confirmed that he is still the driver of Rasul Sangki from 2009 until the time he testified. He claimed that he has an ID to back-up his employment as the driver of Rasul Sangki in 2009. He confirmed that he still works at the Ampatuan Municipality as an Administrative Aide and not a driver. He affirmed that he did not execute any affidavit aside from his present judicial affidavit and executed the same to help accused Mohamad Sangki.

On cross examination by counsel[742] of accused Datu Andal "Unsay" Ampatuan, Jr., he stated that he saw Datu Unsay Ampatuan in crossing Saniag and in Sitio Malating, but he has no documents to support his claim. His siblings helped him for the air ticket in going to court to testify.

During his re-direct examination, he stated that the Administrative Aide III I.D. was issued by the local government of Ampatuan. His primary duty is to drive for Rasul Sangki.

When asked by the court what was the position of Rasul Sangki when the witness testified, he answered that the latter is the Mayor of Ampatuan Municipality.

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[742] Atty. Ernest P. Levanza of Fortun and Santos Law Office.

On re-cross by the counsel of accused Datu Unsay, witness confirmed that he is still employed under Rasul at the time he testified and he considered himself loyal to the latter.

At the hearing on October 04, 2018, counsel of accused Mohamad Sangki, was directed to orally offer his additional evidence which is the "***Sinumpaang Salaysay"*** *of Thonti Lawani dated January 17, 2010* marked as ***Exhibit "4" and sub-markings,*** and the same was admitted as part of the evidence of said accused.[743]

III. POLICE OFFICERS

Witnesses for accused PSUPT Abusama M. Maguid: (WITH REBUTTAL EVIDENCE)

1. Accused PSUPT Abusama M. Maguid – He is formerly assigned at the Regional Office PRO-ARMM, Parang, Maguindanao, in-charge of Logistics, and OIC Provincial Director of the Province of Maguindanao. He was supervising the stenciling of firearms on November 23, 2009 at Maguindanao Provincial Police Office when a report of IED and abduction at Malating was brought to his attention. He personally verified said report, but it turned out to be a false information. He issued and identified an IMPLAN dated November 19, 2009. ***(His testimony was adopted by accused PINSP Saudi Mokamad)***

2. RET. SINSP Gilbert Antonio – He is the former Chief of Firearms, Explosive Security Agency and Guard Supervision (FESAGS), Regional Operation and Planning Division, Police Regional Office-ARMM, Parang, Maguindanao. He was with accused PSUPT Maguid on November 23, 2009 who supervised them in the processing of gun amnesty applications.

Testimony of PSUPT Abusama M. Maguid

PSUPT ABUSAMA M. MAGUID appeared in court on August 16 and 23, 2017. For his direct testimony, witness executed his ***Judicial Affidavit*** which was marked as ***Exhibit "14" and sub-marking.***

In his affidavit, witness narrated that he was assigned at the Regional Office PRO-ARMM, Parang, Maguindanao, in-charge of logistics based on ***General Orders Number 145 dated May 15, 2006*** marked as ***Exhibit "1".*** In addition, he was the OIC Provincial Director of the Province of Maguindanao to expedite compliance regarding reports in firearm stenciling pursuant to ***General Orders Number 495 dated October 19, 2009*** marked as ***Exhibit "2".***

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[743] *See* Order dated October 04, 2018.

On November 23, 2009, he reported at Maguindanao Provincial Police Office in Shariff Aguak instead of going to Parang, Maguindanao, because he had to supervise and assist the team of SINSP Gilbert Antonio in processing the gun amnesty applicants from Maguindanao because they had a deadline on November 30, 2009. As proof that his office was directed to account stenciling of firearms in Maguindanao, he presented the following: a**)** ***Memorandum dated March 24, 2009*** marked as **Exhibit "3"; b)** ***Memorandum dated August 13, 2009*** marked as **Exhibit "4"; c)** ***Memorandum dated August 18, 2009*** marked as **Exhibit "5"; d)** ***PNP Radio Message Form dated May 14, 2009*** marked as **Exhibit "6";**[744] **e)** ***PNP Radio Message Form dated August 14, 2009*** marked as **Exhibit "7"; f)** ***PNP Radio Messages Form dated August 11, 2009*** marked as **Exhibit "8"; and g)** ***Memorandum dated April 09, 2009*** marked as **Exhibit "9".**

At 10:00 a.m. of said date, there was a report of an improvised explosive device (IED) in Malating, Ampatuan, Maguindanao, which caused the alleged flagging down of vehicles in the highway. He directed his subordinates to verify the report. Thereafter, the PNCO got a reply from **PCI Dicay** that it was a false information because there was no IED found and the vehicles were eventually allowed to pass.

At 11:30 a.m., PINSP Michelle Olaivar, the duty officer at the PRO-ARMM Regional Office in Parang, Maguindanao, called and asked about a kidnapping incident in Ampatuan, Maguindanao. Witness immediately rushed to the Ampatuan Municipal Office to personally verify the previous report about IED and the alleged abduction. At around 11:45 a.m., he arrived at the Ampatuan Municipal Police Office where he met **SPO2 Badawi Bakal,** OIC Chief of Police, Municipality of Ampatuan, and the latter said that they have not received any report about the IED and abduction incident.

Witness decided to proceed where the alleged IED was seen in Malating. En route, he passed by the group of **PINSP Mokamad** and asked him about the incident, but the latter replied that no such incident occurred and reported to him. He proceeded to another area in Malating and on the way, he saw PCI Dicay and PINSP Diongon around noon time. He asked PCI Dicay about the report, but the latter said that the IED was a false alarm and no other incident was reported to them. PCI Dicay further stated that they were at the area because of the reported IED and presence of armed men. Witness then returned to the Maguindanao Police Office to continue the stenciling of firearms.

From his assignment, witness was brought to CIDG-Camp Crame on November 26, 2009 and was confined in a room separate from his subordinates until December 28, 2009. Witness claimed that he was

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[744] Said document was provisionally marked and denied admission as evidence for accused PSUPT Abusama Maguid pursuant to the Order dated February 20, 2018.

illegally arrested as he did not receive any subpoena from the DOJ neither was he required to attend a Preliminary Investigation and submit a counter-affidavit before he was brought to CIDG-Camp Crame. Witness identified a ***Counter-Affidavit dated December 28, 2009*** marked as ***Exhibit "13".***

Witness denied the testimony of prosecution witness Esmael Canapia that the latter saw him on November 23, 2009 alighted from the vehicle on the way to the mountain of Masalay together with Datu Unsay and more or less thirty (30) persons near the house of Jainal about 400 meters away from the backhoe. He said that Canapia had grudge against him because when he and Takpan Dilon were arrested by the soldiers on November 23, 2009, and turned over to SPO2 Bakal, the latter sought instruction from the witness on what to do with them. Witness instructed SPO2 Bakal to bring Canapia and Dilon to CIDG-ARMM in Cotabato for investigation and inquest. Eventually, a case was filed against Canapia on November 26, 2009 at the Maguindanao Provincial Prosecutor's Office docketed as NRS XIV 1010Q-09-00006 for violation of P.D. No. 1866 as amended by R.A. No. 8294. Both were likewise charged as among the accused in these cases. Witness presented the following: a) ***Warrant of Arrest dated March 10, 2010*** *issued by the Regional Trial Court of Cotabato City, Branch 15, against Takpan Dilon and Esmael Canapia* marked as ***Exhibit "10";*** b) ***Letter dated March 22, 2010*** *of Umaima L. Silongan, OIC, RTC Cotabato City, Branch 15* marked as ***Exhibit "11";*** and c) ***Order dated November 10, 2010*** *of RTC Cotabato City, Branch 15* marked as ***Exhibit "12".***

Witness also denied the testimony of PINSP Rex Ariel Diongon that he instructed the latter to clean the evidence by burning it and pretend that there was a reported bomb threat and false alarm as he was not able to talk to PINSP Diongon but only to PCI Dicay. Witness averred that PINSP Diongon was very eager to become a state witness and be discharged so he invented those fabricated allegations. He also learned from the CIDG report of Camp Crame and NBI report, that he was not implicated in these cases, so the prosecution sought the fabricated testimonies of Canapia and Diongon.

When cross-examined on August 23, 2017, witness clarified that his additional role as OIC Provincial Director in November 2009 was with regard to the firearms stenciling only but said duty was not indicated in his designation.

With respect to his duty of assisting SInsp. Gilbert Antonio in stenciling firearms in Shariff Aguak, Maguindanao, on November 23, 2009, witness presented certain documents ***(Exhibits "3", "4", "5", "7", "8", and "9")*** which indicate the supposed deadline within which to comply therewith. However, the prosecution noted that the respective dates specified therein were not complied with which was confirmed by the

witness. The prosecution thereafter adopted these documents as their ***rebuttal evidence*** and marked as ***Exhibits "(19) M", "(19) N", "(19) O", "(19) P", "(19) Q", and "(19) R", respectively.***

Witness explained that he attended a meeting at the national headquarters and was given verbal instruction to comply with the stenciling of firearms until November 30, 2009. Aside from this statement, witness has no other proof to back up his claim. Witness explained that a superintendent like him assisted SINSP Gilbert Antonio because he was in-charge with logistics and he has to counter-check the firearms to be stenciled with the records.

Witness affirmed that on November 23, 2009, he went to the Police Provincial Office of Maguindanao in Shariff Aguak. From Parang, Cotabato City, he passed by Datu Odin Sinsuat to Shariff Aguak. He confirmed seeing **accused Bakal, Mokamad and PCI Dicay,** as well as then PINSP Diongon, on said date manning and supervising the checkpoint in Malating. He denied seeing Canapia and Takpan Dilon on said date. He also confirmed that there was no document to show that he instructed SPO2 Bakal to bring Canapia and Dilon to CIDG for inquest and investigation, as it was only an oral instruction.

Witness also confirmed that he issued an *"IMPLAN"* on November 19, 2009 and the implementation of the same was the next day, November 20. He explained that as instructed in the said *"IMPLAN",* all chiefs of police shall conduct checkpoint and road security along the national highway and filter all the vehicles passing through the provincial capitol.

On re-direct examination, witness clarified that the instruction in the *"IMPLAN"* was very clear that the checkpoints should be in the Provincial Capitol of Maguindanao. He also asked for the marking of the *"IMPLAN"* as ***Exhibit "20"***[745] ***(common exhibit – Exhibit "(19) J" for the prosecution).*** Witness reiterated that he decided to supervise the stenciling of firearms on November 23, 2009 because there were many applicants for the Gun Amnesty Program 2 and they needed to comply with the deadline which was until November 30, 2009 only.

At the hearing on November 08, 2017, counsel[746] of accused PSUPT Maguid manifested that he will no longer present additional evidence for the accused but requested for the marking of the following documents: a) ***Letter signed by Ericson Velasquez dated December 7, 2009*** marked as ***Exhibit "16";*** b) ***PNP-CIDG Report dated November 28, 2009*** marked as ***Exhibit "17";*** c) ***Compilation of documents attached to the NBI Report*** marked as ***Exhibit "18";***

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[745] Originally requested to be marked as Exhibit "17" for accused Maguid and Exhibit "(19) J" for the prosecution, TSN, August 23, 2017, p. 86, but requested to be re-marked as Exhibit "20" pursuant to the Formal Offer of Documentary Evidence filed by accused PSUPT Maguid.
[746] Atty. Abdulkalim Askali.

and d) ***Order of Re-assignment dated November 23, 2009*** marked as ***Exhibit "19".***

Testimony of RET. SINSP Gilbert Antonio

RET. SINSP GILBERT ANTONIO appeared in court on September 28, 2017. In his ***Judicial Affidavit*** which was marked as ***Exhibit "15" and sub-markings,*** witness alleged that on November 23, 2009, he reported for duty at the Provincial Office in Shariff Aguak, Maguindanao, because they were directed by their higher officer to process the gun amnesty applications from Maguindanao since the deadline was up to November 30, 2009. PSUPT Maguid also reported at said office on that day because the witness requested for the former to supervise and help them with the stenciling of the firearms.

On or about 11:30 a.m., PINSP Michelle Olivar, duty officer at the PRO-ARMM, Regional Office in Parang, Maguindanao, called up and verified about the alleged kidnapping incident that took place in Ampatuan municipality. Upon learning about the report, PSUPT Maguid told the witness that he will leave to personally verify the alleged abduction. When PSUPT Maguid left, witness continued with the stenciling of the guns with his subordinates.

At around 1:00 p.m., PSUPT Maguid returned to the Provincial Police Office. Witness asked about the alleged abduction incident to which PSUPT Maguid answered that he met SPO2 Bakal, PINSP Mokamad and PCI Dicay at their respective checkpoints and all of them gave negative answers about the alleged incident. Thereafter, the witness and PSUPT Maguid continued with the stenciling.

When cross-examined, witness confirmed that he has no supporting document to prove that he indeed reported for duty on November 23, 2009, and that there was a directive from his higher officer to process the gun amnesty applications from Maguindanao, and the same was given on November 23, 2009. He affirmed that PSUPT Maguid personally went to the place of incident on November 23, 2009. Witness did not record the report relayed to them about the alleged abduction and that they received said report at 11:30 in the morning of said date. He just heard the same through the conversation of PSUPT Maguid and PINSP Olivar. He also has no record that PSUPT Maguid returned back to the office at 1:00 p.m. Witness also confirmed that it was the first time that he executed an affidavit for accused PSUPT Maguid.

On re-direct examination, witness clarified that the Provincial Police Office is located in Shariff Aguak, Maguindanao. He also said that they do not usually record the arrival of the officers when they report for duty.

Witness for accused SPO2 Badawi Bakal: --
(WITH REBUTTAL EVIDENCE)

1. Accused SPO2 Badawi Bakal – He is the former Officer-in-charge (OIC) Chief of Police of the municipality of Ampatuan. He was manning a checkpoint close to the Municipal Hall of Ampatuan on November 23, 2009.

Testimony of SPO2 Badawi Bakal

SPO2 BADAWI BAKAL appeared in court on August 10 and 23, 2017. Based on his ***Judicial Affidavit*** which he identified and marked as ***Exhibit "7",*** witness testified that on November 23, 2009, he was supervising and manning a checkpoint close to the Municipal Hall of Ampatuan. Said checkpoint was permanently placed there to check those people coming in and out of the Municipal Hall and to maintain peace and order in the area. Witness also identified a document entitled ***"IMPLAN"*** which was marked as ***Exhibit "2".***

On or about 11:45 a.m., PSUPT Abusama Maguid arrived together with his security at the checkpoint and asked about the report regarding a bomb threat. After witness answered that he received no report about said incident, PSUPT Maguid left.

While supervising the checkpoint, the Army arrived and turned over to him Esmael Canapia and Takpan Dilon. He then asked PSUPT Maguid on what to do with them, and the latter instructed him to bring the arrested persons to the CIDG-ARMM, PC Hill, Cotabato, for investigation and inquest. He then brought the two arrested to CIDG-ARMM where Canapia was eventually charged with violation of P.D. 1866 as amended by R.A. 8294. Witness also presented the following documents: a) an ***Affidavit*** executed by him marked as ***Exhibit "3"*** **(provisional);** b) ***Order dated November 10, 2010 of RTC, Cotabato City Branch 15*** marked as ***Exhibit "4";*** c) ***Alias Warrant of Arrest*** *dated November 10, 2010* marked as ***Exhibit "4-A";*** d) ***Spot Report*** marked as ***Exhibit "5";*** and e) ***Counter-Affidavit*** *of the witness* marked as ***Exhibit "6" and sub-marking.***

Witness denied any involvement in the massacre. He also averred that he was illegally arrested because when he was brought to Camp Crame on November 25, 2009, he did not receive any subpoena, and was placed under custodial investigation and inquest proceedings.

When cross-examined on August 23, 2017, witness testified that PSI Rene Escumadia Berico was his superior and he was the one who signed his designation as OIC of the Ampatuan MPS based on ***Special Order No. 240*** dated July 30, 2009 marked as ***Exhibit "1".*** Witness confirmed that the *Spot Report* (marked as **Exhibit "5"**) was made at

3:30 p.m. on November 23, 2009. He also confirmed the ***"IMPLAN to Security Plan-Filing of Candidacy"*** marked as ***Exhibit "2" and sub-marking*** and was likewise marked by the prosecution as its ***rebuttal evidence – Exhibit "(19) J" and sub-marking.***

The prosecution also asked for the witness to confirm his *Counter-Affidavit dated December 28, 2009* marked as **Exhibit "6" and sub-marking**, which was also marked by the prosecution as its ***rebuttal evidence – Exhibit "(19) K" and sub-marking.*** He confirmed that he personally submitted said *Counter-Affidavit* to the DOJ and he received a copy of the subpoena which it issued on December 18, 2009.

Witness affirmed that Masalay and Sitio Malating are within his area of responsibility. He also confirmed that Isulan, Shariff Aguak Road going straight to Shariff Aguak, Cotabato City Road, and all vehicles coming from Buluan, Maguindanao, Esperanza, Sultan Kudarat, must pass through the Isulan Shariff Aguak Road. He clarified that he merely supervised the checkpoint near the Municipal hall and that said checkpoint was established long before November 20, 2009.

He said that prior to November 23, 2009 he has seen Canapia but never talked with him, nor had any animosity or fight with him. He also denied the statement of Canapia when the latter testified in court that the witness pointed a gun at him at the CIDG office. He also said that despite his claim that he was illegally arrested, he did not file a case against those persons or police officers who arrested him.

On re-direct examination, witness pointed in the *"IMPLAN"* page 2, no. 8 which gives him authority to conduct a checkpoint. He also clarified that in his *Counter-Affidavit,* it was stated that he was the Chief of Police of Datu Unsay MPS, but said statement was not true. Witness identified the ***CIDG Report*** marked as ***Exhibit "8", PNP-CIDG Reports*** marked as ***Exhibit "9",*** and ***NBI Report*** and marked as ***Exhibit "10".***

On re-cross examination, witness was asked if he coordinated with the COMELEC regarding the establishment of the checkpoint as stated in the *"IMPLAN"* to which he answered in the negative. He also said that he did not clarify the matter with respect to the wrong information that he was not the Chief of Police of Datu Unsay in his present judicial affidavit. In the *CIDG Report dated December 10, 2009,* witness confirmed that his name appears in number 2 in the list of respondents. Said Report was likewise marked by the prosecution as its ***rebuttal evidence – Exhibit "(19) L" and sub-marking.***

Witness for accused PCI Sukarno A. Dicay: --
(WITH REBUTTAL EVIDENCE)

1. Accused PCI Sukarno A. Dicay – He is the former Assistant Provincial Director of the Maguindanao Police Provincial Office based in Camp Akilan, Ampatuan, Shariff Aguak, Maguindanao.

Testimony of PCI Sukarno A. Dicay

PCI SUKARNO A. DICAY appeared in court on February 01 and 02, 2017. In his ***Judicial Affidavit*** which he identified and marked as ***Exhibit "3" and sub-markings,*** witness alleged that starting November 19, 2009, he and the 1508th Provincial Mobile Group (PMG) then headed by **PINSP Rex Ariel T. Diongon** established a checkpoint in Sitio Malating, Brgy. Salman, Ampatuan, because they received an information that there will be armed men entering their area of responsibility.

The establishment of the checkpoint was sanctioned by their superiors as evidenced by an ***"IMPLAN to Security Plan*** – *Filing of Candidacy"* dated November 19, 2009 marked as ***Exhibit "1" and sub-markings.*** Witness stated that the said *"IMPLAN"* was issued and signed by **PSUPT Abusama Mundas Maguid,** then OIC of the Maguindanao Police Provincial Office.

On November 23, 2009 at around 10:00 a.m., while they were conducting a checkpoint, a convoy of several vehicles (first convoy) passed by and the first vehicle that passed had a mark "UNTV". After the first convoy stopped, another convoy suddenly arrived comprised of around 100 armed men, most of them wearing a "camouflage green" uniform and others were wearing civilian clothes.

Thereafter, the armed men ordered the passengers of the first convoy to disembark from their vehicles and lay prostrate on the ground. Then they confiscated all the papers and personal belongings of the passengers such as cellphones and laptop. Witness stated that they were not able to do anything because the armed men pointed at them long firearms and told them *"Wag kayong makialam, kung hindi mamamatay kayo."*

He identified **Datu Andal "Unsay" Ampatuan, Jr.** (son of the Governor, and a Mayor of one municipality) as one of the armed men. He described Datu Unsay as wearing maong pants and black jacket with white stripes and a hood. Witness narrated that Datu Unsay pointed his Baby Armalite (M16) with a grenade launcher (M203) at the passengers while shouting *"Dapa, dapa."* He also saw Datu Unsay slapped one passenger. When he thought that Datu Unsay will shoot the passengers

laying prostrate on the ground, witness shouted *"Wag Datu, wag Datu, wag kayong magpapaputok."*

Witness also identified **Mohamad Sangki** (Municipal officer of Datu Abdullah Sangki, Maguindanao)**, Datu Ulo Ampatuan** (grandchild of Governor Datu Andal Ampatuan, Sr.) **and Tammy Masukat** (Commander of the Civilian Volunteer Organization) as part of the group of armed men. He described these men as on alert status while holding the trigger of their individual M16. He also recognized the OIC - Chief of Police of Datu Unsay, **PO1 Abbey Guiadem,** and his men as well as the group of Army from the 57th Infantry Battalion.

After they got the belongings of the passengers, the armed men boarded the passengers to their vehicles and drove the same. Witness testified that their group was left at the checkpoint and at 11:00 a.m., **Provincial Director PSUPT Maguid** together with **PINSP Saudi Mokamad** arrived. PSUPT Maguid asked the witness about the situation and he answered that Datu Unsay brought the passengers of the first convoy going to Shariff Aguak. PSUPT Maguid then replied that they continue with the checkpoint.

At around 3:00 p.m., two (2) trucks from the army headed by **Lt. Col. Nerona** arrived at the checkpoint. When asked about the alleged abduction, witness denied the same due to lack of trust. PINSP Diongon did not say anything but witness directed the former to accompany Lt. Col. Nerona because the latter requested for police augmentation for a hot pursuit operation.

Thereafter, PINSP Diongon called the witness informing him that they already arrived in Brgy. Masalay, Ampatuan, and found the bodies of the passengers who passed by their checkpoint. They were not able to enter the crime scene because it was already cordoned. When informed of the situation, PSUPT Maguid advised the witness to withdraw their unit from the crime scene.

Witness also identified and confirmed his statements in a document denominated as ***"Sinumpaang Salaysay"*** dated November 29, 2009 which was marked as ***Exhibit "2" and sub-markings.***

On cross-examination by the prosecution, witness confirmed that he was designated as the OIC Provincial Director of the Provincial Police Office of Maguindanao from May to October 2009. Then he was demoted to Deputy Provincial Director in October 2009 because he refused to kill the Mangudadatus during the Pandag incident. In November 2009, he was the Deputy Provincial Director.

Witness further testified that it was not indicated in the *IMPLAN*, that the Deputy Provincial Director was authorized to set-up, man and

supervise the checkpoint. He however, confirmed that from November 19 to 23, 2009, he was supervising the checkpoints manned by the members of the PNP along the highway.

He remembered when Sukarno Badal testified in court and identified him as one of those who attended the meeting on July 20, 2009 at Century Park, and the meeting on November 16, 2009 held at the house of Andal, Sr. in Maguindanao. However, he denied attending the meeting on November 21, 2009 at the house of Datu Unsay. He also remembered when Badal testified and pinpointed him as the one who held Bai Gigi during the November 23 incident, but he denied that he knew all along the plan of the Ampatuan to kill the Mangudadatus. Witness claimed that Badal pinpointed him as one of the participants of the July 20, 2009 meeting at Century Park because of the operation in Pandag.

He maintained that the reason for the checkpoints was because they received information that armed groups named "Buwaya sa Lanao" will enter their area of responsibility. He intially confirmed that the "Buwaya sa Lanao" refers to the Mangudadatus but when clarified by the Court, witness said that they refer to the armed groups. But when Diongon earlier testified, he referred to the Mangudadatus as the "Buwaya sa Lanao", but witness said that there are many armed groups, not the Mangudadatus. It also depends on the Intel reports that they received, so he was not sure of the information received by Diongon.

With respect to the *Counter Affidavit dated December 28, 2009* which was submitted to the Department of Justice, witness averred that the same was only fabricated because it was prepared in Cotabato City and if he was the one who prepared it, he would have been killed at that time because the Ampatuans were very powerful and if they knew the execution of said affidavit, he would have been killed. He confirmed though that the signature on the said Counter-Affidavit is almost the same signature appearing in his recent judicial affidavit.

Witness confirmed that he was present when Esmael Abubakar testified in court and pinpointed him as one of those who shot the victims on November 23, 2009, which he however denied. He said that aside from his testimony, the only person who can testify for him is PINSP Diongon who said that they were together until the afternoon of November 23, 2009.

The prosecution and the counsels of accused Abusama Mundas Maguid and Datu Andal Ampatuan Jr. stipulated that if asked, the witness will be able to identify said accused. As regards Tammy Masukat, witness said that as of present, said accused has yet to be arrested. With respect to Datu Ulo Ampatuan, Atty. Askali, who was then appointed as counsel de oficio at that time, did not stipulate. But there was a statement from

the witness that Datu Ulo is the same Datu Ulo who is the accused in these cases and now detained together with him.

Witness testified that on November 24, 2009 in Maguindanao, he attended a meeting together with Sajid Ampatuan, Nori Unas, Atty. Norodin Kasan, Atty. Mustapha Sambulan, Atty. Oscar Sabdula, Atty. Cynthia Guiana Sayadi, Mayor Akmad D. Ampatuan, and PINSP Diongon because he was summoned by then Provincial Director, SUPT Abusama Maguid.

The prosecution presented a ***"Supplemental Affidavit"*** *dated July 28, 2010* and had the same marked as ***Exhibit "(18) R" rebuttal for Dicay*** which the witness identified as his.

The counsel of accused Maguid and Bakal[747] then waived his right to cross-examine the witness.

When cross-examined by the counsel of accused Datu Andal Ampatuan, Jr.[748] on February 02, 2017, witness testified that he has been in the police service for 23 years on the date in question. When asked, he affirmed that he was not responsible for the deaths of the 58 victims. He confirmed that he heard one gunshot on November 23, 2009 in Malating (his temporary checkpoint at that time) from Datu Unsay. Witness also testified that at the said checkpoint, there were also elements from the Armed Forces of the Philippines, particularly the 38th Infantry Battalion as outlined in the IMPLAN.

He also said that on November 23, 2009, there were almost 20 plus men under his command and not all of them were armed because some were only trainees. He said that he was one of those armed with a licensed caliber .45 which he submitted for ballistics test to their regional office (RO), but the RO field failed to conduct ballistics examination. He explained that the ballistics examination is very important in the resolution of the crime to determine whether the slug retrieved from the body of the victim will match with the slug of the suspected firearm. Witness averred that having attended at least all of the hearings in these case, he never heard of any ballistics report being presented, marked and offered as evidence insofar as the .45 caliber is concerned and he cannot remember if there had been any ballistics report presented with respect to any handgun registered with accused Datu Andal, Jr. or any other accused.

Witness said that it took 15 to 20 minutes when the armed men took the personal belongings of the passengers from the convoy. He described the group of more than 100 armed men to be wearing camouflage and referred to them as the group of Datu Unsay, so witness did not ask for reinforcement as he knew a few of them, but he admitted

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[747] Atty. Abdulkalim Askali.
[748] Atty. Raymond Fortun.

that they were not able to check whether the armed men were licensed to carry firearms. These armed men arrived at the checkpoint aboard around 10 vehicles. Aside from his testimony, witness has no other record that Datu Andal Jr. was indeed present at the checkpoint on November 23, 2009. When the latter left together with the passengers from the convoy, witness confirmed that he did not report the same to his superiors. He did not also execute any incident report in connection with what transpired at the checkpoint, but he said that it was the Provincial Director who executed an incident report before the PNP Regional ARMM.

On re-direct examination, witness confirmed that the ***Counter Affidavit*** *dated December 28, 2009* which was presented to him during the direct examination was his affidavit and the reason he refused to acknowledge the same was because he was not able to read it at that time. He had the same marked as ***Exhibit "4".*** The prosecution, on the other hand, had the same document marked as ***Exhibit "(18) S" rebuttal for Dicay.*** He also identified his ***Supplemental Affidavit*** *dated July 28, 2010* which was prepared by Atty. Marlon Pagaduan with a promise that he will be released if he signs the same. He averred that the same was fabricated. This document was marked for the accused as ***Exhibit "5" and sub-markings.***

Witness was also cross-examined by the counsel[749] of accused Talembo Kahar Abdulrakman a.k.a. Talembo "Tammy" Masukat.[750] He confirmed that in his judicial affidavit, he mentioned a certain Tammy Masukat who was the commander of the CVOs. When asked if said accused is present in court, witness manifested that a person named Tammy Masukat is not present in the courtroom. When asked if the person he approached whose name is Talembo Kahar Abdulrakman charged as Tammy Masukat is the same Tammy Masukat he was referring to, witness answered that he does not know said person even the name and Talembo Kahar Abdulrakman is not the same Tammy Masukat he mentioned in his judicial affidavit.

When cross-examined by the counsel[751] of accused PO2 Saudiar Ulah, witness testified that based on his experience during election period, police visibility is more than increased, meaning, there are more checkpoints than ordinary days. So, on November 19, 2009, when they set-up the checkpoints, that was already part of the election period and there was nothing unusual setting up of more checkpoints at that time. He also confirmed that they set up those checkpoints based on the *IMPLAN* which was prepared by SUPT Maguid and the witness had

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[749] Atty. Amando M. Cura, PAO Taguig.

[750] The cross-examinations by the counsels of accused Talembo "Tammy" Masukat and PO2 Saudiar Ulah were conducted after the re-direct examination conducted on the witness; hence, the prosecution objected and the same was also manifested by the counsel of accused Datu Andal Jr., Atty. Raymond Fortun. However, in the interest of substantial justice, the court allowed the additional cross-examinations.

[751] Atty. Yasser Lumbos.

no hand in the preparation thereof. Witness knows accused PO2 Saudiar Ulah and he confirmed that said accused has no participation in the planning of conducting checkpoints and that the job of PO2 Ulah is to follow whatever he is told. He was not aware whether PO2 Ulah was issued firearm but he confirmed his earlier statement that not all members of the 1508th were issued firearms.

No re-direct examination was conducted by the counsel of the witness insofar as the respective cross-examinations of counsels of accused Talembo Kahar Abdulrakman a.k.a. Talembo "Tammy" Masukat and PO2 Saudiar Ulah are concerned.

On re-cross examination by the prosecution on even date, witness confirmed that PO2 Ulah was not directly reporting to him but to his superior – PINSP Diongon. He reiterated that the *Supplemental Affidavit* which he signed with the assistance of Atty. Pagaduan was fabricated and it was only executed by "them" with a promise to be released if he signs the same. And when asked by the prosecution if it was correct that he was willing to fabricate evidence in order for him to be released from detention, witness answered in the negative.

Witnesses for PINSP Michael Joy Macaraeg: (Member of the 1508th PMG)
(WITH REBUTTAL EVIDENCE)

1. Accused PINSP Michael Joy Macaraeg – He was a member of the 1508th PMG designated as the Executive Officer of then PINSP Rex Ariel Diongon. He claimed that he only arrived in Maguindanao on November 22, 2009, after a long stay in Manila. He immediately proceeded and reported at the checkpoint in Malating until November 23, 2009.

2. Rex Ariel T. Diongon – He is the former OIC Group Director of the 1508th PMG, and a former classmate of PInsp. Macaraeg. He and his group were instructed to conduct a checkpoint at Sitio Malating from November 19, 2009 to December 02, 2009. He was presented to prove that PINSP Macaraeg was not aware of the purpose of the checkpoint.

3. Allan R. Del Rosario – He is the Manager of the Passenger Services Division, Airport Service Department of the Philippine Airlines. He was presented to identify the Certification dated January 05, 2009 he issued based on the flight records of PR187 on November 22, 2009 from Manila to Cotabato, where one of the passengers was accused PINSP Macaraeg.

Testimony of accused PINSP Michael Joy Macaraeg

PINSP MICHAEL JOY MACARAEG appeared in court on December 07, 2017 and January 11, 2018, and presented his ***Judicial Affidavit*** marked as ***Exhibit "4" and sub-marking***.

Witness testified that from January to May 2009, he attended school for CRIDEC-Program held at the National Forensic Science Institute, Fort Bonifacio, Taguig City. From June to August 2009, witness did not report for work in Maguindanao but stayed at home in Caloocan to attend to his wife who just gave birth. Sometime in August 2009, he reported in Maguindanao for their Annual General Inspection-Orientation Readiness and Security Inspection Test and Evaluation (AGI-ORSITE) and stayed therein for one week. Thereafter, he asked permission from his superior PCI Dicay, and was allowed to go home. He stayed again in Caloocan from September to November 2009, until he received a call on November 21, 2009, from a certain Mrs. Renneth Bautista, a Non Uniformed Personnel from the Provincial Headquarters, PNP-Maguindanao, informing him that as per instruction of Col. Maguid, he needs to report for work immediately, or he will be declared on AWOL.

On November 22, 2009, witness took flight PR187 from Manila to Cotabato, as evidenced by a ***Certification dated January 5, 2009*** *(sic)* marked as ***Exhibit "2" and sub-markings.*** Upon arrival in Cotabato at around 3:00 p.m., he went to the checkpoint where he saw his classmate then PINSP Diongon and their Deputy Provincial Commander PCI Sukarno Dicay. He learned from PO2 Decipulo that their unit had been conducting checkpoint since November 19, 2009 with augmentation force from Parang, Buldon, Sultan Kudarat, all from Municipal Police Stations of Maguindanao.

On November 23, 2009, at around 9:45 a.m., while the Police Non-Commissioned Officers (PNCO) from the municipalities of Parang, Buldon, Datu Odin Sinsuat MPS were manning the checkpoint, (witness claimed that their duty that day will start at 1:00 p.m.), he overheard PCI Dicay said *"prepare ang lahat, may magfile ng Certificate of Candidacy, kukunin ang dokumento."* Thereafter, at least five (5) vehicles arrived, on board were around 20 to 30 fully armed CVOs, CAFGUs and private bodyguards led by Datu Kanor Ampatuan who were equipped with M16, M14, M4, M203 and a caliber .50 mounted on top of a pick up. Witness averred that the 1508th had two (2) M16 with one (1) magazine only which was used on rotation basis. Then PINSP Diongon approached the witness and said "*Bok, maghanda at malamang magkasagupaan ang mga Buwaya sa Lanao, possible engagement maaring mangyari,"* referring to the clan of Mangudadatu and their private armies.

At around 10:35 a.m., a convoy of private vehicles approached the checkpoint and was stopped by Datu Kanor, PCI Dicay, and the CVOs and

CAFGUs. The armed men pointed their guns at the policemen and the passengers while directing the latter to alight from their vehicles. The passengers of said convoy comprised of members of the media and civilian who were mostly women from the clan of the Mangudadatus. After 5 minutes, a second convoy arrived which consist of 10 to 15 vehicles loaded with a number of CVOs, CAFGUs and private armies, all fully armed. This convoy was led by Datu Andal Ampatuan, Jr. who alighted from a black Toyota Hi-Lux. Witness noticed that there were 2-3 pick-ups with .50 caliber machine guns mounted on top, an armored car called "Sangguko" also with .50 caliber machine gun, and service vans likened to police service van. Witness then saw that the armed men confiscated the personal belongings of the passengers of the first convoy and then they were taken by the armed men going to the direction towards Shariff Aguak.

According to the witness, after five (5) to 10 minutes, **PSUPT Maguid** arrived and told PCI Dicay, "*Basta may naresib kayong bomb threat at palabasin na false alarm ha.*" Then, they continued conducting the checkpoint, and at 2:00 p.m. when troops from the army arrived and inquired about the abduction, the same was denied by PCI Dicay. The army requested for assistance for hot pursuit so PCI Dicay directed PINSP Diongon and some police officers to accompany them. Meanwhile, witness together with eight (8) police officers, were directed to stay at the checkpoint. Thereafter, a hummer type jeep with .60 caliber machine gun mounted on its top and one (1) six by six truck with CVOs, CAFGUs and private bodyguards stopped in front of them and told them: "*Wag kayong magsusumbong!!! Papatayin namin kayo!!!*" At around 6:00 p.m., PCI Dicay told them to leave the place and go to Labo-Labo, Ampatuan, where they spent the night.

When witness went to the Provincial headquarters on November 24, 2009, he saw PCI Dicay and PINSP Diongon being investigated. PSUPT Maguid deputized the witness to take over the troops. On November 26, 2009 while at the headquarters, Col.Coyme told witness that there was a threat on his life per intelligence. For fear of his life, witness left Maguindanao and went to Manila on November 27, 2009 without asking permission from his superiors.

On cross examination by the prosecution, the witness confirmed that from September to October 2009 when he stayed in Manila, he was not on official leave and there was an internal arrangement between him and his superiors – PCI Dicay and PINSP Diongon. He also affirmed that there was no written order for him to report in November 2009. He also explained that although PINSP Diongon was his immediate superior at that time, Col. Maguid who was the Provincial Director, can instruct him to report for duty. Witness confirmed that he stated in his "*Sinumpaang Salaysay" dated December 29, 2009* which was submitted to the DOJ during the preliminary investigation that he overheard PCI

Dicay said to other persons *"May utos, 'To, na harangin ang magpa-file ng Certificate of Candidacy."* Witness also confirmed his other statements written in the *"Sinumpaang Salaysay"* particularly the part that PCI Dicay was talking to a radio directing someone to block the area and the part where PCI Dicay told the witness that he told victim Henry Araneta to escape because the passengers will be killed.

The prosecution sought for the marking of the ***"Sinumpaang Salaysay"*** *dated December 29, 2009* as its ***rebuttal evidence – Exhibit "(19) V".***

Witness was also cross examined by counsel[752] of accused PCI Sukarno Dicay. He merely confirmed his statements in his *Judicial Affidavit.*

When cross-examined by counsel[753] of accused PO1 Pia Kamidon and PO2 Saudiar Ulah on January 11, 2018, witness testified that from January to November 2009, during the time that he was away from Maguindanao, nobody gave him an update or briefer of the actual status of their area of responsibility in Maguindanao. Even when he arrived at the checkpoint on November 22, 2009, nobody briefed him on the current status of the area or their mission. He admitted that he is practically oblivious to the prevailing political peace and order issues in Maguindanao and were it not for the threat made on November 21, 2009, that he will be declared on AWOL, he might have extended his stay in Manila.

Witness also claimed that he tried asking Inspector Diongon about the situation in the area but was not always available. When witness asked PCI Dicay about their mission, the latter did not answer and only stared at him. Witness interpreted this response from Dicay that he was hiding something from him. In open court, witness identified PO2 Saudiar Ulah and confirmed that the latter had no firearm when they conducted the checkpoint. He also described the high-powered firearms carried by the armed men which were pointed to the witness and his companions causing great fear among them.

On re-direct examination, witness said he was able to talk to SUPT Coyme personally regarding the threat on his life. He also marked the ***"Sinumpaang Salaysay"*** *dated December 29, 2008* as his ***Exhibit "6" and sub-marking.[754]***

On re-cross examination by the prosecution, witness testified that he saw PO2 Ulah on November 23, 2009 and he remembered that

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[752] Atty. Wilfredo Gay.
[753] Atty. Yasser Lumbos (collaborating counsel of accused PO1 Pia Kamidon).
[754] Originally marked as Exhibit "4" and "4-A" which was remarked as Exhibit "6" and "6-A" respectively, pursuant to the Order dated April 06, 2018.

the latter had no service firearm on said date. He confirmed that he never made mention of PO2 Ulah in his affidavit.

Testimony of Rex Ariel T. Diongon

REX ARIEL T. DIONGON[755] appeared in court on September 28 and October 12, 2017. Based on his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-marking,*** witness testified that in November 2009, he was designated as the OIC Group Director of 1508th Provincial Police Mobile Group (PPMG), Maguindanao. He was directed by PCI Sukarno Dicay to conduct checkpoint along the Provincial road in Sitio Malating, Barangay Salman, Ampatuan, Maguindanao, from November 19 to December 02, 2009.

He alleged that when they started the checkpoint in the afternoon of November 19, 2009, accused PINSP Macaraeg was not yet around. The latter arrived only on November 22, 2009 at 4:00 p.m., and he was surprised to see Macaraeg because it was the first time, he saw him from the time he was designated as his Executive Officer. Witness confirmed that Macaraeg attended school from January to May 2009 in Taguig and extended his stay in Manila because Macaraeg's wife gave birth in June. The last time he saw Macaraeg was in August 2009 during their AGI-ORSITE. Witness also checked the firearm used by accused Macaraeg on November 22, 2009 and he told the witness that they should look for a longer firearm since the initial information given to him was that Mayor Toto Mangudadatu will be filing his certificate of candidacy accompanied by his private army *"Buwaya sa Lanao"* who were believed to possess high powered firearms.

Witness confirmed the testimony of accused Macaraeg on what transpired on November 23, 2009 at the checkpoint in Sitio Malating.

On cross examination by the prosecution, witness testified that accused Datu Andal "Unsay" Ampatuan, Jr. shouted at the people from the Mangudadatu convoy, but he did not shout or do anything at the police officers manning the checkpoint. Datu Unsay and his men did not seize the firearms of the policemen. They were not prevented from escaping. He said that half of the police officers manning the checkpoint were not fully armed. He confirmed that when Datu Unsay shouted at the people in the convoy, there was no resistance whatsoever on the part of accused Macaraeg. Neither did he see Macaraeg attempted to escape at that particular time. Witness said that they didn't know that the victims were transported to the mountains of Masalay. The police officers including Macaraeg stayed at the checkpoint after the convoy left. Macaraeg was present at the checkpoint pursuant to the directive of Col. Maguid.

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[755] Witness Rex Ariel T. Diongon testified on September 18, 2017 and October 12, 2017. He was declared as hostile witness.

On re-direct examination, witness said that they were ordered by PCI Dicay to remain and man the checkpoint until further notice.

Witness was also cross examined by counsel[756] of accused Datu Andal Ampatuan, Jr. on October 12, 2017. He affirmed that he did not see Datu Unsay shoot any of the victims nor direct anybody to shoot any of the victims. He has no pictures to show that Datu Unsay was at the checkpoint on November 23, 2009. He was also not aware if there was a ballistics report submitted for the cartridge of an M16 allegedly used by Datu Unsay on said date. With respect to the absences of Macaraeg, witness confirmed that he was not given any notice that the accused had filed his leave of absences, and he was present at the meeting on November 19, 2009 and there was no instruction from Datu Unsay to harm either Gov. Toto Mangudadatu or any of his partners. He did not hear accused Macaraeg uttered an objection at the time the acts of violence had occurred on November 23, 2009 nor did Macaraeg run when the incident was occurring. After the group of Datu Unsay left, accused Macaraeg did not object to the witness about the acts of violence which transpired in their presence. He confirmed that he already executed six (6) judicial Affidavits. Witness said that accused Macaraeg asked him to testify because he is close to him being his classmate at the PNPA.

Atty. Fortun also adopted the cross-examination done by the prosecution.

When cross-examined by the counsel[757] of accused PO2 Saudiar Ulah, witness alleged that he cannot recall if PO2 Ulah attempted to persuade him to report immediately the incident to higher authorities. He described the length and thickness of a .50 caliber bullet and saw a .50 caliber machine guns on a hummer truck and a *Sangguko* on November 23, 2009. Witness also confirmed that some of the members of the 1508th do not have an issued firearm.

Testimony of Allan R. Del Rosario

ALLAN R. DEL ROSARIO appeared in court on November 23, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which was marked as ***Exhibit "3" and sub-marking.***

Witness testified that he was the Manager of Passenger Services Division, Airport Services Department of Philippine Airlines stationed at Ninoy Aquino International Airport, Terminal 2 from 2000 to 2016. He identified the certified true copy of the ***Certification dated January 5, 2009,*** marked as ***Exhibit "2" and sub-markings,*** which he issued to

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[756] Aty. Raymund Fortun.
[757] Atty. Yasser Lumbos.

Michael Joy Macaraeg showing that he was one of the passengers of flight No. PR187 with route from Manila to Cotabato on November 22, 2009. He also explained the discrepancy on the date of the Certification.

On cross examination on even date, witness testified that he has no personal knowledge as to the whereabouts of accused PISNP Michael Joy Macaraeg on November 19 to 23, 2009, and does not know the accused personally. He issued a Certification based on records of PAL office. He also said that PAL flight PR 187's time of departure and arrival was early in the evening or late in the afternoon. The prosecution marked the said **Certification** as its ***rebuttal evidence – Exhibit "(19) T".***

Witnesses for the members of the 1508th Police Mobile Group
[1) SPO1 Eduardo Ong;[758] 2) PO3 Felix Enate Jr.; 3) PO3 Abibudin Abdulgani; 4) PO3 Rasid Anton; 5) PO2 Hammad Nana; 6) PO2 Saudi Pasutan; 7) PO1 Arnulfo Soriano; 8) PO1 Esmael Guialal; 9) PO1 Herich Amaba; 10) PO1 Narkouk Mascud; and 11) PO1 Esprilieto Lejarso; and 12) PO1 Michael Madsig]:

1. Accused PO1 Narkouk Mascud – He was a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, on November 19 to 23, 2009.

Corroborative Witnesses for the 1508th PMG:

2. Accused PO1 Esprilieto G. Lejarso - He was a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, on November 19 to 23, 2009.

3. Accused PO2 Saudi Pasutan - He was a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, on November 19 to 23, 2009.

Testimony of PO1 Marsouk (Narkouk) Mascud

PO1 NARKOUK DULOAN MASCUD appeared in court on July 20, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature thereon and had the same marked as ***Exhibit "1" and sub-markings***.

Witness narrated that on November 19, 2009, their Group Director PINSP Rex Ariel T. Diongon instructed them to conduct security checkpoint in Sitio Malating, Ampatuan, together with other police officers from Buldon Municipal Police Station, Sultan Mastura Municipal Police

[758] Passed away on November 23, 2017 per letters dated November 23 and 24, 2017, with attached copy of accused' Death Certificate, submitted by J/CINSP Luis Franco P. Cleofe, Officer-in-Charge, Quezon City Jail-Annex, Camp Bagong Diwa, Bicutan, Taguig City.

Station, Parang Municipal Police Station and Sultan Kudarat Municipal Police Station, for the protection of those who will file their Certificates of Candidacy for the 2010 elections.

The following ranking police officers were present at the checkpoint in Sitio Malating on November 23, 2009: **1) PINSP Rex Ariel Diongon; 2) PINSP Michael Joy Macaraeg; and 3) PCI Sukarno Dicay.** While the other non-commissioned police officers present and conducting road security at Malating checkpoint on said date are the following: **1) SPO1 Eduardo Ong; 2) PO3 Felix Enate; 3) PO3 Abdulgani Abibudin; 4) PO3 Rasid Anton; 5) PO2 Hammad Nana; 6) PO3 Hernani Decipulo; 7) PO2 Saudi Pasutan; 8) PO2 Saudiar Ulah; 9) PO1 Michael Madsig; 10) PO1 Ismael Guialal; 11) PO1 Esprilieto G. Lejarso; 12) PO1 Herich Amaba; 13) PO1 Arnulfo Soriano; and 14) PO1 Pia Kamidon.**

He mentioned that not all of them were present in Sitio Malating on November 23, 2009. **SPO1 Donato** was reassigned in Buldon, Maguindanao while **PO1 Baguadatu** asked permission from their Unit Commander PINSP Diongon to go home on November 23, 2009.

Witness said that from November 19 to 22, 2009, nothing unusual happened while they were conducting normal road security. However, on November 23, 2009 at around 10 a.m., while they were conducting road security along the highway of Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, together with the other police officers from Buldon MPS, Sultan Mastura MPS, Parang MPS, and Sultan Kudarat MPS, a convoy (first convoy) composed of different vehicles from the media such as UNTV, DZRH which were marked outside their vehicles, other vans, Tamaraw FX, and Toyota Vios from the direction of Esperanza, Sultan Kudarat going to the Province of Maguindanao was stopped by the police officers from Buldon MPS for regular inspection. But the same did not push through because another convoy (second convoy) composed of a Hi-Lux Black Pick-Up, Hummer Truck, D-Max Izusu Pick-Up, five (5) back-to-back police vehicles, armored car called "Sangguko", and four (4) more pick-up trucks arrived from the same direction stopped at the Malating checkpoint.

He narrated that the second convoy was the group of Datu Andal Ampatuan, Jr. escorted by around a hundred (100) heavily armed men composed of CVOs and CAFGUs. Witness described that the convoy was composed of a hummer truck with .50 caliber machine gun mounted at the back, a scout car with .50 caliber machine gun, armored car called "Sangguko" with two (2) .50 caliber machine guns mounted on top pointing front and back with .30 caliber machine gun side by side. He further stated that all those heavy weapons were pointed at them and the person operating the machine guns told them not to intervene or they will die first.

He then approached his Unit Commander PINSP Diongon and asked if they will not report the incident to Esperanza Police Station to which he responded that they have to wait for the order of PCI Dicay because the latter was present and the one in charge.

Thereafter, a commotion occurred when the armed men accompanied by Datu Andal Jr. forcibly took the cameras, cellphones, and other personal belongings of the passengers of the first convoy and ordered them to step down from their vehicles and lay down facing the ground. Their group did nothing considering that their officers: Unit Commander PINSP Diongon, Ex-O Deputy Commander PINSP Macaraeg, and OIC Provincial Director PCI Dicay were present at that time, and the witness and his co-policemen were just waiting for the orders of their officers. He also stated that they were overpowered because their group had only eight (8) firearms and they use it only when they are on duty, and those who has no duty, has no firearm.

Suddenly, Datu Andal Jr. took the cellphone of a woman who was trying to make a call. She was resisting, but Datu Andal Jr. pulled the trigger of a Baby Armalite/M203 and fired it on the ground. Witness saw PCI Dicay approached Datu Andal Jr. and told him not to fire his gun again. Datu Andal Jr. then pushed PCI Dicay and told him *"wag kayong makialam dito mga pulis."* Witness then later learned that the woman was **Genalyn Mangudadatu,** wife of then Vice-mayor Toto Mangudadatu.

Thereupon, the armed men started to kick, struck with the butt of their firearms the members of the first convoy. Datu Andal Jr. then forcibly put Genalyn Mangudadatu inside his black Hi-Lux Pick-Up and ordered his men to bring the people from the first convoy to their cars and they left the Malating checkpoint.

The witness and their group got worried about the abduction and called the attention of PCI Dicay but the latter told them that maybe Datu Andal Jr. will just bring the people of the first convoy to the Provincial Capitol in Shariff Aguak. Witness suggested that they report the incident to Esperanza MPS, the nearest police station from their checkpoint, but PCI Dicay reiterated his previous statement.

Thereafter, witness and their group continued with their routine security road inspection and at around 3:00 p.m., there were army personnel who arrived. The officer of the army talked with PCI Dicay and PINSP Diongon, then they left the checkpoint. After a few minutes, the army returned and asked assistance for the clearing on the top. PCI Dicay asked PINSP Diongon to prepare one team to assist the army. The team was composed of the **witness (PO1 Mascud)**, **PO2 Decipulo, PO1 Lejarso, PO2 Ulah, PO3 Abibudin, PO1 Amaba, PO2 Pasutan, and PO1 Kamidon.**

Their team went on top at a place the witness had no idea at first, but he later on learned that it was the place were the first convoy was brought and killed as told by the army personnel. They did not see the bodies of the victims because they were prohibited from entering the crime scene except PINSP Diongon. PCI Dicay and PINSP Macaraeg stayed at the Malating checkpoint together with other policemen and continued with the road security inspection.

After 30 minutes, they left the place on top and returned to the CAFGU detachment and waited for the other members of the 1508th from Malating. Then, they proceeded to another CAFGU detachment in Brgy. Labu-Labo, Shariff Aguak and stayed thereat for a night.

On November 24, 2009, they reported to their office at 1508th PMG, PPO, Camp Datu Akilan, Shariff Aguak, as they received an order to proceed thereat.

From November 25 to November 29, 2009, they stayed at their provincial headquarters in Camp Datu Akilan until they received instruction from higher authorities that they report to Camp Crame, Quezon City the following day. Thereafter, they were included as accused in these cases.

Witness denied the charges against them as they were only following the directive of their officers to conduct road security. He also stated that their lives were in danger at that time as there were many armed men who pointed their heavy firearms toward them. The abduction was against their will, but their higher officers assured them that nothing will happen to the people from the first convoy.

When cross-examined by the prosecution on July 26, 2017, witness confirmed that the conduct of security checkpoint was reduced in writing, and it is with their Group Director, PINSP Diongon. He, however, did not see the written order, and they were merely orally instructed by PINSP Diongon to conduct a checkpoint. He was not aware if there was a Comelec order to conduct checkpoint on November 19, 2009 but included in the signage is the Comelec and PNP checkpoint.

Witness stated that there were more or less eight (8) policemen from Buldon MPS, about two (2) to four (4) policemen from Sultan Mastura MPS, also two (2) to four (4) policemen from Parang MPS and Sultan Kudarat, but he does not know their names.

The prosecution and the counsel of accused Datu Andal Ampatuan, Jr. stipulated that if said accused is present, the witness will be able to identify him as the same person whom he saw on November 23, 2009.

Witness also stated that there were more or less 200 armed men with high powered guns who were escorting Datu Andal Ampatuan, Jr. He confirmed that he saw PCI Dicay at the time when Datu Andal Jr. was at the checkpoint in Malating particularly when the latter fired the gun towards the people who were lying prostrate on the ground, but no one was hit. Witness affirmed that Datu Andal was using a baby armalite M203.

He also confirmed that he did not file any complaint against the men who pointed guns at him as well as against Datu Andal Jr. because *"hindi ako maka-file ng reklamo kasi pag ginawa ko po yun sigurado patay ako, wala ako sa harapan niyo ngayon."* He further stated that no one prevented him from filing a complaint but because of extreme fear he was not able to do so.

Witness narrated that when they were tasked to go on top at the place where the incident happened, they did not see the victims' bodies because it was cordoned by the army but he only saw the backhoe and more or less six (6) vehicles such as the vans. He confirmed that the vehicles that he saw at the place of the incident were the same vehicles which passed by their checkpoint.

The witness was also subjected to cross examination on July 26, 2017 by the counsel of accused Datu Andal Ampatuan, Jr. He confirmed that he never saw accused Datu Andal Ampatuan, Jr. shot or gave an order to shoot any of the 58 victims who died on November 23, 2009.

Witness described that from Esperanza, Sultan Kudarat to Sitio Malating that would be a Northward route, from Malating to Shariff Aguak is also a northward route, and that Malating is somewhere in the middle. Thus, the convoy of vehicles from Esperanza was heading north to the direction of Shariff Aguak.

He also affirmed that prior to November 23, 2009, he gets to meet in person Datu Andal, Jr. every time there is an occasion in the municipality or birthday celebrations in their family. He also mentioned that Datu Andal, Jr. was the Mayor of Datu Unsay Municipality. Witness also testified that during the period from November 19 to 23, 2009, Datu Andal, Jr. frequently passed by the checkpoint, but affirmed that this statement was not included in his judicial affidavit.

Witness also narrated that despite the illegal acts done in his presence by those armed men, he did not arrest them despite his oath as a police officer to protect the life and property of the people even beyond his own life, considering that there was no order from his superiors who were also present at said place, to arrest those armed men even Datu Andal, Jr.

On re-direct examination, witness testified that he was not able to perform his duty as a police officer because if he did anything at the time, he will be dead. He also reiterated that his superiors were also there, and they also did nothing despite the fact that he came to them and asked if they will not report the incident to Esperanza MPS. He enumerated the different kinds of high-powered firearms pointed at them such as: .50 caliber, .30 caliber, M14, M16, M203, and M60.

On re-cross examination by the prosecution, witness stated that between the protection of life and property of the people and self-reservation *(sic)*, the former is paramount.

On re-cross examination by the counsel of accused Datu Andal Ampatuan, Jr.*,* witness testified that when a police officer is with his superiors, he has to wait for the latter's command or directive – such is the chain of command in PNP.

Testimony of PO1 Esprilieto G. Lejarso

PO1 ESPRILIETO G. LEJARSO appeared in court on July 26, 2017. For his direct testimony, he executed *a* ***Judicial Affidavit*** which he identified, as well as his signature thereon and had the same marked as ***Exhibit "2" and sub-markings***.

Witness narrated that on November 19, 2009, he was in Tacurong, Sultan Kudarat, preparing their monthly report for their unit when he received a call from PINSP Diongon telling him to report because he got an order from the Police Provincial Office (PPO) to conduct checkpoint in Sitio Malating to maintain and secure the peace and order in the area for those who will file their certificates of candidacy.

Witness corroborated the testimony given by PO1 Narkouk Mascud particularly the details and incidents which happened from November 19 to 23, 2009 while conducting their road security checkpoint in Sitio Malating until they returned to their office at the 1508th barracks at Camp Datu Akilan, Ampatuan on November 24, 2009, and stayed at the barracks on November 25, 2009.

On November 26, 2009, the witness together with PO1 Amaba escorted PINSP Diongon in going to Awang Airport, Cotabato. The latter then told them that they can go home and just wait for his call. On the evening of same day, the witness received a message from the Admin. PPO Maguindanao to report at the headquarters in Camp Datu Akilan, Shariff Aguak.

Witness and his companions stayed at Camp Datu Akilan until November 29, 2009. They received a Memorandum that they need to

report at the Regional Headquarters at Camp S.K. Pendatun in Parang, Maguindanao. Thus, they reported thereat right away. From the Regional Headquarters, they were brought to Camp Crame on November 30, 2009.

On cross examination by the prosecution, witness confirmed that PINSP Diongon became their Group Director in March 2009, but he was not aware that he was also working as a security aide of Datu Sajid Islam Ampatuan during said time. He was assigned as the Admin PNCO of their unit and part of his duties were to prepare the roster of troops, make monthly reports of their daily assignments as police officers and any other orders from his police commander.

He also affirmed that during their checkpoint, there was a marked vehicle and a placard saying "PNP/Comelec checkpoint", but he cannot remember if there was any representative from Comelec. From November 19 to 22, 2009, he saw Datu Andal Jr. passed by several times at their checkpoint. He confirmed that there were 2 representatives each as augmentation from Buldon, Parang, Sultan Kudarat and Sultan Mastura MPS.

He narrated that on November 23, 2009, when the first convoy arrived, the second convoy immediately arrived. Their troop, the 1508th, was not yet assigned to man the checkpoint because their assigned time was 11:00 a.m. As they were about to relieve those augmentations from the other municipal police stations and the personnel of PCI Dicay who were manning the checkpoint when the first convoy passed, they were at the side of the road around 8 meters away[759] from the checkpoint. He also described that PCI Dicay was positioned very near or almost beside Datu Andal Jr. when the second convoy arrived. The prosecution and the counsel of accused Datu Andal Jr. again stipulated that the witness can identify that the accused Datu Andal Jr. was the same person he saw on November 23, 2009.

Witness also testified that when they were tasked to do a clearing operation at the top, he was not able to see the dead bodies as the place was already cordoned by the military, but he was able to see from afar a backhoe.

He confirmed that they did not file any criminal complaint against Andal Ampatuan Jr. or any of his men because they were afraid that something bad will happen to them.

Thereafter, the counsel of accused Datu Andal Ampatuan, Jr. and counsel of the witness stipulated that considering that the witness' testimony is basically the same as that of PO1 Mascud, the responses to the question propounded by the counsel of accused Datu Andal Ampatuan

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[759] The parties stipulated as to the distance from the place where the members of the 1508th were situated to the checkpoint in Sitio Malating; TSN, July 26, 2017, p. 87.

Jr. would be identical. Hence, no additional cross-examination was conducted.

Testimony of PO2 Saudi Pasutan

PO2 SAUDI PASUTAN[760] appeared in court on July 26, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature thereon and had the same marked as ***Exhibit "3" and sub-markings***.

Witness alleged that on November 19, 2009, he was at home in Poblacion, Buluan, Maguindanao, when he received a call from SPO1 Oscar Donato asking him to report because they will be conducting a road security checkpoint in Sitio Malating to maintain and secure the peace and order in the area for those who will file their certificates of candidacy, as per instruction of their Group Director.

Witness corroborated the testimony given by PO1 Narkouk Mascud and PO1 Esprilieto Lejarso particularly the details and incidents which happened from November 19 to 23, 2009 while conducting their road security checkpoint in Sitio Malating up to the time they returned to their office at the 1508th barracks at Camp Datu Akilan, Ampatuan, on November 24, 2009. This include their stay thereat until November 29, 2009, up to the time they were brought to the National Headquarters in Camp Crame, Quezon City, on November 30, 2009.

When cross-examined, he affirmed that the detachment of the 1508th PMG is in Shariff Aguak specifically at the Tapekan Detachment. He also confirmed that Sitio Malating was part of their area of responsibility (AOR) and the setting up of the checkpoint was authorized as per instruction of their Group Director, PINSP Rex Ariel T. Diongon.

Despite being a resident of Maguindanao since birth, witness was not aware of those people who were running at that time for elective positions. He confirmed that the checkpoint in Sitio Malating was along the Isulan, Shariff Aguak road, leading straight to the Shariff Aguak, Cotabato City road. He affirmed that the Mangudadatus were from Buluan, Maguindanao and the Ampatuans were raised in Shariff Aguak, Maguindanao. Coming from Buluan, Maguindanao or from the province of Sultan Kudarat, all vehicles would necessarily pass through the Isulan, Shariff Aguak road and that was where the 1508th set-up a checkpoint because it was a national highway.

Witness also testified that not all members of the 1508th were present at the said checkpoint from November 19 to 23, 2009 as there were other members who were assigned to the VIP politicians as escorts.

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[760] Accused PO2 Saudi Pasutan testified on July 26 and 27, 2017.

He confirmed that he saw the convoy of Datu Andal Jr. passed through their checkpoint from November 19 to 22, 2009. He also stated that the augmentation from other police stations took orders from PCI Dicay while the 1508th took orders from PINSP Diongon because the latter was their immediate superior.

Witness also confirmed that on November 23, 2009 at 10 a.m., it was the members of the Buldon MPS who were on duty at the checkpoint. He also stated that not all the members of the 1508th who were present at the checkpoint including him, were armed. In fact, when he became a member of the 1508th, there was no firearm issued to him. Out of fear because of the firearms pointed to them, they did not do anything. They just remained still while there was a commotion going on. Even their superiors did not do or instruct them to do anything because there were also firearms pointed at them.

When they returned to the provincial headquarters, witness affirmed that no one from the members of the 1508th made any official report or file any complaint against those armed men despite the fact that no one was already threatening them at that time.

On cross examination, the prosecution presented a ***"Pinagsamang Sinumpaang Salaysay"*** *dated December 28, 2009* and had the same marked as ***Exhibit "(19) H" and sub-marking*** as its ***rebuttal evidence,*** which the witness also identified as his Counter-Affidavit together with other members of the 1508th.

When cross examined by the counsel of accused Datu Andal Ampatuan Jr. on July 27, 2017, the parties entered into the following stipulations: 1) that if the witness is asked questions identical to those made by the counsel of Datu Andal Jr. upon accused Narkouk Mascud during the hearing on July 26, 2017, the responses to be made by the witness would be identical to those made by accused Narkouk Mascud; and 2) that if the questions propounded on re-direct and re-cross examinations upon Narkouk Mascud would be asked to witness Saudi Pasutan, the latter's responses would also be identical to the responses of witness Narkouk Mascud.

On further cross-examination by counsel of Datu Andal Jr., witness confirmed that it was his former counsel, Atty. Pagaduan, who prepared the "Pinagsamang Sinumpaang Salaysay" and before signing said document, he was not given the opportunity to talk with his counsel. He narrated that he just agreed to get the services of Atty. Pagaduan as his counsel because he had no choice at that time. As far as he knows, said counsel was given by the CIDG whom he met for the first time during the preliminary investigation proceedings on December 20, 2009, and he did not have the chance to relate to him what actually transpired on

November 23, 2009. Witness affirmed though that he was able to read the contents of the Counter-Affidavit and when he found out that it will not harm him, he signed the same. He confirmed that nowhere in the said document was the name Andal Ampatuan Jr. ever mentioned.

On re-direct examination, the witness identified **SPO1 Oscar Donato, PO1 Abdullah Baguadatu and PO1 Michael Madsig** as those members of the 1508th who were not present at Sitio Malating checkpoint. He said that SPO1 Donato was relieved while PO1 Baguadatu asked permission from PINSP Diongon to go home to Datu Paglas on November 21, 2009, and PO1 Madsig also went home on November 23, 2009. Witness again identified the document ***"Pinagsamang Sinumpaang Salaysay"*** and his signature thereon and had the same marked as evidence for the 1508th denominated as ***Exhibit "4" and sub-markings***.

On re-cross examination by the prosecution, witness testified that he just failed to mention in his judicial affidavit that PO1 Baguadatu and PO1 Madsig were not present at the checkpoint on November 23, 2009 because they both went to their respective homes.

Witnesses for accused SPO1 Oscar D. Donato:
(member of the 1508th PMG but has a different defense)

1. Accused SPO1 Oscar Donato – He is a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, starting November 19 to 23, 2009, but he was relieved from said duty on November 23, 2009.

2. Rex Ariel T. Diongon - He is the former Group Director of the 1508th PMG and immediate supervisor of accused SPO1 Donato. He was presented to identify the Certification he issued in favor of said accused which states that SPO1 Donato was not present at the checkpoint because the latter was relieved from duty.

3. Accused PCI Sukarno Dicay - He was presented to identify Special Order Number 352 Reassignment of SPO1 Oscar Donato dated November 23, 2009.

Testimony of SPO1 Oscar D. Donato

SPO1 OSCAR DONATO appeared in court on May 10, 2017 and presented his ***Judicial Affidavit*** marked as ***Exhibit "6" and sub-marking***.

The witness testified that on November 19, 2009, the Group Director of the 1508th PMG, then PINSP Rex Ariel Diongon instructed them

to conduct mobile checkpoint operations in Sitio Malating, Ampatuan, Maguindanao.

On November 22, 2009, witness left the checkpoint at 10:00 p.m. because he got mad after having a disagreement with his troops for leaving their post. To avoid misunderstanding, he decided to go home to Esperanza, Sultan Kudarat.

On November 23, 2009, the witness reported back for work at 7:00 a.m. but their OIC, PCI Dicay disarmed him of his issued firearms and ammunitions. The former further instructed the witness to report and remain until further instructions at Provincial Headquarters, Camp Datu Akilan, Ampatuan, Maguindanao.

Upon arrival at Camp Datu Akilan, witness received from SPO4 Restituto Salvani Pespo a copy of the relief order denominated as ***Special Order No. 352*** marked as ***Exhibit "1"*** signed by PCI Dicay. He was relieved of his duties and reassigned to Buldon, Maguindanao MPS effective November 23, 2009. On this date, he also learned from the news about the abduction of people.

The witness stayed at the Provincial Headquarters in Camp Datu Akilan until November 25, 2009.

The witness further testified that the *NAPOLCOM issued a* ***Decision*** marked as ***Exhibit "5"*** exonerating him from an administrative charge in connection with the incident of November 23, 2009. Said ruling specified therein that there was no proof adduced during the proceedings to debunk his claim that he was relieved from his post by Dicay on November 23, 2009, and thereafter, remained at the Provincial Headquarters on November 25, 2009.

PINSP Rex Ariel Diongon likewise issued a ***Certification*** marked as ***Exhibit "2"*** indicating that the witness was not present at the checkpoint in Brgy. Malating, Ampatuan, Maguindanao on November 23, 2009 for he was disarmed and relieved of his post on even date. In that Certification, Diongon explained the reason for the relief order, i.e. the commotion of the troops against Donato.

The witness also identified the previous affidavits he executed: A ***Counter Affidavit*** *dated December 16, 2009* marked as ***Exhibit "3" and sub-marking*** and a ***Joint Counter Affidavit*** *dated April 2010* marked as ***Exhibit "4" and sub-marking.***

On cross examination, witness testified that his rank as senior police officer meant that he was the highest-ranking police non-commissioned officer (PNCO). His duties include following every instruction of Diongon.

He stated that his area of responsibility covered the 1508th PMG headed by Diongon. The Ground Commander at that time of the troops was Major Dicay.

The troops followed the instructions of Diongon to proceed to Malating and to conduct checkpoint operation. The same was meant to protect those who will file their candidacy in the upcoming elections. They stayed thereat from November 19 to 23, 2009.

The witness said that not all of the members carried firearms. Those who did carried an M16. He himself carried 200 rounds of M16 ammunitions.

The witness clarified that the number of troops reached 18 on November 22, 2009, at around 4:00 p.m, and they were all in uniform. On that date, PO1 Baguadatu left the checkpoint, reducing their number to 17. He himself stayed until 10:00 p.m. on November 22, 2009. On the latter date, the following members of the 1508th PMG were present at the checkpoint in Sitio Malating: **SPO1 Oscar Donato, SPO1 Eduardo Ong, PO3 Felix Eñate, PO3 Rasid Anton, PO3 Abibudin Abdulgani, PO2 Saudi Pasutan, PO2 Hamad Nana, PO2 Saudiar Ulah, PO1 Arnulfo Soriano, PO1 Narkouk Mascud, PO1 Esmael Guialal, PO1 Herich Amaba and PO1 Esprielito Lejarso, as well as P/Insp. Rex Ariel Diongon and PO1 Pia Kamidon. PInsp. Macaraeg** arrived around past 4:00 p.m.

The witness emphasized that he left the checkpoint on November 22, 2009, at 10:00 p.m. after a commotion. He returned on November 23, 2009 at about 6:00 a.m. and left the checkpoint at 7:00 a.m. because he was already disarmed by PCI Dicay. He did not see or hear from Diongon until November 24, 2009, at about 7:00 to 8:00 p.m.

As for his relief order on November 23, 2009, which he received at 7:00 a.m., the same was handed to him by SPO4 Restituto Salvani, Provincial Executive Senior Commissioned Officer, the Chief Clerk of Maguindanao Provincial Police Office.

He also recalled seeing Diongon at Camp Crame in December 2009, and at that time, the latter issued the Certification at the restrictive area of Camp Crame.

When cross examined by the counsel[761] of accused PO2 Saudiar Ulah*,* the witness explained that the 1508th PMG was divided into groups of six (6) members. They were not originally detailed in Sitio Malating but were first deployed in Brgy. Tapikan and Brgy. Labu-labu.

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[761] Atty. Yasser Lumbos.

On November 22, 2009, the witness admitted that in compliance with the instructions of Diongon to call all available personnel of the 1508th PMG, he called PO2 Saudiar Ulah to report to Sitio Malating. The latter initially begged off for he was already part of the personnel manning Brgy. Tapikan.

In response, the witness told Saudiar Ulah that the salary and bonus of the latter will not be released by the office, according to Dicay, if he will not report at Malating checkpoint. That explanation prodded Saudiar Ulah to report thereat.

The counsel of the accused/witness also asked for the marking of the ***Resolution from NAPOLCOM*** *dated November 10, 2016* as ***Exhibit "7" and sub-marking.***

Testimony of Rex Ariel T. Diongon

REX ARIEL T. DIONGON appeared in court on June 15, 2017. He was considered a hostile witness. He identified the *Certification* marked as **Exhibit "2"** which he issued in favor of SPO1 Donato, and confirmed and affirmed the statements therein.

On cross-examination of the witness on even date, witness confirmed that he signed the Certification on December 21, 2009 and not on November 23, 2009. He affirmed that in the morning of November 23, 2009, SPO1 Donato was no longer part of their unit.

Testimony of Accused PCI Sukarno Dicay

PCI SUKARNO DICAY[762] appeared in court on June 15, 2017. He identified ***Special Order Number 352 Reassignment*** marked as ***Exhibit "1"*** which states that SPO1 Donato was relieved from his assignment with the 1508th PMG and reassigned to Buldon MPS effective November 23, 2009. He also confirmed his signature on said document.

On cross-examination, witness confirmed that there was no request for the issuance of said reassignment and the reason for such was not indicated in the document. He affirmed that Buldon MPS is part of the Maguindanao Police Provincial Office.

On re-direct examination, witness explained that the reason why he issued said document was because a report reached him at the headquarters that on the night of November 22, 2009 (10:00 p.m.), there was a misunderstanding between SPO1 Donato and then PINSP Diongon.

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[762] Accused PCI Sukarno Dicay testified for SPO1 Oscar Donato on June 15, 2017. During his presentation as witness for accused SPO1 Donato, accused PCI Dicay agreed to be represented by a counsel de oficio in the person of Atty. Abdulkalim A. Askali.

Hence, he transferred the former to avoid further commotion, and issued the document in the morning of November 23, 2009 (7:00 a.m.).

On re-cross examination, witness affirmed that aside from the Reassignment, there are no other document with respect to the incident that he mentioned on November 23, 2009.

Witnesses for accused PO1 Abdullah S. Baguadatu:
(member of the 1508th PMG but has a different defense)

1. Accused PO1 Abdullah S. Baguadatu – He was a member of the 1508th PMG assigned to conduct a road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, starting on November 19, 2009, but he was no longer present therein from November 21, 2009 onwards as he sought permission from their Group Director and was allowed to go home and attend to some personal matters.

2. Rex Ariel T. Diongon – He is the former Group Director of the 1508th PMG and immediate supervisor of accused PO1 Baguadatu. He was presented to identify the Certification he issued in favor of said accused, which states that the latter was not present at the checkpoint starting November 21, 2009.

3. Michael Vincent Zaldivar – He is an employee of RD Pawnshop, Inc. He was presented to identify the Send Money Forms and Receipts issued by their Company and the transactions appearing in said forms, as well as to identify the signature of their General Manager in the Certification dated September 04, 2017.

Testimony of PO1 Abdullah S. Baguadatu

PO1 ABDULLAH S. BAGUADATU appeared in court on July 27, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature thereon and had the same marked as ***Exhibit "1" and sub-marking***.

Witness testified that at 6:00 a.m. on November 19, 2009, SPO1 Donato called him and told him to prepare because their troop will augment. He agreed and requested that he be fetched at the Tapikan Detachment. After 30 mins, SPO1 Donato arrived, and they went to the Maguindanao PPO. They proceeded to Sitio Malating, Brgy. Salman, where their Commanding Officer, PINSP Diongon instructed them to set up and conduct a checkpoint in said place for the upcoming election.

On November 20, 2009, they conducted regular road security from 8:00 a.m. to 5:00 p.m. After their duty, he asked permission from PINSP Diongon to go home at Damalusay, Datu Paglas, to look for money for the ticket of his wife who was in Manila. PINSP Diongon allowed him and

as proof, he presented the ***Certification*** issued by PINSP Diongon which was marked as ***Exhibit "2".*** Witness left the checkpoint in Sitio Malating at 5:30 p.m. on even date.

Witness further testified that on November 21-22, 2009, he stayed in the house of his parents in Damalusay, Datu Paglas, because he was waiting for the money, he was borrowing from them.

On November 23, 2009, witness claimed that he was in Tulunan, North Cotabato. At about 10:00 a.m., he sent money at RD Pawnshop amounting to P5,500.00 for his wife who was then in Manila, through his mother-in-law, Mrs. Daisy Mangulamas, as evidenced by the ***Receipt from RD Pawnshop*** which was marked provisionally as ***Exhibit "3" and sub-marking***, [763] and the ***Affidavit of Ms. Loraine J. Villavicencio,*** the teller of said branch who issued the receipt marked as ***Exhibit "4".***[764] After sending money, he went home to Damalusay, Datu Paglas. At 12:00 noon, he saw from the news about the incident that happened in Sitio Malating, Brgy. Salman. He immediately called PINSP Diongon to verify the news, who confirmed and told him to stay put and wait for his further instruction. But since he did not receive any word from his officer, he decided to report on December 09, 2009 at the Maguindanao PPO. Thereafter, he received a subpoena from DOJ for investigation, so he voluntarily reported at CIDG Camp Crame on December 16, 2009.

Witness also denied any involvement in the conspiracy of committing these crimes.

Witness also identified a previous ***Sworn Affidavit*** *he executed dated April 14, 2010* and the signature thereon which was marked as ***Exhibit "5" and sub-marking.***

When cross-examined, witness clarified that although there is no time indicated at the front of the receipt, there is actually a time indicated at the back thereof.

He also claimed that the checkpoint set up by 1508th was about 90 kilometers away from the place where he lives in Cotabato, or an hour away using a private vehicle.

When asked by the court about the time indicated at the dorsal portion of the receipt which reads "Transaction Date & Time, 11/23/2009, 10:02:04 AM.", as well as where the original copy was, witness' counsel

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[763] Although the document is a photocopy, a Certification to the effect that the same is the exact duplicate copy of the original file from RD Pawnshop was issued by Alma Sid M. Pascual, General Manager (Exhibit "7"); hence, the same was admitted as evidence for the accused. See Order dated January 04, 2018.

[764] This exhibit is inadmissible as the affiant was not presented on the witness stand to personally identify her affidavit.

explained that the original document was given to his client's former counsel, Atty. Pagaduan. He also asked for the marking of the dorsal part.

Testimony of Rex Ariel T. Diongon

REX ARIEL T. DIONGON who was declared a hostile witness, appeared in court on July 27, 2017. He testified that accused PO1 Baguadatu was his personnel. He identified the Certification (earlier marked as Exhibit "2") which he issued in favor of PO1 Baguadatu stating that the latter was not present at the checkpoint of the 1508th PMG in Sitio Malating, Brgy. Salman, Ampatuan, starting on November 21, 2009 onwards, because he requested to go home, and witness allowed him to leave the checkpoint.

The court further asked why he issued said Certification, to which the witness answered that three of his former personnel approached him and asked him if he could execute a certification attesting to the fact that they were not at the checkpoint on November 23, 2009. The witness narrated that PO1 Baguadatu was no longer at said checkpoint as early as November 21, 2009, SPO1 Donato since 2:00 a.m. of November 23, 2009, and PO1 Madsig around 8:00 or 9:00 a.m. of November 23, 2009.

Testimony of Michael Vincent Zaldivar

MICHAEL VINCENT ZALDIVAR appeared in court on October 25, 2017. Based on his ***Judicial Affidavit*** which he identified and marked as ***Exhibit "6" and sub-marking***, he is the Probationary Assistant Group Head of RD Pawnshop, INc., assigned with the Luzon group. He is familiar with Send Money Forms and Receipts, because he was once a teller issuing such documents. He also identified a ***Secretary Certificate*** authorizing him to testify before this court, marked as ***Exhibit "7" and sub-marking.***

According to him, a Send Money Form is filled out by the client; and when the information in that form is encoded in the machine, the receipt form called "SMF Receipt" will come out.

The witness identified the *Receipt* (**Exhibit "3" and sub-marking**) presented by accused PO1 Abdullah Baguadatu as the exact duplicate copies of the original files from RD Pawnshop, Inc. The original ones could no longer be found, as they had already been disposed following the standard procedure to dispose five-year old documents.

At the conclusion of his testimony, the witness mentioned that because Ms. Alma Sid M. Pascual was the General Manager signing the payroll, memorandum, and other letters of instruction, as well as contracts, two of which were recently seen by the witness, he is familiar with her signature. He affirmed that the latter signed a ***Certification***

which was marked as ***Exhibit "8"*** submitted before this court, stating that the earlier exhibits were the exact duplicate of the original file from RD Pawnshop, Incorporated.

When cross examined on October 25, 2017, witness testified that on November 23, 2009, he was in Guadalupe branch of RD Pawnshop, located in Manila. He also affirmed that the situs of the Send Money Form was in Cotabato City.

The witness claimed that he was the Probationary Assistant Group Head, but he has no proof of his claim. As such, he was responsible for the overall operation of the Luzon group. The document he testified about was issued in Mindanao which was no longer covered by his jurisdiction.

The witness admitted that he has no copy of the standard procedure pertaining to the disposal of the original copy of the documents after five years. He said that it is possible that sans seeing the actual rules himself, he knew that to be the practice since it has been done for the last 5 years.

At the conclusion of his cross examination, the witness said that as of September 04, 2017 or the time of the issuance of the Certification, the file may have been disposed already or it could be on file.

Witness for accused PO2 Saudiar A. Ulah:
(member of the 1508th PMG but with a different counsel – Atty. Lumbos)

1. Accused PO2 Saudiar A. Ulah – He was a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao starting November 19 to 23, 2009, but he alleged that he was unarmed at the time when a crowd of armed men pointed high caliber rifles at them.

Testimony of PO2 Saudiar A. Ulah

PO1 SAUDIAR A. ULAH[765] appeared in court on October 05, 2017. For his direct testimony, witness executed and identified his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-marking.***

Witness narrated that he is a member of the 1508th PMG and they had two detachments – one in Labu-Labo and one in Tapikan, the latter being his area of assignment.

On November 19, 2009, he was off-duty and with his family in Brgy. Limbo, Sultan Kudarat, celebrating his birthday when he received a call

[765] PO1 Saudiar A. Ulah testified on October 05 and 11, 2017.

from 1st Sergeant Donato, the over-all team leader of the 1508th. He was directed to report for duty immediately that day because they were undermanned and there was a need for security for the filing of candidacy by politicians. He was warned that whoever fails to report for work, the salary and bonus will be withheld. Thus, he reported for duty and arrived in Sitio Malating on that day at 5:50 p.m. He did not know why he was assigned in said place when his original assignment was in Brgy. Tapikan. He just followed the order of his superior. The entire team of the 1508th was ordered to report in Sitio Malating.

From November 20 to 22, 2009, members of the 1508th arrived at the new assigned place, as well as other police officers from other police stations of different municipalities as augmentation. They started conducting checkpoint to ensure peace and order, and for the security of those who pass by the Maguindanao province, particularly the politicians who will file their respective Certificates of Candidacy.

On November 23, 2009 at around 9 a.m., he was at the side of the road waiting for the next shift, as they will replace their fellow officers from Parang and Buldon stations who took the earlier shift. After 10 in the morning, a convoy of civilians coming from Tacurong passed by en route to Cotabato City and was flagged down and made to stop by the Parang and Buldon police for inspection. Thereafter, another convoy with CVOs armed with high powered firearms such as M-16, M-14, machine gun and 50 caliber rifles on board, arrived coming from the opposite direction. Witness also noticed another convoy coming from the Ampatuan Municipality approaching them, also armed with high caliber guns. Then the passengers of the last convoy alighted from their vehicles and suddenly pointed their guns at the witness and his fellow police officers. Witness also stated that there was a *Sangguko* which is a vehicle designed for war. He described that it has two (2) 50 caliber machine guns, one mounted on its front and another one at the rear, and at each side, there were two (2) 30 caliber machine guns. He recalled that at least three (3) of these machine guns were pointed at them.

Witness narrated that he was forced to raise his hands out of fear because there were too many guns pointed at them aside from the fact that he does not have a service firearm like most of his companions. He was shocked and scared as the armed men were pointing their guns while yelling at them not to interfere or else, if they move, they will be shot.

Thereafter, he saw some armed CVOs dragging people from the first convoy then Datu Unsay and the other CVOs struck them with their guns. Suddenly, Datu Unsay dragged a woman against her will and placed her in the middle of the road. Witness saw PCI Dicay approached Datu Unsay and pleaded not to fire his gun. He described PCI Dicay as wearing a full battle gear, armed with an M16 rifle, .45 pistol and a single shot M79 rifle, with about a dozen of ammunitions for M79 hanging on

his chest, the size of the ammunition is as big as the size of a can of sardines.

Witness further narrated that PCI Dicay was not able to stop Datu Unsay and the latter still fired his M16 installed with a grenade launcher near the feet of the woman. Datu Unsay placed the woman on board a black pick-up truck and proceeded to Ampatuan highway.

After the group of Datu Unsay left, witness approached PINSP Diongon and told him that they should report the incident to the higher headquarter and request assistance from the army. But PINSP Diongon replied that they must wait for the order coming from their superior officers. Then, they stayed in Malating till afternoon and decided to go back to the Provincial Headquarter while his other companions went to their respective houses. Witness stayed as his officers asked him to accompany them as escort.

He later on learned that his colleagues reported in Camp Crame. Upon learning about it, witness asked permission from his officers and he was allowed to go home as he was already on duty for days. After he reached home, he received a call from PINSP Diongon, directing him to report and proceed to PC-Hill CIDG in Cotabato so that he can clear his name that he had nothing to do with the massacre. He then talked to his father who is a retired PNP officer and who told him to wait for order before going to Crame, but he replied that even without order, he needs to report so he can clear his name to which his father acceded. Together with his parents, witness went to PC-Hill CIDG Cotabato where he met PINSP Diongon and Col. Divina.

The following day, witness was endorsed and proceeded to Manila in Camp Crame. He saw his colleagues there and then they were investigated by CIDG. General Castañeda of CIDG informed them that they will be utilized as witnesses because of the help and cooperation they gave as police officers. Witness said that they were made to believe that they will not be indicted but they were still detained and charged as among the accused in these cases.

Witness also claimed that during the investigation at CIDG, he was given a PAO lawyer, Atty. Pagaduan, who will make sure that his name will be cleared. Then he found out that said counsel was not a PAO lawyer, and the prosecution was attempting to use the statement he gave as against him. Witness felt lost and betrayed even up to this day. Hence, he is hoping that he will be acquitted the soonest time possible.

On cross-examination, witness claimed that the task of 1508th Regional Mobile Group (RMG) is to assist the activities in the different municipalities within the area, and if there is a request for augmentation, and to maintain peace and order like to conduct checkpoint in times of

election. He stated that the areas covered by the 1508th RMG are Pagalungan, Buntawan, Buluan, Sultan Kudarat, Buldon, Parang, among others. He also stated that Mamasapano has jurisdiction over Brgy. Tapikan, and Shariff Aguak has jurisdiction over Brgy. Labu-Labo.

Witness affirmed that in November 2009, their Commanding Officer was PINSP Diongon while their overall leader was 1st Sergeant Donato who directed him to report on November 19, 2009. He confirmed that there was no written order given to him. He also testified that he and his companions were in their uniforms when they were on duty. He did not leave the area since he arrived until November 23, 2009. They were about 17 or 18 from the 1508th including PINSP Diongon and PCI Dicay.

Witness started conducting checkpoint from November 20 until November 23, 2009, but at the time he reported on November 19, 2009 in Sitio Malating, there was already a checkpoint conducted by the 1508th. According to him, he never saw Datu Unsay passed by the checkpoint before November 23, 2009. He said that he was aware that the Ampatuans were the incumbent political families in Maguindanao at that time and he heard that a Mangudadatu will run for the office of Governor.

Witness confirmed that it was not the 1508th who were manning the checkpoint when the first convoy stopped as well as when the convoy of Datu Unsay and his armed men passed by, but it was the police contingent from Buldon and Parang because the 1508th were still waiting at the side of the road around ten to fifteen meters away from the checkpoint, for their turn to duty.

Witness affirmed that most of the members of the 1508th have no service firearms but some, about six or seven members have M16 issued firearms. They just borrow from one another when they have duty.

Witness was also cross-examined by private prosecutor, Atty. Nena Santos. He was asked to describe some pictures of high caliber guns in reference to his testimony which he confirmed as similar to the guns carried by PCI Dicay and Datu Unsay on November 23, 2009, respectively: 1) a *single shot* **M79** marked as ***Exhibit "2"*** and 2) a **grenade launcher** *which is a tube-like structure under the barrel of an M16* marked as ***Exhibit "3".***

When cross-examined by counsel de oficio[766] of accused Sukarno Dicay, witness was asked if accused Dicay was "parang" in full battle gear means that he was not really in full battle gear to which he answered that because when he see someone carrying firearm with bandolier on his chest, that person is already in full battle gear. Aside

[766] Atty. Amando M. Cura of PAO Taguig was appointed as counsel de oficio of Sukarno Dicay during the hearing on October 05, 2017.

from his testimony, witness said that it was not only him who saw Dicay at that state, but all of them.

Witness was also cross-examined by the counsel of accused Datu Andal Ampatuan Jr. on October 11, 2017. When asked how much an M16 weigh, witness answered that he did not weigh an M16, but it is quite heavy and the one Datu Unsay was carrying was a baby armalite and a grenade launcher was attached thereto. He also testified that in shooting an M16, it depends on the person holding the firearm if he is big enough to handle it with a single hand or there is a need for the butt of the rifle to rest on the shoulder of the person shooting. He confirmed that he did not see Datu Unsay passed by Sitio Malating on November 19 to 22, 2009. He also stated that during the time when they were in CIDG, Camp Crame, they were promised that their names will be cleared and Atty. Pagaduan assured them that they will not be charged, so he gave his statement and also because they need to help the government as told by his father. He believed that the same strategy was used to his fellow members of the 1508th. He affirmed that he saw Datu Unsay on November 23, 2009 and to prove the same, he has his judicial affidavit, the statements of Diongon and Dicay as well as the statements of other witnesses.

On re-direct examination on October 11, 2017, witness confirmed that Maguindanao is considered a hotspot during election, so they are on alert to ensure peace and order. When he was assigned in Maguindanao, witness wanted to be re-assigned because the election in Maguindanao especially in Shariff Aguak is too risky. When asked if Kamidon had a service firearm, witness answered that Kamidon belonged to another group and he does not know if the latter has a firearm. Witness also narrated that he received orders from his superiors Donato and Diongon in verbal form. He said that instructions coming from their superiors were coursed through their team leader and disseminated to the members of the mobile group: through PINSP Diongon then Sgt. Donato then to the members verbally.

Witness for accused PO1 Michael J. Madsig: (member of the 1508th PMG but with a different counsel – Atty. Angeles)

1. Accused PO1 Michael J. Madsig – He was a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, starting November 19 to 23, 2009, but he alleged that he was not at the checkpoint on November 23, 2009 from around 8:00 to 9:00 a.m. until 2:00 p.m. because he went home.

Testimony of PO1 Michael J. Madsig

PO1 MICHAEL J. MADSIG[767] appeared in court on February 16, 2017. Based on his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings,*** witness testified that they conducted checkpoint operations in Sitio Malating, Brgy. Salman, Maguindanao, starting November 19, 2009 pursuant to the directive of then PINSP Diongon to ensure the peace and security of those who will file their certificates of candidacy at the Provincial Capitol, Shariff Aguak, Maguindanao.

He narrated that on November 23, 2009 between 8:00 to 9:00 a.m., he was at the Provincial Headquarters Camp, in Datu Akilan, Shariff Aguak, Maguindanao, to ask permission from then PINSP Diongon to go home and bring food to his wife and child. He then proceeded to his house and stayed thereat until lunchtime. He left his house around 1:00 to 2:00 p.m. to return to the checkpoint in Sitio Malating, Brgy. Salman. He described the place as normal and peaceful when he arrived there. After a few moments, members of the Philippine Army aboard two (2) trucks arrived. Some officers of the army talked to PCI Dicay and asked the cooperation and assistance from the members of the 1508th for the pursuit operation. Thereafter, they went to the Army Camp Detachment in Crossing Masalay, Brgy. Salman. Witness was asked to stay while PINSP Diongon and his group went with the army going to a farm in Brgy. Salman.

PINSP Diongon and his group returned in the afternoon from the joint pursuit operation. They then learned from him about the incident involving the group of the Mangudadatus and the media. Around 6:00 p.m., PINSP Diongon ordered them to return to the Provincial Headquarters Camp in Datu Akilan, Shariff Aguak.

When cross-examined on February 08 and 16, 2017, witness testified that he has been a member of the 1508th Mobile Group for almost three (3) years on November 23, 2009, and that he and his family have a temporary shelter within Camp Datu Akilan where the 1508th Mobile Group headquarters is also located.

Witness also testified that the area of responsibility of the 1508th was the second district of Maguindanao and the covered municipalities are South Upi, Talayan, Guindulungan, Talitay, Datu Andal, Shariff Aguak, Ampatuan, Datu Paglas, Buluan, Paglat, Pendatun, Mamasapano, Datu Sangki Das, and Datu Unsay.

He confirmed that before they conducted the checkpoint, there was no written order given to them. He said that the only checkpoint established by the 1508th was in Malating. He was not aware that at that

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[767] PO1 Michael J. Madsig testified on February 08 and 16, 2017.

time there was also a checkpoint in Crossing Saniag, but he knew that there was an army detachment in Salman. On November 19, 2009, the members of the 1508th who were present in Sitio Malating whom he can remember were the following: **PINSP Diongon, SPO2 Ong, PO2 Decipulo, PO1 Amaba, PO1 Lejarso, PO3 Eñate, PO1 Guialal, and PO1 Nana.**

Witness was not sure if all his companions were armed, but at that time he was armed with M14. He denied that the 1508th went to the house of Datu Unsay for briefing before they conducted a checkpoint. He said that he never left the checkpoint from November 19 until morning of November 23, 2009 and he never saw a "Sangguko" nor did he see Datu Unsay visiting the checkpoint, but there were CVO members carrying different kinds of firearms who passed by which according to the witness was an ordinary thing.

He clarified that they were at the checkpoint when he asked permission from PINSP Diongon that he will go to the Provincial Headquarters, contrary to what was contained in his judicial affidavit. He also stated that from Camp Akilan to Crossing Malating, it would take him more or less ten (10) minutes to travel. Other than his affidavit, witness said that he has no evidence to show that he stayed in his house until around past 12:00 noon on November 23, 2009.

On re-direct examination, when asked about the usual procedure in giving instruction, witness said that they were just summoned and told that they prepare because they have a mission. He further said that on November 23, 2009 before 8:00 to 9:00 a.m., he was in Malating, then he went home at lunch time and stayed there to bring food to his wife and child, and to fetch water. He went back to the checkpoint around 1:00 to 2:00 p.m.

On re-cross examination, witness said that they can ask permission to leave anytime but it depends if they will be allowed. He also said that he does not know any other members of the 1508th who also asked permission to leave.

Witnesses for PINSP Saudi M. Mokamad:
(IDENTIFIED)

1. Accused PINSP Saudi M. Mokamad – He was the Group Director of 1507th PMG. He and his team were tasked to conduct checkpoint duties in Sitio Binibiran and Sitio Masalay, Ampatuan, Maguindanao, from November 19 to 23, 2009.

Adopted Testimonies

2. Accused PO2 Datu Jerry M. Utto – He is a member of the 1507th PMG "Solano" Group assigned to conduct checkpoint in Sitio Masalay from November 20 to 23, 2009.[768]

3. Accused PO1 Ahmad C. Badal – He is a member of the Philippine National Police assigned at Mamasapano Municipal Police Station and was one of the police escorts of Vice mayor Sukarno Badal on November 23, 2009.[769]

4. Accused PO2 Tany A. Dalgan – He is a member of the Philippine National Police assigned at Sultan Sabarongis Municipal Police Station and was one of the police escorts of Vice mayor Sukarno Badal on November 23, 2009.[770]

5. Accused PSUPT Abusama M. Maguid – He is formerly assigned at the Regional Office PRO-ARMM, Parang, Maguindanao, in-charge of Logistics, and OIC Provincial Director of the Province of Maguindanao. He was supervising the stenciling of firearms on November 23, 2009 at Maguindanao Provincial Police Office when a report of IED and abduction in Malating was brought to his attention. He personally verified said report, but it turned out to be a false information. He issued and identified an *IMPLAN* dated November 19, 2009.

Testimony of PINSP Saudi M. Mokamad

PINSP SAUDI M. MOKAMAD [771] appeared in court on September 14 and 21, 2016. He executed a ***Judicial Affidavit*** for his direct testimony, but the same was not marked by his counsel when he was presented on the witness stand and it was not also part of the accused' Formal Offer of Evidence.[772]

In his affidavit, witness alleged that on November 23, 2009, he and his team (1507th) were assigned by **PSUPT Abusama Maguid** to

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[768] Accused PINSP Mokamad adopted the Judicial Affidavit of accused PO2 Datu Jerry Utto marked as **Exhibit "9"** on August 30, 2017 and included the same in his Amended Motion for Leave to Admit Additional Evidence with attached Formal Offer of Exhibits filed on January 29, 2018. *See* Order dated May 11, 2018.

[769] Accused PINSP Mokamad adopted the Judicial Affidavit of accused PO1 Ahmad C. Badal marked as **Exhibit "10"** on August 30, 2017 and included the same in his Amended Motion for Leave to Admit Additional Evidence with attached Formal Offer of Exhibits filed on January 29, 2018. *See* Order dated May 11, 2018.

[770] Accused PINSP Mokamad adopted the Judicial Affidavit of accused PO1 Ahmad C. Badal marked as **Exhibit "11"** on August 30, 2017 and included the same in his Amended Motion for Leave to Admit Additional Evidence with attached Formal Offer of Exhibits filed on January 29, 2018. He also adopted the Judicial Affidavits of SPO2 Ali Solano and SPO2 Geroge Labayan as part of his Formal Offer of Evidence but said documents were denied admission. *See* Order dated May 11, 2018.

[771] Accused PINSP Saudi M. Mokamad testified on September 14 & 21, 2016.

[772] *See* Order dated May 11, 2018.

conduct checkpoint/route security in Sitio Binibiran and Sitio Masalay, as augmentation force of the Ampatuan Police Station and 1508th PPMG headed by **PCI Sukarno Dicay, PINSP Rex Ariel Diongon and PINSP Michael Macaraeg** to ensure the safety of those who will file their Certificates of Candidacy. As proof of said assignment, he presented an ***"IMPLAN to Security Plan – Filing of Candidacy"*** *dated November 19, 2009* marked as ***Exhibit "8".***

He also alleged that when they arrived in Sitio Masalay, he approached **Cpl. Raymundo** and asked if they can use the CAFGU's detachment to which the latter agreed. They set up a checkpoint 100 meters from the detachment and put up a PNP-COMELEC signboard with the name of the witness and a COMELEC officer.

Around 10:00 a.m., witness saw a convoy of vehicles, one of which was marked "UNTV" which turned left upon reaching the crossing of Sitio Masalay heading towards the direction of the MNLF camp which is a mountainous area. At about 10:30 a.m., he heard around four (4) gun shots which were barely audible and presumed it came from the MNLF camp. He called his superiors, but they could not be reached so he instead sent text message about the gun shots. He also called up his men in Sitio Binibiran led by **SPO2 Labayan** and asked if there was anything unusual and the latter responded that there was none.

At 11:45 a.m., PSUPT Maguid arrived at the checkpoint and asked about the situation. Witness answered that it was normal, but he also mentioned about the gun shots. PSUPT Maguid then asked the witness to go with him to the checkpoint of 1508th in Sitio Malating. Upon arrival thereat, PSUPT Maguid asked PCI Dicay and PISNP Diongon about their situation at the area. They replied that there was a false alarm bomb threat. They proceeded to Sitio Binibiran and Municipality of Datu Abdullah Sangki and then returned to Sitio Masalay. PSUPT Maguid then left for Shariff Aguak.

At around 12:10 p.m., PCI Dicay called and instructed him to re-group in Sitio Binibiran. They stayed there till 3:00 p.m. and continued with the route security. He then heard from the transistor radio about the news on the killings of the victims in Ampatuan municipality. When no one from his superiors responded to his inquiry for further instruction, he called Regional Operations Officer Col. Ramos and was told to decide on his own. Hence, he ordered his men to return at the headquarters past 5:00 p.m.

He denied the testimonies of Sukarno Badal that he was present at the meetings on July 19, 2009 at Century Park, November 16, 2009 at the house of Andal Sr., and November 21, 2009 at the house of Andal Jr. He claimed that he was assigned in Maguindanao Police Office only in October 2009. He also denied the statement of PINSP Diongon that he

attended the meeting on November 19, 2009 because he and his men were already preparing for the set-up of the checkpoint on said date. He said that the testimony of Badal including him as one of those who joined the CVOs in shooting the victims was not true because he stayed with his men in Sitio Masalay. He also explained that he did not flee but after he filed his Counter-Affidavit dated December 28, 2009 with the DOJ, he lived with his uncle because he feared for his life as both parties are powerful in Maguindanao.

When cross examined on September 21, 2016, witness explained that the order to him was purely route security because they were not allowed to post a checkpoint since they were only to augment force. The checkpoint in Masalay was from the 38th I.B., not theirs. He confirmed that Ampatuan town was not within their area of responsibility. He also affirmed seeing the convoy prior to the killing of the victims and said convoy consisted of about seven (7) vehicles, led by a van with mark "UNTV" followed by a red FX, and also a "Sangguko" which passed prior to the convoy. He did not bother to order one of his personnel to check where the gunshots started. Witness confirmed that he was in Mindanao on November 16, 19 and 21, 2009.

On his re-direct examination, witness said that the *Sangguko* he saw has markings "1508th PMG" but he did not confront or ask the person who was manning said vehicle. He said that there was no incident where his presence was called to a meeting on November 16, 19, 20 and 21, 2009. He further explained that he went home to Sultan Kudarat and was prevented by his uncle who was a powerful commander of the MILF, to leave the place because he might be killed. He clarified that he was not arrested, but he instead surrendered.

On re-cross examination, witness said that he was aware of the two (2) Affidavits of Arrest and one of which was executed by Police Officer Mukaram. He further said that he was not able to read said affidavit.

Testimony of PSUPT Abusama M. Maguid

PSUPT ABUSAMA M. MAGUID was recalled to the witness stand to testify for accused PINSP Saudi Mokamad on August 30, 2017. He was presented for the purpose of proving the due execution and genuiness of the *IMPLAN dated November 19, 2009* marked as **Exhibit "8" for accused PINSP Mokamad,** which the witness identified again in open court.

During his cross examination on even date, witness was asked if with the execution of the *IMPLAN,* it served as the basis for the establishment of checkpoint areas to which he answered in the affirmative specifically citing paragraph 8 thereof which provides that *"The Chiefs of*

Police, the Officer-in-Charge of Municipal Police Stations shall conduct checkpoint, road security along the national highway in their respective AORs to filter all passing vehicles towards the Provincial Capitol with the exception of Shariff Aguak because Shariff Aguak is at the side of the Capitol…" Witness confirmed that this operational guideline for providing security during the filing of candidacy was for November 20, 2009 only and after the lapse of said date, any action outside of said *IMPLAN* was already on the part of the Ground Commanders.

On re-direct examination, witness explained that the *IMPLAN* was a standard operating procedure everytime there were activities and will be part of the attachment of the after activity to be submitted to the region as part of the reports that will be evaluated. Lastly, he said that if the officers will not follow the *IMPLAN,* they will be administratively liable because those were the guidelines set by the office.

Witness for accused PO1 Pia S. Kamidon: (member of the 1508th PMG but with different counsel – Atty. Jayson Jay Parra Ison and Atty. Yasser Lumbos [collaborating counsel])

1. Accused PO1 Pia S. Kamidon – He was a member of the 1508th PMG assigned to conduct road security in Sitio Malating, Brgy. Salman, Ampatuan, Maguindanao, starting on November 19 to 23, 2009.

Testimony of PO1 Pia S. Kamidon

PO1 PIA S. KAMIDON appeared in court on September 27, and October 11, 2017. In his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings***,[773] witness alleged that from November 19 to 23, 2009, he was tasked by their group Commander P/Insp. Rex Ariel Diongon to conduct police visibility and road security to avoid any untoward incidents during the day in the filing of Certificate of Candidacy in Sitio Malating, Brgy Salman, Ampatuan, Maguindanao, together with other 17 members of the 1508th PPMG, MAG-PPO and six (6) members from Maguindanao Provincial Headquarters. Additional four (4) police each from Parang Municipal Police Station, Sultan Mastura MPS and Sultan Kudarat MPS came to augment on November 20 to 23, 2009.

On November 23, 2009 at around 10:00 a.m., while they were at the highway side in crossing Malating, Brgy. Salman, Ampatuan town, Maguindanao, there were vehicles which arrived marked with "UNTV" and "DZRH" together with other 5 or 6 van, one Toyota Vios and the other one was Tamaraw FX from the direction of Isulan to Shariff Aguak. While the vehicles were stopped for inspection, the group of Datu Kanor numbering to 50 with high power calibre of firearms suddenly arrived and instructed the passengers to alight from the vehicles. In a few minutes,

[773] Accused PO1 Pia S. Kamidon did not file his Formal Offer of Evidence despite the directive of the court pursuant to the Order dated February 21, 2018.

Datu Unsay also arrived together with a bigger group of men numbering to 100 with more sophisticated high-powered firearms. He with other police officers who were actually doing the checkpoint were moved to the side. The passengers were boarded on the following vehicles: Toyota Hi-Lux, Hummer, Scout car, maroon Navarra pick-up, five (5) back-to-back police vehicles and four (4) pick-up. Simultaneously, the armed men pointed their .50 caliber machine guns mounted from the Hummer and Scout car to the members of the 1508th. The witness and the other policemen were not able to do anything because they were outnumbered and most of them were unarmed. Witness said that aside from him, the othe unarmed policemen were as follows: **PO3 Abdulgani Abibudin, PO3 Anton Rasid, PO2 Saudi Guialal, PO1 Narkouk Mascud, PO1 Esprilieto Lejarso and PO1 Herich Amaba.** He also identified some of the men of Datu Unsay, *viz:* **Vice Mayor Sukarno Badal, and his police escorts PO2 Tany Dalgan, PO1 Dukoy Badal, PO1 Alfie Pagabangan, PO1 Joharto Kamendan, PO1 Warden Legawan and some auxillary and CVOs.**

The passengers of the first convoy alighted from their vehicles and the men of Datu Unsay and Datu Kanor took their personal belongings. Thereupon, the passengers were ordered to lay prostrate on the ground and the armed men hit and struck them with the use of their firearms. Witness noticed that there was a female passenger who tried to use her cellphone but Datu Unsay saw her, forcibly took her cellphone and fired a shot at the side of the passenger. Witness later on learned that said passenger was **Genalyn Mangudadatu,** wife of Gov. Toto Mangudadatu. PCI Dicay then went to Datu Unsay and told the latter not to fire but Datu Unsay said *"huwag makialam dito ang mga pulis."* Thereafter, the convoy and armed men left the checkpoint together going to the direction of Shariff Aguak.

They continued with the conduct of the checkpoint and waited for the instruction of their officers. After some time, members of the army arrived at the checkpoint and sought the assistance of the police. PCI Dicay instructed the **witness, PINSP Diongon, PO2 Decipulo, PO1 Mascud, PO2 Ulah, PO3 Abebudin, PO1 Lejarso, PO2 Pasutan and PO1 Amaba** to assist the army going to the hilly portion of Sitio Masalay. They arrived at the area but only PINSP Diongon was allowed to enter the crime scene. After 30 minutes, they went down to Sitio Malating. They went to the CAFGU detachment at Lambuay and stayed therein overnight.

On December 4, 2009, while he was at CIDG Camp Crame, he was directed to write his statement with the assistance of Atty. Pagaduan. Thereafter, his affidavit was given to him in a typewritten form but some parts of it were incorrect and lacking.

On cross examination by the prosecution on even date, witness testified that after training and graduation, he was assigned as escort to Sultan Sa Barongis Mayor Allandatu Angas. He remembered that it was the month of July 2009 when he was assigned to RMG-PPMO- MAG-PO and his immediate superior was P/Insp. Rex Ariel Diongon. He is aware that the latter was assigned as security escort of Sajid Ampatuan before the massacre.

He also testified that there was a written memorandum coming from the Police Provincial office signed by PSUPT Abusama Maguid regarding road security, but it was only relayed to them verbally by their group commander then PINSP Rex Ariel Diongon. They were told by PINSP Diongon that there was a written order coming from the COMELEC and it was coursed through their Maguindanao Police Office and the same was brought down to their level. He saw a signage stating that the checkpoint is under COMELEC and also by Police Office but there was no representative from the COMELEC at the checkpoint.

He further testified that from November 19 to 23, 2009, he saw Datu Unsay Ampatuan Jr. five (5) times. The first time was on November 19, 2009, Datu Unsay was conferring and talking to Major Dicay. The next day, November 20, 2009, Datu Unsay stopped at the checkpoint and rolled down the window of his car and just waved his hand to Major Dicay and did not alight from his vehicle. The third (3) time was on November 21, 2009 at their checkpoint, Datu Unsay stopped and rolled down his car window, he talked with Dicay, but the witness did not hear what they were talking about. The fourth (4) time was on November 22, 2009, Datu Unsay stopped by and alighted from his vehicle and talked with Major Dicay but the witness was not able to hear their conversation. The fifth (5) time was on November 23, 2009, it was Datu Unsay who suddenly arrived at their checkpoint accompanied by at least 100 men. Before the arrival of Datu Unsay, Datu Kanor also arrived at the checkpoint with 50 persons. The 100 companions of Datu Unsay and 50 companions of Datu Kanor were all armed with high calibre firearms. Until the time he testified, he did not file any case or complaint against Datu Unsay and Datu Kanor. When asked to identify Datu Kanor and Datu Unsay inside the courtroom, witness said they were not there and with respect to Datu Kanor he further stated *"kung hindi siya nagpalit ng anyo ng kanyang mukha ay makikilala ko po."*

On cross examination by the counsel[774] of Datu Andal Ampatuan, Jr. on October 11, 2017, witness confirmed that they started conducting the checkpoint on November 19, 2009 in the morning. He was not aware that Diongon testified to the effect that the checkpoint was established in the afternoon on November 19, 2009. He was also not aware about the testimony of Diongon that there were 12 guns with the

[774] Atty. Ernest Levanza of Fortun and Santos Law Office.

1508th specifically six (6) M14, one (1) garand rifle and four (4) M16 and one (1) rifle of Diongon. He mentioned that Datu Unsay was forcing to get an item from a lady which was her cellphone and succeeded in getting possession thereof. Other than his Judicial Affidavit which represents his direct testimony, there were no other documents or evidence attached thereto.

Witnesses for the 1507th Police Mobile Group "Solano Group"
[1) SPO1 Ali M. Solano; 2) PO3 Felix A. Daquilos; 3) PO2 Kendatu S. Rakim; 4) PO1 Abdulrahman S. Batarasa; 5) PO1 Marjul T. Julkadi; 6) PO1 Marsman Nilong; 7) PO1 Abdulmanan L. Saavedra; 8) PO1 Jimmy M. Kadtong; 9) PO1 Abdulbayan Mundas; 10) PO1 Bersedick T. Alfonso; and 11) PO1 Mohammad K. Balading]: --
(WITH REBUTTAL EVIDENCE)

1. Accused SPO1 Ali M. Solano – He is a member of the 1507th Regional Mobile Group then based in Blensong, Upi, Maguindanao and group leader of the "Solano" Group who was tasked to conduct road security in Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao on November 19 to 23, 2009, as instructed by PINSP Mokamad.

2. Accused PO3 Felix A. Daquilos - He is also a member of the 1507th "Solano" Group Regional Mobile Group assigned to conduct road security in Sitio Masalay from November 19 to 23, 2009.

3. Accused PINSP Saudi M. Mokamad – He was the Group Director of 1507th PMG who ordered them to conduct road security in the town of Ampatuan, Maguindanao from November 19 to 23, 2009.

Testimony of SPO1 Ali M. Solano

SPO1 ALI M. SOLANO[775] appeared in court on January 17, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "1" Solano and sub-markings***.

In his Judicial Affidavit, witness alleged that on November 19, 2009 at around 6 in the morning, he was informed by their First Sergeant, SPO2 George S. Labayan of the 1507th Provincial Mobile Group, through text, that they have an assignment in Shariff Aguak, Maguindanao. Said assignment was in accordance with the directive of their Commanding Officer (C.O.), PINSP Saudi M. Mokamad.

At around 7:00 a.m. of same day, he arrived at their detachment in Brgy. Capiton, Datu Odin Sinsuat. After an hour, they proceeded to Shariff Aguak, Maguindanao. They were more or less 27 in number and PINSP

[775] Accused SPO1 Ali M. Solano testified for the members of the 1507th PMG on January 17, 2018.

Saudi Mokamad was riding his own vehicle while they were boarded in two PNP Mobile Car, one (1) L-300 back-to-back and a Nissan Frontier.

Upon arrival in Shariff Aguak, they were met by PCI Sukarno A. Dicay, Deputy Provincial Director of Maguindanao Provincial Police Office. PINSP Mokamad alighted from his vehicle and talked to PCI Dicay. After PINSP Mokamad was given instruction, their group immediately proceeded to Brgy. Salman, Ampatuan, Maguindano.

When they arrived in Brgy. Salman, their troop was divided into two groups: the first group was headed by PINSP Mokamad and was designated to conduct road security in Sitio Masalay, Brgy. Salman while the second group was headed by SPO2 George S. Labayan and was assigned to conduct road security in Sitio Binibiran, Brgy. Matagabong, Ampatuan, Maguindanao. Witness was included in the first group. After they were divided into groups and given instruction, the second group proceeded to their assigned place.

Witness also testified that the instruction to them by PINSP Mokamad was to conduct road security only for those who will file their Certificates of Candidacy and not a checkpoint.

He also stated that he was the team leader of the first group and that they were 13 in the group assigned thereat including **PINSP Saudi Mokamad** and the following policemen: **PO3 Felix A. Daquilos, PO2 Kendatu S. Rakim, PO1 Bensidick T. Alfonso, PO1 Abdulraman S. Batarasa, PO1 Marjul T. Julkadi, PO1 Datu Jerry M. Utto, PO1 Mohammad K. Balading, PO1 Marsman Milong *(sic)*, PO1 Ysmael M. Baraguir, PO1 Abdulmanan L. Saavedra, and PO1 Jimmy M. Kadtong.**

On November 20, 2009, they continued with their assignment to conduct road security. He noticed a convoy of vehicles going to Crossing Saniag, Matagabong, Ampatuan where members of the SCAA and PAU of the Ampatuan family were based. Included in the convoy of vehicles were police cars, several private vehicles, and a vehicle called "Sangguko" mounted with a 50 caliber. According to the residents in their area, those people were the troops of Datu Andal "Unsay" Ampatuan, Jr.

On November 21, 2009 at around 8 in the morning, a white PNP back-to-back mobile car passed by boarding the troops of SCAA and PAU. Said vehicle went to Crossing Saniag, Matagabong, Ampatuan, Maguindanao. At around 4:00 p.m., said vehicle passed by again going back to Shariff Aguak, Maguindanao.

On November 22, 2009 at around 8:00 a.m., witness noticed a group of vehicles passed by going to Crossing Saniag where the troops of SCAA and PAU were based. They were boarded in four white PNP back-

to-back mobile cars and a *Sangguko*.They alighted at the place of their companions situated at Crossing Saniag.

On November 23, 2009 at around 8:00 a.m., he again noticed the PNP mobile cars going to Crossing Saniag where the *Sangguko* and the troops of the SCAA and PAU were standing by. They were then ordered to group beside the road to conduct road security. At around 10 in the morning, he noticed that the *Sangguko* went inside Sitio Masalay, Brgy. Salman, Maguindanao, did a backing then went outside and parked in front of an alley while the members of the SCAA and PAU positioned thereat.

They remained at their place and after almost 20 minutes, he noticed a convoy of more or less 10 vehicles went inside the alley. Among said vehicles, he saw a white van with a "UNTV" mark in front and at the sides of said vehicle. He thought that the vehicles were going to MNLF camp.

After almost an hour after he saw the convoy went inside the alley, they heard gunshots from the said place. The gunshots they heard lasted for five (5) minutes. They heard combinations of single shots and automatic firing, not continuous and not at the same time. Upon hearing the gunshots, they remained at their place and waited for the orders of their officials. After taking their lunch, PINSP Mokamad instructed them to leave the place, the CAFGU detachment and go to their troops situated in Sitio Binibiran headed by SPO2 Labayan. Witness also narrated that PINSP Mokamad did not give instruction to respond to the gunshots they heard.

At around 1:00 p.m., they left their assigned place together with PINSP Mokamad and went to Sitio Binibiran where they stayed together with the troops of SPO2 Labayan. It was in that place where they heard the news that the family of Toto Mangudadatu were killed.

At 6:00 p.m., PINSP Mokamad instructed them to return to their detachment in Brgy. Capiton, Datu Odin Sinsuat. They arrived at said detachment around 9:00 p.m.

When cross-examined on January 17, 2018, witness narrated that prior to November 23, 2009, he had been with PNP for 17 years and had been assigned in Maguindanao for 15 years.

He confirmed that it was not the first time that they conducted road security and there were no representatives from COMELEC when they conducted the same. He also confirmed that from November 19 to 23, 2009, there were many police auxiliary group of the Ampatuans.

He affirmed that the place where they conducted road security is already beyond the area of responsibility of the 1507th. However, he stated that they did their duties because they were under the Maguindanao Provincial Police Office and they can be assigned anywhere within that area. He further narrated that there were some personnel of the 1507th who were left at the area of their responsibility which was in the Magelco detachment while their headquarters is in Upi, Maguindanao.

Witness further testified that it was their C.O. (commanding officer) who was the team leader of the 1507th who were conducting road security in Sitio Masalay. He further clarified that he acts as the team leader being the most senior police officer among the group, when his C.O. is not around. He also stated that his C.O. was with them when they heard the gunshots.

Witness also affirmed that it was only on November 23, 2009 that the "sangguko" passed by an alley in Sitio Masalay. He saw more or less ten (10) vehicles going inside an alley leading to the hilly portion of Sitio Masalay but was not able to see any patrol vehicles of the PNP. He cannot determine how many armed men he saw at the entrance of said alley because they were so many. He confirmed that they were carrying long firearms but he was not sure if they were from the Ampatuan clan.

He also stated that after hearing several gunshots, he did not insist on going to that place from where they heard the gunshots because his officer was present and there was no report to them that something happened.

On re-direct examination, witness clarified that he knew that the police auxiliary and armed men belong to the Ampatuan clan because it was according to the residents in the area where they stayed. He also stated that he was not trained to ask directive from their C.O. He mentioned in his Counter-Affidavit that he was the team leader because he was the most senior among the police non-commissioned officers, but there was no instance that he acted as a team leader because his C.O. was there.

Testimony of PO3 Felix A. Daquilos

PO3 FELIX A. DAQUILOS[776] appeared in court on January 17, 2018. He executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "3" Solano and sub-markings***.

In his Judicial Affidavit, witness testified that they were dispatched at Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao from November

[776] Accused PO3 Felix A. Daquilos testified on January 17, 2018.

19 to 23, 2009. He said that the place where they were assigned was no longer covered by their area of responsibility, but there was an order from their Group Director, PINSP Saudi Mokamad, to go to said place to augment police presence.

On November 19, 2009 at around 8 in the morning, their troop together with their Group Director went to Shariff Aguak, Maguindanao. When they reached the town, they stopped for a while and he saw PINSP Mokamad talked to PCI Sukarno Dicay along the highway. Afterwards, they proceeded to Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao. Upon arrival at said place, they temporarily stayed at a CAFGU Detachment which was headed by Cpl. Raymundo.

He said that he was with the following policemen for said assignment: **Group Director PINSP Saudi M. Mokamad, SPO2 Ali M. Solano - their team leader, PO2 Kendatu S. Rakim, PO1 Bensidick T. Alfonso, PO1 Abdulraman Batarasa, PO1 Marjul T. Julkadi, PO1 Datu Jerry Utto, PO1 Mohammad Balading, PO1 Marsman Nilong, PO1 Ysmael Baraguir, PO1 Abdulmanan Saavedra, PO1 Abdulbayan U. Mundas, and PO1 Jimmy M. Kadtong**. He came to know that they were divided into two groups and the other group was headed by **SPO2 George S. Labayan** and was based in Sitio Binibiran, Brgy. Matagabong, Ampatuan, Maguindanao.

On November 20, 2009, the troop together with their Group Director conducted road security along the road which was more or less 200 meters away from the CAFGU detachment going to the direction of Cotabato City. He stayed at the CAFGU Detachment from the time they arrived at the place as he was assigned as the Alert Driver and Kitchen Personnel together with **PO1 Ysmael M. Baraguir and PO1 Jimmy M. Kadtong.**

On November 23, 2009, while he was cooking, he heard gunshots. They just ignored it because they were far from the place where the gunshots were taking place. Then suddenly, Cpl. Raymundo shouted at them to take cover because the guns were pointed at them. Immediately, the witness and his companions took cover. After a while, the armed group left. After a few minutes, the troop with their Group Director arrived to rest and eat. Then, their Group Director decided to leave the place and go to their companions in Sitio Binibiran.

They arrived at 1pm in Sitio Binibiran and was instructed by their Group Director to stay and spend the night in said place. However, at around 6 in the evening, their Group Director ordered them to get ready, leave the place and return to their post at Datu Odin Sinsuat, Maguindanao. They arrived in Datu Odin at around 11:00 p.m.

When cross examined, witness narrated that prior to November 23, 2009, he had been with PNP and a member of the 1507th for 23 years.

He confirmed that the Ampatuan municipality is not within the area of responsibility of the 1507th PMG and despite that fact, they conducted road security from November 19 to 23, 2009 in Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao. He also affirmed that the 1507th PMG was split into two groups – one in Sitio Masalay and the other one is in Sitio Binibiran.

He identified SPO1 Ali M. Solano as their team leader, PINSP Saudi Mokamad as their Commanding Officer, and Corporal Zaldy Raymundo who was with them at the detachment where they stayed. He affirmed that when Cpl. Raymundo testified on August 11, 2011, the latter identified him because he was assigned as cook for their group in the detachment. When asked if they conducted a checkpoint, witness answered in the positive.

He denied the earlier testimony of Police Officer Diongon that he was one of the police officers belonging to 1507th who set-up a checkpoint in Sitio Masalay on November 19 to 23, 2009 because he was assigned as cook of the 1507th and the place where he was situated was quite far from said checkpoint.

On re-direct examination, witness said that he did not know the purpose going to Sitio Masalay, but he was designated as a cook. He differentiated road security from a checkpoint, stating that the former is only for police visibility and they just stand beside the highway while in a checkpoint, they will flag down the vehicles for inspection. He stated that what they conducted was a road security.

On re-cross examination, witness clarified that the instruction given to them was only to conduct a road security and not a checkpoint. Before going to their designated place, there was no instruction, but they were just informed to proceed to Shariff Aguak. They just learned about the purpose of conducting a road security from their Commanding Officer when they arrived in Sitio Masalay.

Testimony of PINSP Saudi M. Mokamad

PINSP SAUDI M. MOKAMAD [777] appeared in court on February 07 and 28, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein

[777] Accused PINSP Saudi M. Mokamad testified for Solano and Labayan groups on February 07 and 28, 2018.

and had the same marked as ***Exhibit "5" Solano and sub-markings.***[778]

In his Judicial Affidavit, he narrated that on November 18, 2009, then Police Provincial Director of Maguindanao, **PSUPT Abusama Maguid**, directed him to compose two (2) teams of police officers to form part of security in connection with the filing of Certificates of Candidacy at the Maguindanao Capitol, Shariff Aguak, Maguindanao.

On November 19, 2009, around 7:00 a.m., the witness together with 27 elements of the 1507th PPMG-composed team moved from their Community Police Assistance Center based at Magelco, Datu Odin Sinsuat, Maguindanao to MAGPPO in Shariff Aguak, Maguindanao. They arrived at around 11:00 a.m. at the CAFGU Detachment located at the National Highway in Barangay Salman, Ampatuan.

He coordinated with the elements of the 38th Infantry Battalion manning the CAFGU Detachment then conducted briefing with his team. Thereafter, he divided his men into two (2) groups, and designated **SPO2 George S. Labayan** as team leader in Sitio Binibiran and **SPO1 Ali M. Solano** as team leader in Sitio Masalay.

He authorized his team leaders to allow the privilege of VOCO PASS (Verbal Order Commanding Officer Passes) depending on their internal arrangement provided that only one is allowed every 24 hours each team as practice in the PNP Mobile Group. He further instructed the team leaders not to conduct checkpoint in their respective areas, but only road security to keep the highway passable for all commuters and other road users.

When cross-examined on February 07, 2018, witness was asked about his Judicial Affidavit which was submitted on September 10, 2016. He was asked to read Question and Answer No. 5 on his Judicial Affidavit: "Q: What did you do when you **started to set up your check points**?" "A: xxx *while our checkpoint at Sitio Masalay was located about 100 meters from Cpl. Raymundo's detachment, we set up the sign board, PNP-Comelec Checkpoint with the names of the Comelec Officer and mine under it."*

On further cross examination, he was asked to read Question and Answer No. 26 of the same Judicial Affidavit: "Q: What about the meeting on November 19, 2009 which according to P/Insp. Diongon you were present?" "*A: It is not true. xxx I was approached by P/CInsp. Dicay who ordered me to split my men one group in Sitio Binibiran and another group in Sitio Masalay. When I asked him for a written order P/CInsp. Dicay said, to follow. But when we arrived at Sitio Masalay, I received the IMPLAN*

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[778] Initially marked provisional as Exhibit "1" for Solano and Labayan on February 07, 2018, then remarked as Exhibit "5" Solano on May 03, 2018.

instead of the order I asked from P/CInsp. Dicay. I was already preparing my men to set up the checkpoints at Sitio Binibiran and Sitio Masalay where we arrived at about 10:00 a.m."

On re-direct examination, witness explained that in a checkpoint they just stand by along the road (national highway), but they did not inspect or stop any vehicles coming and going to the highway. He denied that the Judicial Affidavit dated September 10, 2016 shown to him was the one he corrected and submitted to the court whereon he affixed his signature on the side.

He clarified that he corrected the term "checkpoint" to route security. He further explained that a route security is a police operation that requires the personnel to be visible in the area along the national highway or the road while a checkpoint is a legitimate operation of police but whenever there is a vehicle passing, they are checking the vehicles together with the passengers but in a courteous manner. He affirmed that what the 1507th conducted was only a route security.

On re-cross examination of the witness, the latter was again asked to read Question and Answer No. 5 of his Judicial Affidavit dated September 10, 2016 which relates to when he started to set up checkpoints.

Witnesses for PO2 Kendatu S. Rakim (member of the 1507th PMG "Solano" group but with different defense):

1. Accused PO2 Kendatu S. Rakim – He is a member of the 1507th PMG "Solano" Group assigned to conduct checkpoint in Sitio Masalay from November 19 to 23, 2009, but he claimed that he was off-duty on November 23, 2009 and went home in Cotabato City.

2. Accused SPO1 Ali M. Solano – He was the team leader of the 1507th PMG "Solano" Group and immediate supervisor of PO2 Rakim. He was presented to identify the Certification he issued in favor of PO2 Rakim that the latter left Sitio Masalay on November 23, 2009 at 6:00 a.m. ***(He was also presented as witness for PO1 Abdulbayan Mundas)***

Corroborative Witness for PO2 Rakim:

3. PCI Roel G. Villarin – He was present at the MAGELCO detachment at around 9:00 a.m. on November 23, 2009 where he saw accused PO2 Kendatu S. Rakim and PO1 Badjun I. Panegas. ***(He was also presented as witness for PO1 Badjun Panegas.)***

Testimony of PO2 Kendatu S. Rakim

PO2 KENDATU S. RAKIM appeared in court on January 24, 2018. Based on his ***Judicial Affidavit*** which he identified and marked as ***Exhibit "1" and sub-markings***, witness testified that on November 19, 2009, they were deployed to Shariff Aguak, Maguindanao, particulary in Sitio Masalay, Brgy. Salman, Ampatuan, which was not part of their area of responsibility (AOR).

Their group was deployed from November 19 to 23, 2009, but he only stayed for four (4) days because he was off-duty on November 23, 2009 as evidenced by a ***Certification*** *dated February 8, 2010* issued by SPO1 Ali M. Solano marked as ***Exhibit "3" and sub-marking***. He left Brgy. Salman past 6 in the morning of November 23, 2009 when PO1 Badjun Panegas who was then deployed in Sitio Binibiran and also off-duty that day, fetched him. They arrived at MAGELCO detachment around 9 in the morning where they saw PO1 Mundas who was going back to Sitio Masalay and PCI Villarin. Thereafter, they went home to Cotabato City.

Witness also testified that he learned about the incident that happened on November 23, 2009 when PO1 Panegas went to his place and told him about the abduction incident in Ampatuan town which the latter was able to watch on the television. They then called their companions to confirm but the latter answered that the situation was normal and there was no such incident that happened. They were later told to just stand by. The next day, witness and PO1 Panegas reported at the MAGELCO detachment.

Witness denied any involvement about the incident as they were just obeying the orders of their superiors.

On cross-examination, witness affirmed that only half of the 1507th PMG conducted road security in Sitio Masalay upon oral instruction of their Commanding Officer, PINSP Mokamad. Aside from the Certification he presented, witness admitted that he has no other proof that he indeed left Masalay on November 23, 2009.

He also stated that the MAGELCO detachment was more or less three (3) hours from Masalay. He denied the statement of PINSP Diongon that he was one of the members of the 1507th who conducted a checkpoint in Masalay because he was offduty. He even called PINSP Diongon a liar. He said that PINSP Diongon pointed them all so he could be taken as a witness.

On re-direct examination, he claimed that it is usual in their organization that only verbal orders are given. He also claimed that he

left Masalay at 6:30 a.m. and reached MAGELCO at 9:00 a.m., more or less three (3) hours, and not two (2) hours.

On re-cross examination, witness testified that MAGELCO is in Datu Odin, and there are several towns – Crossing Salbo, Talayan, Guindulungan and two more which the witness forgot, before reaching Shariff Aguak. Hence, Datu Odin is not right after Shariff Aguak.

Testimony of SPO1 Ali M. Solano

SPO1 ALI M. SOLANO[779] appeared in court on February 08, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "4" Rakim and sub-markings.***

Witness identified a *Certification dated February 08, 2010* which he issued in favor of PO2 Rakim marked as **Exhibit "3" Rakim and sub-marking** which states that PO2 Rakim left the post in Sitio Masalay on November 23, 2009 at around 6:00 a.m. upon verbal instruction of their Group Director PINSP Saudi Mokamad to report at the MAGELCO detachment. Said Certification was only a photocopy, but witness claimed that it was the same Certification he issued when accused PO2 Rakim requested for it when they were still in Camp Crame. He again affixed his signature thereon.

On cross-examination, he testified that he was assigned as a team leader of the 1507th PMG only for the operation of conducting road security in Sitio Masalay from November 19 to 23, 2009. After said operation on the night of November 23, 2009 when they arrived at the MAGELCO detachment, his designation as team leader also ended.

He affirmed that the MAGELCO detachment is located in Datu Odin Sinsuat and it is quite far from the Ampatuan municipality. He estimated that it is more or less 100 kilometers away. When asked if MAGELCO is only 40 kilometers away from Ampatuan and can be reached within a period of one-hour drive, witness answered that he cannot estimate. When the witness was asked if where the "off-duty" was indicated in the Certification, witness answered that there was none. What was only stated is that PO2 Rakim was directed to report at the MAGELCO detachment. Witness stated that from the time PO2 Rakim left Sitio Malating on November 23, 2009 until they saw each other again at the detachment on November 24, 2009, he has no personal knowledge of the activities and whereabouts of PO2 Rakim during said time.

On re-direct examination, witness clarified that what was meant by "he left our post" in the Certification was that he was offduty.

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[779] Accused SPO1 Ali M. Solano testified for PO2 Kendatu S. Rakim on February 08, 2018.

Testimony of PCI Roel G. Villarin

PCI ROEL G. VILLARIN[780] appeared in court on March 07, 2018. He testified that on November 23, 2009 at around 9:00 a.m., he was at the MAGELCO detachment watching T.V. when PO1 Panegas and PO2 Rakim arrived. He then asked the two (2) police officers why they were there, and they answered that they were offduty. They stayed at the detachment for about 10 minutes, then they left and went home.

On cross-examination of the witness on even date*,* witness testified that the MAGELCO detachment is located in Datu Odin Sinsuat which is almost 60 to 80 kilometers from Ampatuan municipality. He also stated that his official station in November 2009 was in North Upi, but assigned at MAGELCO, and he was then the Deputy Group Commander of the 1507th PMG. He confirmed that their immediate superior at that time was PINSP Mokamad, and PO2 Rakim and PO1 Panegas were personnel of the 1507th at that time.

He also admitted that there was no logbook or any document to show that in fact PO2 Rakim and PO1 Panegas went to MAGELCO detachment in the morning of November 23, 2009. It was a casual greeting when he saw the two police officers that morning. He affirmed that there were several PNP personnel present at said detachment that time although he cannot recall already, but he can recall that the two police officers present thereat. He also stated that it was only after nine (9) years that he testified for PO2 Rakim and PO1 Panegas. After seeing the two police officers, he did not know where they went after leaving the detachment.

During re-direct examination, witness testified that at the time when the case was at the CIDG, he had no contact with PO1 Panegas and PO2 Rakim. It was in 2010 when he first testified during the administrative case against the police officers, and at the time he testified, he also gave the same testimony which was to confirm the arrival of these police officers at MAGELCO.

On re-cross examination witness stated that he has was not able to bring any proof of his testimony during the hearing on the administrative case, but it could have been put on record with the Napolcom. He confirmed that he did not execute any affidavit at that time, but he just testified. He also said that he did not ask the police officers any document issued to them by their superior that they were in fact off-duty at that time.

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[780] Accused PCI Roel G. Villarin testified on March 07, 2018.

When asked by the court if he can still recall how PO1 Panegas and PO2 Rakim looked like and if he knew them personally and can point to them, witness pointed to two persons who when asked their names identified themselves as PO1 Badjun Panegas and PO2 Kendatu Rakim.

Witnesses for PO1 Abdulbayan Mundas (member of the 1507th PMG "Solano" group but with different defense): (WITH REBUTTAL EVIDENCE)

1. Accused PO1 Abdulbayan U. Mundas – He is a member of the 1507th PMG "Solano" Group assigned to conduct a checkpoint in Sitio Masalay from November 19 to 23, 2009, but he claimed that he was off-duty on November 22, 2009 and was able to return in Sitio Masalay on November 23, 2009 at 12 noon.

2. Accused SPO1 Ali M. Solano – He was the team leader of the 1507th PMG "Solano" Group and immediate supervisor of PO1 Mundas. He was presented to identify the Certification he issued in favor of PO1 Mundas that the latter left Sitio Masalay on November 22, 2009 and returned past 12 noon of November 23, 2009.

Testimony of PO1 Abdulbayan U. Mundas

PO1 ABDULBAYAN U. MUNDAS appeared in court on January 25, 2018. Based on his ***Judicial Affidavit*** which he identified as well as his signature therein, and marked as ***Exhibit "1" Mundas and sub-markings,*** witness testified that on November 19, 2009, their group was directed to go to the town of Shariff Aguak, which was not part of their AOR, pursuant to the order of their Commanding Officer, PINSP Mokamad. Then, PCI Dicay directed them to proceed to the town of Ampatuan where they stayed at an army detachment in Sitio Masalay, Brgy. Salman, Ampatuan.

He further testified that their team was deployed at said area from November 19 to 23, 2009, but he only stayed thereat for four (4) days because he was off-duty on November 22, 2009 and went home to Cotabato City. He left Brgy. Salman around 7:00 a.m. of November 22, 2009 and returned to said place on November 23, 2009 at 12 noon. As evidence, he identified a *Certification dated February 8, 2010* issued by SPO2 Ali M. Solano marked as **Exhibit "3" Mundas and sub-marking**.

He averred that it took him long to reach Sitio Masalay because vehicles were stopped by police officers for an hour in Brgy. Labu-Labo, Shariff Aguak, including the bus he boarded as it was dangerous to proceed to South Cotabato. Few minutes after their vehicle was allowed to proceed, police officers and military men stopped them again at a checkpoint, so witness just boarded a tricycle and was able to reach Brgy. Salman at 12 noon. After taking their lunch, the military arrived at their

assigned place because there was a hostage situation. Their Commanding Officer ordered them to pull-out and go to their other troop in Sitio Binibiran and arrived around 1:30 p.m. and stayed therein for about five hours. It was there that they heard the news that there were Mangudadatus who were killed. Then, their Commanding Officer ordered them to return to their barracks in Datu Odin Sinsuat.

Witness denied any involvement in the incident as they were just obeying the orders of their superiors. He mentioned that he was exonerated from administrative charges based on the NAPOLCOM Decision submitted by SPO2 George Labayan.

On cross-examination, witness testified that he has been a member of the 1507th since 2008 and their immediate area of assignment was the 1st District of Maguindanao covering the areas of Kabunkalan, Datu Odin, Datu Blah, and Nuro (North Upi). He affirmed that although the Municipality of Ampatuan was outside the area of their responsibility, they can be mobilized thereat, but from what he knows, it was under the 1508th. Witness was not aware of any written order or instruction from their Commanding Officer about their duty in the Municipality of Ampatuan from November 19 to 23, 2009. He stated that they did not conduct a checkpoint, but they just stationed along the highway and provided police visibility in the area.

Witness also narrated that as early as 9:00 a.m. of November 23, 2009, he was already in Shariff Aguak riding in a bus on his way to Sitio Masalay. When asked how far Shariff Aguak to Masalay is, witness answered that he cannot estimate as he is relatively new in the area. He cannot also remember how long it took him to reach Brgy. Labu-Labo from Shariff Aguak, but he confirmed that Shariff Aguak, Brgy. Labu-Labo and Masalay are just adjoining barangays of the Municipality of Ampatuan. He clarified that on November 23, 2009 from 9:00 a.m., he came from MAGELCO, Datu Odin Sinsuat to Masalay. He cannot also estimate the distance from Datu Odin Sinsuat to Ampatuan, but he said that he passed by a lot of municipalities.

When asked about Esmael Canapia, he said that he did not know the latter. He confirmed that aside from his testimony, he has no other evidence to prove that he arrived only on November 23, 2009 at 12 noon in Masalay but said that perhaps his companions can testify to that effect.

On re-direct examination, he testified that he has been a policeman for 10 years before November 19, 2009 and most of the time, he received many directives/orders which were verbal in form because if the operation was sensitive, there was no need for a written directive.

Testimony of SPO1 Ali M. Solano

SPO1 ALI M. SOLANO[781] appeared in court on February 08, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "4" Mundas and sub-markings.***

Witness also identified a *Certification dated February 08, 2010* which he issued in favor of PO1 Mundas marked as **Exhibit "3" Mundas and sub-marking** which states that PO1 Mundas left the post in Sitio Masalay on November 22, 2009 to go home to Cotabato City and was able to return past 12:00 noon on November 23, 2009 in Sitio Masalay, Brgy. Salman. He confirmed and affirmed the truthfulness of the contents of the Certification and again affixed his signature thereon.

On cross-examination, witness testified that PO1 Mundas was off-duty on November 22, 2009 who left at 6:00 a.m. on said date. He affirmed that since the day off of PO1 Mundas was only for a day, the latter should have returned to Sitio Masalay on November 23, 2009 at 6:00 a.m.

On re-direct examination, witness clarified that what was meant by "he left our post" in the Certification was that he was offduty. When asked by the court if he actually saw PO1 Mundas in the morning of November 23, 2009, witness answered that he did not see PO1 Mundas because the latter arrived past 12:00 noon.

Witness for PO2 Datu Jerry M. Utto (member of the 1507th PMG "Solano" group but with a different counsel – Atty. Danilo P. Pelagio):

1. Accused PO2 Datu Jerry M. Utto – He is a member of the 1507th PMG "Solano" Group assigned to conduct checkpoint in Sitio Masalay from November 20 to 23, 2009. ***(His Judicial Affidavit was adopted by accused PINSP Saudi Mokamad as part of the latter's evidence)***

Testimony of PO2 Datu Jerry M. Utto

PO2 DATU JERRY M. UTTO[782] appeared in court on May 22, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "1" Labayan and sub-markings***.

In his Judicial Affidavit, witness testified that starting from November 20, 2009 at 7:00 a.m., he and his group conducted a road security along the highway of Barangay Salman, Ampatuan from Masalay

[781] Accused SPO1 Ali M. Solano testified for PO1 Abdulbayan U. Mundas on February 08, 2018.
[782] Accused PO2 Datu Jerry M. Utto testified on May 22, 2017.

Detachment. He differentiated that in road security, they just secure that there would be no blockage along the highway while in checkpoint, vehicles will be flagged, and they will inspect the passengers. He clarified that they did not set-up any roadblock and the situation was normal until November 22, 2009.

On November 23, 2009 at around 8:00 a.m., he noticed that there were white back-to-back police cars which passed and onboard were armed policemen and soldiers wearing camouflage. At 10:00 a.m. while witness was resting nearby around 100 meters away from Crossing Masalay, he noticed that there were many CVOs armed with long high-powered automatic firearms positioned at the corner of the road going to Sitio Masalay with a signage "This way MNLF Camp." After ten (10) minutes, he saw a convoy entering Crossing Masalay from the direction of Esperanza and the last vehicle that passed had a mark at the side and back "UNTV." He described that they were positioned at the opposite direction going to Shariff Aguak, so the convoy did not directly pass by them, so he was not able to see the passengers. Witness thought that the media will just conduct interview with the MNLF because he saw the vehicle with "UNTV" mark entered Crossing Masalay going to the camp of the MNLF.

After one hour, they heard soft continuous firing. They did not bother to do anything because they thought that the MNLF were just conducting their normal target shooting. At noon time, PINSP Mokamad ordered that they returned to the Masalay Detachment to take lunch. Thereafter, they were directed by PINSP Mokamad to leave the Masalay Detachment and proceed to Sitio Binibiran where the other group led by SPO2 George Labayan was situated. At around 3:00 p.m., while they were in Sitio Binibiran, they heard Toto Mangudadatu being interviewed on the radio that his wife and siblings were kidnapped while filing his certificate of candidacy in Shariff Aguak. Witness said that no one from his group went to the massacre site.

Witness also averred that they were only tasked to conduct road security at the national highway by PINSP Mokamad. He said that during the time they were conducting road security, they have with them their government issued M16 firearm, but they were not able to fire those firearms. After the incident, their firearms were turned over to the Supply Accountable Officer (SAO), PNP ARMM.

He also indicated in his judicial affidavit that he was allowed to post bail by the court when the latter granted his Petition for Bail pursuant to the Order dated October 27, 2014 but he cannot pay the bail. He admitted that a certain Esmael Canapia identified him, and it is possible that he was seen by Canapia in Crossing Masalay but further up ahead on November 23, 2009 because they were conducting road security at the time.

On cross-examination, witness testified that the area of responsibility of the 1507th PMG is the first district of Maguindanao, but if there is an order from the Provincial Director, they can be assigned anywhere within Maguindanao. He said that the first district comprises of the municipalities of Datu Odin Sinsuat, Mother Kabuntalan, Northern Kabuntalan, North Upi, Sultan Kudarat, Sultan Mastura, Datu Blah Sinsuat, Matanog, Buldon, Parang Maguindanao, and Barira. He confirmed that the town of Ampatuan is outside the jurisdiction of the 1507th. The headquarters of the 1507th is in North Upi while their detachment is in Barangay Odin Sinsuat. He mentioned that the Masalay detachment they stayed at was the detachment of the CAFGUs.

Witness also testified that there was an order from the Provincial Director to stay in Masalay, Ampatuan, for augmentation to conduct road security and provide security to those who will file their certificate of candidacy. He described the situation as normal from November 20 to 22, 2009 because there was no convoy of private vehicles that passed through during the day and he was not able to see a huge number of CVOs or any armed person or *Sangguko* within or near the detachment in Masalay. It was only on November 23, 2009 when he noticed the two (2) *Sanggukos* passed and many armed CVOs were converging in Crossing Masalay. Even upon seeing these, witness described that PINSP Mokamad had no reaction. He confirmed that PINSP Mokamad and SPO1 Solano he mentioned in his judicial affidavit are the same PINSP Mokamad and SPO1 Solano who are two of the accused in these cases. He also affirmed that all the 13 members of the Solano group were carrying long firearms at that time and they were prepared to pull the trigger in case civilians would need their help.

Witness clarified that they were not arrested because they were initially re-assigned to Cagayan Valley and after a month, they were ordered to report to Camp Crame and then placed on restricted custody. But he confirmed that it was on March 25, 2010 when the arrest warrant was served to him and the other members of the "Solano" group at Camp Crame.

During re-direct examination, witness testified among others, that the Provincial Director in November 2009 was Colonel Maguid.

On re-cross examination, witness affirmed that he was not aware that the convoy came from the direction of Esperanza, Sultan Kudarat going to Shariff Aguak.

Witnesses for the 1507th Police Mobile Group "Labayan Group"
*[1) SPO2 George S. Labayan; 2) SPO1 Elizer S. Rendaje; 3) SPO1 Alimola A. Guianaton; 4) PO3 Ricky D. Balanueco; 5) PO2 Rexson D. Guiama; 6) PO1 Amir M. Solaiman; 7) PO1 Pendatun A. Dima; 8) PO1 Ebara G. Bebot; 9) PO1 Tamano S. Hadi; 10) PO1 Michael M. Macarongon; 11) SPO2 Samad U. Maguindra; 12) PO3 Gibrael R. Alano; and 13) PO1 Badjun I. Panegas]: (**WITH REBUTTAL EVIDENCE)***

1. Accused SPO2 George S. Labayan – He is a member of the 1507th Regional Mobile Group then based in Blensong, Upi, Maguindanao and the group leader of the "Labayan Group" who was tasked to conduct road security in Sitio Binibiran, Brgy. Matagabong, Ampatuan, Maguindanao, on November 19 to 23, 2009, as instructed by PINSP Mokamad.

2. Accused PO3 Ricky D. Balanueco – He is a member of the 1507th PMG "Labayan Group" assigned to conduct road security in Sitio Binibiran, Brgy. Matagabong, Ampatuan, Maguindanao on November 19 to 23, 2009.

3. Accused PINSP Saudi M. Mokamad – He was the Group Director of 1507th PMG who ordered the latter to conduct road security in the town of Ampatuan, Maguindanao, from November 19 to 23, 2009. ***(The testimony he gave at the time he was presented as witness for the "Solano group" was adopted for the "Labayan Group").***

Testimony of SPO2 George S. Labayan

SPO2 GEORGE S. LABAYAN[783] appeared in court on October 04, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "1" Labayan and sub-markings***.

In his Judicial Affidavit, witness testified that on November 18, 2009 at around 7 in the evening, he was informed by the Group Director of the 1507th PMG, PINSP Saudi M. Mokamad to prepare their group in going to Shariff Aguak, Maguindanao, pursuant to the directive of PCI Sukarno Dicay. Thus, he informed his group thru text message about said directive.

On November 19, 2009 at around 8:00 a.m., their troop composed of 27 members left for Shariff Aguak together with their Group Director PINSP Mokamad. When they reached Shariff Aguak at 10:00 a.m., PCI Dicay was already waiting at the highway. Their group immediately proceeded to Brgy. Salman, Ampatuan, Maguindanao, after PINSP Mokamad was given instruction.

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[783] Accused SPO2 George S. Labayan testified for the members of the 1507th PMG on October 04, 2017.

Witness was asked by PINSP Mokamad to divide the group with 13 persons each, to conduct road security and not a checkpoint. The former was tasked by the latter to lead the group which will be detailed in Sitio Binibiran, Brgy. Matagabong, Ampatuan, Maguindanao, and PINSP Mokamad led the other group detailed in Sitio Masalay, Brgy. Salman.

He described the situation as normal except for the presence of two (2) groups of Special Cafgu Auxillary Army (SCAA) and Police Auxillary Unit (PAU) of the Ampatuan family who were fully armed with high powered weapons like M14, M16 and M60. One of them asked the witness if they can stay across the highway, but when the night came, they asked permission from the witness if they can stay in Crossing Saniag, to which the latter did not object. He said that these groups have no detachment area in said place and they were just deployed therein just like his troop.

He identified the following policemen as part of his group assigned in Sitio Binibiran, *viz*: **SPO1 Elizer S. Rendaje, SPO1 Alimola Guianaton, SPO1 Samad U. Maguindra, PO3 Ricky D. Balanueco, PO3 Gibrael R. Alano, PO2 Rexson D. Guiama, PO1 Amir M. Solaiman, PO1 Badjun I. Panegas, PO1 Pendatun A. Dima, PO1 Ebara G. Bebot, PO1 Tamano S. Hadi, and PO1 Michael M. Macarongon.**

On November 20, 2009, the situation in their place was still normal.

On November 21, 2009, witness testified that nothing unusual happened in their place of assignment except that at around 8:00 a.m., a white PNP back-to-back mobile car carrying groups of SCAA and PAU passed by and proceeded to Crossing Saniag, Brgy. Matagabong, Ampatuan, Maguindanao, where their other companions were staying.

On November 22, 2009, witness saw that there was a convoy of vehicles going to Crossing Saniag where the SCAA and PAU groups were stationed. Said convoy includes one (1) *Sangguko* and four (4) mobile PNP back-to-back cars. The *Sangguko* was left and remained in Crossing Saniag.

On November 23, 2009, at around 7:00 a.m., witness noticed that the residents were agitated, some were carrying their belongings and leaving the area. When he asked a resident, the latter told him that they were afraid that they might be caught in crossfire. He informed their Group Director PINSP Mokamad through text message about the information he got from the residents, but he did not receive any reply from him.

At around 9:00 a.m., they noticed that the *Sangguko* was blocking the middle of the road in Crossing Saniag. One member of the SCAA

passed by and told them that there was a convoy coming. However, the SCAA member did not mention whose convoy was it and the witness was not able to ask because the former left immediately. With said information, he advised his troop to be on alert.

At around 10:00 a.m., they noticed that there were more than seven (7) vehicles which passed by them going to the direction of Shariff Aguak. He described that the distance of the vehicles from each other were not too close as that of a convoy and most of them were passenger vans. After the vehicles passed by them, they observed that the *Sangguko* and the white PNP mobile cars carrying the SCAA and PAU stayed in their location for some time and left at around 12 noon.

Past 1 in the afternoon, PINSP Mokamad arrived at their area together with his group and he was told to spend the night thereat. But at 6:00 p.m., PINSP Mokamad ordered him to gather the troops, leave the area and return to their area of responsibility (AOR) in Brgy. Capitan, Datu Odin Sinsuat. While resting at their AOR, they were able to watch on the television about the incident that happened in Brgy. Salman, Ampatuan, Maguindanao where relatives of the Mangudadatu and members of the media were massacred. It was then that they realized that the victims were on the convoy that passed by them at around noon that day.

He denied the allegations that their group was involved in the killings that happened on November 23, 2009 because they just conducted road security in Sitio Binibiran following the orders of their higher superiors. As proof, witness identified a certain ***IMPLAN*** which was marked as ***Exhibit "3" Labayan*** and he particularly pointed to page two (2) under the "B Tasks", in no. 6 where 1507th was mentioned.

Witness also presented and identified the following documents which proved that they were exonerated from administrative case, to wit: 1) a ***NAPOLCOM Decision*** *dated November 24, 2016* particularly at pages 22 to 23, paragraph 4, which was marked as ***Exhibit "4" Labayan and sub-markings***; 2) a ***NAPOLCOM Resolution*** *dated November 10, 2016* marked as ***Exhibit "5" Labayan and sub-markings***; 3) a ***Certificate of Finality*** *dated May 22, 2017* marked as ***Exhibit "6" Labayan***; and 4) ***Execution letter*** *dated August 15, 2017* for the implementation of the afore-stated Decision marked as ***Exhibit "7" Labayan and sub-markings***. He also identified the ***Omnibus Order*** *dated October 27, 2014* issued by this court marked as ***Exhibit "8" Labayan and sub-markings***, as another evidence which will allegedly prove that their group is innocent from the charges against them.

On cross examination on October 04, 2017, he narrated that prior to November 23, 2009, he had been with PNP and a member of the 1507th for 17 years and the municipalities under the area of responsibility

(AOR) of 1507th include the following: North Upi, South Upi, Kabuntalan, Northern Kabuntalan, Datu Odin Sinsuat, and Datu Blas Sinsuat. He confirmed that Ampatuan municipality is not within their AOR.

He also affirmed that they did not receive the IMPLAN prior to November 19, 2009 when they were deployed on field. He confirmed that said IMPLAN was not directed to them but to the Provincial Mobile Director of 1507th, and as early as November 18, 2009, they were already preparing for the instruction of their Provincial Director.

Witness further testified that based on the IMPLAN, there is no specific instruction stating that they were supposed to conduct road security and there is also nothing in particular which prohibited them from setting up a checkpoint. He affirmed that witness Diongon who belongs to 1508th was manning a checkpoint in Sitio Malating from November 19 to 23, 2009.

He was able to confirm with the locals in their area that the 15 heavily armed SCAA or PAU they saw from Crossing Saniag were from the Ampatuan family.

When asked by the court if there was a convoy which passed in Sitio Binibiran, witness answered in the affirmative but said that he did not know whose convoy was it. He cannot recall the colors of the vehicle but can remember that some were colored gray and the other van had a marking "UNTV". He also confirmed that the said convoy was on its way to Shariff Aguak coming from Sultan Kudarat province.

On re-direct examination of the witness on October 04, 2017, he denied the testimony of witness Diongon that he was manning a checkpoint in Sitio Masalay because he was not assigned in said place but in Sitio Binibiran. He clarified that it was only on November 19, 2009 that he went to Sitio Masalay when their Group Director divided their group into two (2). He also affirmed that Sitio Masalay is covered by Barangay Salman.

On re-cross examination of the witness on the same day*,* he confirmed that after seeing the convoy of vehicles including the vehicle with marking "UNTV" proceeding to Shariff Aguak, he saw a *Sangguko* and several white mobile cars of the PNP carrying heavily armed troops from SCAA and PAU going to the same direction.

Testimony of PO3 Ricky D. Balanueco

PO3 RICKY D. BALANUECO appeared court on October 05, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** which

he identified, as well as his signature therein and had the same marked as ***Exhibit "9" Labayan and sub-markings***.[784]

He testified that on November 18, 2009, at around 7:45 p.m., he was informed by their SPO2 George S. Labayan to get ready because they will have an assignment in Shariff Aguak the next day.

When their troop arrived in Shariff Aguak on November 19, 2009 at around 10:00 a.m., PCI Sukarno A. Dicay was already there waiting for them, and immediately gave orders to PISNP Mokamad. Thereafter, they proceeded to Sitio Binibiran, Brgy. Matagabong, Ampatuan, together with SPO2 Labayan after their group was divided into two (2). He described the situation in their assigned place normal from the time they arrived until November 22, 2009 except for the presence of the groups of SCAA and PAU.

He identified the following as his companions assigned in Sitio Binibiran: **SPO2 George S. Labayan, SPO1 Elizer S. Rendaje, SPO1 Alimola A. Guianaton, SPO1 Samad U. Maguindra, PO3 Gibrael R. Alano, PO2 Rexson D. Guiama, PO1 Amir M. Solaiman, PO1 Badjun I. Panegas, PO1 Pendatun A. Dima, PO1 Ebara G. Bebot, PO1 Tamano S. Hadi, and PO1 Michael M. Macarongon.**

On November 23, 2009 at around 8:00 a.m., he noticed that the residents were agitated, carrying their belongings and leaving the area. When he asked why they were evacuating, the residents answered that they were afraid as they might be caught in crossfire. He just ignored them and waited for the instruction of their group leader.

At about 1 in the afternoon, PINSP Mokamad arrived in their place together with his group and told them to spend the night there. But at around 6 in the evening, PINSP Mokamad gave an order to gather the troops, leave the area and go back to their AOR in Brgy. Capitan, Datu Odin Sinsuat. It was only when they arrived in their station while watching the television that they came to know about the incident that happened in Brgy. Salman, Ampatuan, Maguindanao.

Witness also confirmed and identified the documents earlier presented by SPO2 Labayan to prove that he and his companions **(1. SPO1 Elizer S. Rendaje, 2. SPO2 Alimola A. Guianaton, 3. SPO2 George S. Labayan, 4. PO2 Rexson D. Guiama, 5. PO1 Amir M. Solaiman, 6. PO1 Pendatun A. Dima, 7. PO1 Ebara G. Bebot, 8. PO1 Tamano S. Hadi, and 9. PO1 Michael Macarongon)** were exonerated from administrative charges.

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[784] Initially marked as Exhibit "1" and sub-markings for Balanueco on October 05, 2017, then remarked as Exhibit "9" and sub-markings for Labayan on May 03, 2018.

When cross examined on October 05, 2017, He narrated that he has been a member of the 1507th since 2005 and the municipalities under the area of responsibility (AOR) of 1507th include the following: Kabuntalan, North Upi, South Upi, Datu Odin Sinsuat, and Datu Blas Sinsuat.

He affirmed that he did not see any written order regarding their assignment on November 19 to 23, 2009, but he only received verbal orders from their Commanding Officer PINSP Mokamad thru SPO2 Labayan. He only got to see the IMPLAN in Camp Crame after the incident on November 23, 2009. He confirmed that nothing in the said IMPLAN specified that they were to conduct or provide road security in Sitio Binibiran. He just knew that they were assigned in said place for election purposes.

He also narrated that some members of SCAA and PAU he saw on November 19 to 23, 2009 were wearing "batik", and some were wearing used PNP uniforms but different patches, and they were armed with M16 or M14. Despite knowing that there was already a gun ban on November 23, 2009, witness did not find out if these people were authorized or exempted from carrying firearms because they were posted in Crossing Saniag, which is far from the place where the witness was assigned.

Witness denied the testimony of Esmael Canapia that the latter saw the former in Crossing Masalay on November 23, 2009. He claimed that they were actually assigned in Sitio Binibiran and those assigned in said place were the ones pointed to by Canapia, but he did not point to those who were actually assigned in Sitio Masalay.

He also affirmed having seen a vehicle with a "UNTV" marking and an armored car called *Sangguko* passed by their area. He also testified that he was not aware with the area – Ampatuan or Shariff Aguak, since it was not their AOR but he heard that the CVOs were of the Ampatuans.

On re-direct examination, he testified that there are two types of order given to them by their officers: verbal and written. Thus, not all orders are in written form. He knew that there was already an IMPLAN but he was not able to see it. It was not ordinary for them to ask their superior about the IMPLAN because it was not their culture. Since he knew that the CVOs were part of the local government, he did not bother to ask whether they were authorized to carry guns at that time.

Witnesses for PO1 Badjun I. Panegas (member of the 1507th PMG "Labayan" group but with different defense): (WITH REBUTTAL EVIDENCE)

1. Accused PO1 Badjun I. Panegas – He is a member of the 1507th PMG assigned to conduct checkpoint in Sitio Binibiran from November 19

to 23, 2009, but he claimed that he was off-duty on November 23, 2009 and went home in Cotabato City.

2. **Accused SPO2 George S. Labayan –** He was the team leader of the 1507th PMG "Labayan" Group and immediate supervisor of PO1 Panegas. He was presented to identify the Certification he issued in favor of PO1 Panegas that the latter left Sitio Binibiran on November 23, 2009 at 6:00 a.m.

Corroborative Witness for PO1 Panegas:

3. PCI Roel G. Villarin – He was present at the MAGELCO detachment at around 9:00 a.m. on November 23, 2009 where he saw accused PO2 Kendatu S. Rakim and PO1 Badjun I. Panegas. ***The testimony he gave at the time he was presented as witness for PO2 Kendatu S. Rakim was adopted as testimony for PO1 Badjun Panegas)***

Testimony of PO1 Badjun I. Panegas

When presented on the witness stand on January 24, 2018, PO1 BADJUN I. PANEGAS identified his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings.*** [785]

He testified that on November 18, 2009, their group was assigned in Datu Odin Sinsuat, Maguindanao. On November 19, 2009, they were deployed to Sitio Binibiran, Brgy. Matagabong, Ampatuan, Maguindanao, while the other team was deployed to Sitio Masalay, Brgy. Salman. Their group was deployed up to November 23, 2009, but he only stayed for four (4) days because he was off-duty on the latter date as evidenced by a ***Certification dated February 08, 2010*** *issued* by SPO2 George S. Labayan marked as ***Exhibit "3" and sub-marking***.

Witness claimed that he left Sitio Binibiran around 6 in the morning of November 23, 2009. PO2 Kendatu S. Rakim who was deployed to Sitio Masalay, was also off-duty that day and they went together to Cotabato City but first passed by MAGELCO detachment around 9:00 a.m. where they saw PO1 Mundas who was going back to Sitio Masalay, and PCI Villarin.

Witness was able to watch on the television at around 3 in the afternoon about the incident involving the Mangudadatus. He thus went to the house of PO2 Rakim at about 4:00 p.m. to confirm from their companions but the latter answered that the situation was normal and there was no such incident.

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[785] This document was also marked as Exhibit "4" for accused PO2 Kendatu S. Rakim but the same was not formally offered as evidence for said accused.

Witness denied any involvement in the incident as they were just obeying the orders of their superiors. He also made mention of the NAPOLCOM Decision exonerating them from administrative cases which was submitted to the court by SPO2 Labayan as additional proof that they are innocent of the charges against them.

When cross examined, witness testified that he is residing in Cotabato City. He confirmed that Ampatuan, Maguindanao, was not one of the areas of responsibility of the 1507th PMG.

He affirmed that they were required by their Commanding Officer Saudi Mokamad to conduct road security in Sitio Binibiran, Ampatuan because of the election period. He also referred to an IMPLAN dated November 19, 2009 issued by then Provincial Director Maguid when asked if he can produce any documentary evidence to do their duty of conducting a road security which was received by the Commanding Officer.

Witness also stated that the only evidence he can show that he left Sitio Binibiran on November 23, 2009 was the Certification dated February 08, 2010 issued by his team leader. He confirmed that he sought the permission of SPO2 Labayan and not PINSP Mokamad because the latter was based in Sitio Masalay.

The prosecution presented a ***Counter-Affidavit*** *dated December 28, 2009* executed by the witness which he identified as well as the signature therein, but he said that he cannot recall the allegations stated therein specifically his statement that he asked permission from PINSP Mokamad. Said *Counter-Affidavit* was marked by the prosecution as ***Exhibit "(19) W" and sub-marking rebuttal evidence*** for accused PO1 Panegas. The Certification signed by SPO2 Labayan was not submitted during the preliminary investigation because he was able to secure the same only on February 08, 2010.

He also confirmed that he was present when both PINSP Rex Diongon and Esmael Canapia testified in court and pointed to him as one of those police officers manning the checkpoint in Sitio Masalay and not in Binibiran on November 23, 2009, but he claimed that he does not know them. He also cannot produce any document to prove that he was indeed stationed in Sitio Binibiran and not in Sitio Masalay because it was their Commanding Officer who assigned them.

On re-direct examination, witness claimed that he cannot produce any document which will prove that he was indeed assigned in Sitio Binibiran and was offduty on said date because the order to conduct road security in said place was verbal and given on a short notice. He was not able to read completely the said Affidavit before signing the same. He also denied the allegations of PINSP Diongon and Esmael Canapia that

he was manning a checkpoint in Sitio Masalay on November 23, 2009 though he confirmed that he went to Crossing Masalay on said date.

Testimony of SPO2 George S. Labayan

SPO2 GEORGE S. LABAYAN [786] appeared in court on February 07, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** which he identified, as well as his signature therein and had the same marked as ***Exhibit "4" Panegas and sub-markings.***

Witness also identified a *Certification dated February 08, 2010* which he issued in favor of PO1 Panegas marked as **Exhibit "3" Panegas and sub-marking[787]** which states that PO1 Panegas left the post in Sitio Binibiran on November 23, 2009 at around 6:00 a.m. upon verbal instruction of their Group Director PINSP Saudi Mokamad to report at the MAGELCO detachment. Witness confirmed the truthfulness of the contents thereof and again affixed his signature therein. When asked by the court about the original copy of the document, witness claimed that the same was in the possession of Atty. Nilong (former counsel).

On cross-examination, witness confirmed that during the preliminary investigation conducted at the Department of Justice (DOJ) in December 2009, he did not issue a Certification showing that accused Panegas left the group while conducting their operation in Sitio Binibiran which was supposed to be issued by PINSP Mokamad but the latter was not yet arrested at that time. Witness claimed that when PO1 Panegas left Sitio Binibiran on November 23, 2009, he did not see him anymore on said date because the latter left for MAGELCO detachment.

On re-direct examination, witness confirmed that during the preliminary investigation with respect to PO1 Panegas, he did not issue a Certification because there was no request to issue the same.

Witness for accused PO1 Ahmad C. Badal:

1. Accused PO1 Ahmad C. Badal – He is a member of the Philippine National Police assigned at Mamasapano Municipal Police Station and was one of the police escorts of Vice Mayor Sukarno Badal on November 23, 2009. ***(His Judicial Affidavit was adopted by accused PINSP Saudi Mokamad as part of the latter's evidence)***

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[786] Accused SPO2 George S. Labayan testified for accused PO1 Badjun Panegas on February 07, 2018.
[787] The same document was marked as Exhibit "6" for Rakim but was not formally offered.

Testimony of PO1 Ahmad C. Badal

PO1 AHMAD C. BADAL[788] appeared in court on May 22, 2017. For his direct testimony, witness executed and identified his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings.***

Witness testified that on November 23, 2009 at around 7:30 a.m., while he was assigned at the Mamasapano Police Station, Maguindanao, as evidenced by a ***Special Order*** *dated July 15, 2009 entitled "Placed on Detail"* marked as ***Exhibit "3" and sub-marking***, he together with **PO1 Suari Pagabangan** were fetched by then Vice Mayor Sukarno Badal as his police escorts.

At around 8:30 a.m., together with **PO2 Tany Dalgan** they proceeded to Crossing Saniag. At 10:00 a.m., several vehicles arrived. Vice Mayor Badal alighted from their vehicle and told them to stay inside the vehicle. When the former returned, he instructed their driver, **Dencio Abdul**, to follow behind the convoy of vehicles. Witness did not know where they were going but they stopped in Sitio Malating where Vice Mayor Badal alighted again from their vehicle but returned just a few minutes after. The convoy then left, and their driver was instructed to follow again. They climbed to the hilly part of Barangay Salman, Ampatuan, Maguindanao, but they were not able to reach the topmost part of the hill because Vice Mayor Badal ordered the driver to stop. Vice Mayor Badal again alighted from the vehicle and they were told to just stay behind and wait in the vehicle. At around 11:00 a.m., Vice Mayor Badal returned to the vehicle.

Witness denied any involvement in these cases as he only acted as escort for Vice Mayor Badal.

On cross-examination, witness testified that prior to November 23, 2009, he was residing in Sultan Sabarongis, Maguindanao, but he was arrested on June 25, 2011 in Calauag, Isulan, Sultan Kudarat, the place where his children were studying. Witness described that it would take two (2) hours land travel from Calauag to Sultan Sabarongis.

He confirmed that pursuant to a *Special Order dated July 15, 2009*, he was placed on detail at the Mamasapano Police Station from said date and even after November 23, 2009. He affirmed that the Municipality of Mamasapano where his place of detail is, is different from the town of Sultan Sabarongis where Sukarno Badal was then the Vice Mayor, and the latter town was outside of his area of responsibility.

He also confirmed that on November 23, 2009, he acted as security escort of Vice Mayor Badal together with two other police officers – PO2

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[788] Accused PO1 Ahmad C. Badal testified on May 22, 2017.

Tany Dalgan and PO1 Suari Pagabangan and a driver named Dencio Abdul who is not a police. Witness clarified that even if he acted as security at that time, he was unarmed as he was not issued any firearm.

Witness affirmed that when they were in Crossing Saniag, he saw private vehicles but was not sure if they were part of a convoy. When Vice Mayor Badal alighted from their vehicle, witness did not follow because he was instructed by Vice Mayor Badal to just stay inside the vehicle. The *"bulubunduking bahagi of Brgy. Salman"* which he mentioned in his judicial affidavit was the place where the massacre happened on November 23, 2009 and the witness and his group, as well as the first convoy of private vehicles, were able to reach said place. He clarified that he no longer saw the first convoy of vehicles came down from the mountains of Masalay, only the second convoy of private vehicles. He confirmed that Vice Mayor Badal is his uncle.

When asked by the court if he noticed anything unusual when he was waiting for Sukarno Badal, witness answered that he just noticed that people who went down from the mountain were going quite fast.

Witness for accused PO2 Tanny A. Dalgan:

1. Accused PO2 Tanny A. Dalgan – He is a member of the Philippine National Police assigned at Sultan Sabarongis Municipal Police Station and was one of the police escorts of Vice Mayor Sukarno Badal on November 23, 2009. ***(His Judicial Affidavit was adopted by accused PINSP Saudi Mokamad as part of the latter's evidence)***

Testimony of PO2 Tany A. Dalgan

PO2 TANNY A. DALGAN appeared in court on May 22, 2017. For his direct testimony, witness executed and identified his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings.***

Witness testified that on July 20, 2009, he escorted Vice Mayor Sukarno Badal to Century Park Hotel, Manila. He just stayed outside and waited for Vice Mayor Badal who came out of the hotel around 2:30p.m.

Witness corroborated the testimony of witness/accused **PO1 Akmad C. Badal** regarding the incident that transpired on November 23, 2009.

He also identified ***Station Order*** *Number 20-007 dated December 20, 2007* marked as ***Exhibit "3".***

Witness denied any involvement in these cases as he only acted as escort for Vice Mayor Badal.

On cross-examination of the witness on even date, witness confirmed that his residence prior to November 23, 2009 was in Brgy. Baruraw, Sultan Sabarongis, Maguindanao, and he was arrested on June 01, 2011 in Sitio Dansalan, Brgy. Panadtaban, Rajah Buayan, Maguindanao. He clarified that he started acting as security escort of Sukarno Badal on December 22, 2007 when he received the Station Order and not prior thereto.

Witness also testified that when he escorted Sukarno Badal on July 20, 2009 at Century Park, he did not know the reason why he was there neither did he see the people inside because he just stayed outside.

He denied seeing police or mobile cars as among the convoy of vehicles on November 23, 2009. He also affirmed that one of the police escorts of Vice Mayor Badal was his nephew, PO1 Dukoy Badal. Witness cannot determine the number of the vehicles that went down the hilly part of Brgy. Salman. He was not aware that the private vehicles were part of the convoy that were actually buried on November 23, 2009. He just learned about the incident in the afternoon of said date. He just knew Datu Unsay by name.

Witness for accused PO1 Warden Legawan:

1. Accused PO1 Warden Legawan – He is a member of the Philippine National Police assigned at the Maguindanao Provincial Police Office, Police Community Relations, Shariff Aguak, Maguindanao.

Testimony of PO1 Warden Legawan

PO1 WARDEN LEGAWAN appeared in court on September 21, 2016. For his direct testimony, witness executed and identified his ***Judicial Affidavit***.[789] Based on his *Judicial Affidavit,* witness testified that he is a member of the Philippine National Police assigned at the Maguindanao Provincial Police Office, Police Community Relations, Shariff Aguak, Maguindanao.

On November 23, 2009 at about 9:30 a.m., while on duty at that time, he decided to bring home the shoulder bag of his wife. He passed by the checkpoint at Brgy. Malating, Ampatuan, Maguindanao, to ask permission from PCI Sukarno Dicay to bring home the bag of his wife. At 9:45 a.m., he immediately proceeded home. When he arrived home, his wife was not feeling well, so he decided not to return for work that day. He slept until 6:30 p.m. when his cousin Takin woke him and told him about the news on the killing of the victims. He alleged that he was not called by any of the accused on that day regarding the incident.

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[789] Counsel of accused PO1 Warden Legawan, Atty. Alfredo Tan, did not ask for the marking of the accused' Judicial Affidavit and did not formally file any documentary exhibits for said accused, even the accused' Judicial Affidavit. He just offered the testimonial evidence for said accused.

He also claimed that he did not hide or flee. He feared for his life since the parties involved are both powerful politicians in Maguindanao, so he looked for work in Manila. He filed his Counter-Affidavit with the Department of Justice.

On cross-examination on even date, witness confirmed that on November 23, 2009, he was assigned at Maguindanao Provincial Police as member of the Police Community Relation (PCR) and their office is located at Camp Akilan, Ampatuan. His superior officer at the PCR was Captain Mama and he did not report directly to PCI Dicay, but in the absence of Captain Mama, they report directly to PCI Dicay. Witness claimed that his duty was MWF halfday and on said date, his duty was halfday from 7:00 a.m. to 12 noon. He said that he does not know Sukarno Badal and he does not know any grudge or fight Mr. Badal has against him.

Witnesses for accused PO1 Jonathan P. Engid:

1. Accused PO1 Jonathan S. Engid – He is a member of the Philippine National Police assigned in Datu Unsay Municipal Police Station and was one of the close-in security of accused Datu Andal "Unsay" Ampatuan, Jr. from 2008 until 2009.

2. Jayhan Bedtikan Engid – She is the wife of accused PO1 Jonathan Engid. She was presented to testify that her husband was with her on November 23, 2009, and she was approached by her husband's relative to ask the accused to be a witness for the prosecution per request of the Mangudadatu family.

Testimony of PO1 Jonathan S. Engid

PO1 JONATHAN S. ENGID appeared in court on December 06, 2017. For his direct testimony, he executed and identified his ***Judicial Affidavit*** which was marked as ***Exhibit "2" and sub-markings.***

Witness narrated that he is a Police Officer 1 assigned at the Municipal Police Station of Datu Unsay Municipality since 2008. He was later assigned by their Chief of Police as one of the security escorts of then Mayor Datu Andal "Unsay" Ampatuan, Jr. sometime in 2009. One of his main duties is to accompany the then Mayor to his travels. In April 2009, he went with Datu Unsay and family in the United States to watch the fight of Manny Pacquiao against Ricky Hatton.

He further testified that in November 2009, he again went to the United States with Datu Unsay and family to watch the fight of Manny Pacquiao and Miguel Cotto. They arrived in the Philippines on November

18, 2009. As proof, he presented his ***passport*** as well as the *arrival stamp of the Immigration* marked as ***Exhibit "1" and sub-markings.***

On November 19, 2009, witness asked verbal permission from Datu Unsay to take a leave of absence for 15 days which was approved by the latter. But he confirmed that he did not ask permission from his Chief of Police for his absence. After his leave was approved, witness went straight to their home in Cotabato City and stayed therein. He repaired their house and gate.

On November 23, 2009, witness and his wife heard the news about the alleged abduction and massacre in Ampatuan Municipality and the suspects were Datu Unsay and some of his relatives. Witness began to panic because there were rumors that some members of the police and military were also suspects especially that he was assigned in Datu Unsay Municipality and he was one of the security escorts of Datu Unsay. He also learned that Maguindanao was placed in a state of emergency. When Martial Law was implemented in Maguindanao Province, witness went to Pikit, Cotabato to seek shelter in his parents' house. He then learned that a case was filed against him. He got scared because he heard rumors that he will be killed if caught. Witness said that he almost died when he was shot by the police when he was arrested on March 01, 2017.

On cross-examination, witness testified that he was the security escort of Datu Unsay, then Mayor of the Datu Unsay Municipality in Maguindanao Province from 2008 until 2009. Some of his tasks were to prepare the food of Datu Unsay whenever they were out of town, give the latter massages, prepare the latter's clothes and carry the bags.

He confirmed that the second time they went to the US in November 2009, they stayed there for about two (2) weeks and during these times he was given allowance and bonuses by Datu Unsay. His travels to the US were paid for by Datu Unsay. He also affirmed that he just verbally asked for official leave for these periods from their Chief of Police (COP), PO1 Abbey Guiadem, but when he arrived from the US, he filed for a written application for leave. Even for his additional fifteen (15)-day leave, witness said that he was not able to file a written leave, but he sought verbal permission from Datu Unsay and Chief of Police. Witness alleged that it was the SOP of the Municipal Office of Datu Unsay that they can just inform the COP verbally of their leaves.

Witness averred that the only time he saw Sukarno Badal was when the time the latter testified in court. According to him, Badal pointed to him as one of the accused who killed the victims because he was coached by the Mangudadatus who asked his siblings to tell him that he will be used as witness for them. He however, refused because he was not at the crime scene and it was hard to lie. Witness also said that he does not know of any ill motive on the part of accused Rainer Ebus to point to him

as one of the participants in the massacre as Ebus mentioned the witness in his judicial affidavit.

Testimony of Jayhan Bedtikan Engid

JAYHAN BEDTIKAN ENGID appeared in court on July 04, 2018. In her ***Judicial Affidavit*** which was marked as ***Exhibit "5" and sub-marking,*** witness alleged that as proof that she is the wife of accused PO1 Engid, she presented the ***Birth Certificate*** *of their daughter, Johanna Yvonee Bedtikan Engid* marked as ***Exhibit "3" and sub-marking.*** She also alleged that their marriage certificate was misplaced and that the same was not registered with the Philippine Statistics Authority because Muslims do not usually register their marriage certificates.

Witness confirmed that her husband is a police officer assigned at Datu Unsay Municipal Police Station and was later on assigned as one of the security escorts of then Mayor Datu Unsay in 2009. She affirmed that her husband went with Datu Unsay and the latter's family to the United States in April and November 2009. She further alleged that she does not like that her husband travels because she has no one to help her with the household. She claimed that their house needed a lot of fixing especially their gate since they were new to the place. Her husband assured her that after his travel, he will ask for a two week leave to fix the gate.

Witness also affirmed that accused PO1 Engid arrived in the Philippines on November 18, 2009 but went home the next day, November 19, 2009. On November 23, 2009, PO1 Engid was at home in Tulingan St., Bagua 3, Cotabato City, and was working on their gate (***picture of the gate*** was marked as ***Exhibit "4"***) the whole morning together with a certain Moctar Salidili. In the afternoon, they heard from the TV and radio about the incident in Ampatuan Municipality. They feared for their lives, so they decided that accused goes to the house of his parents in Pikit, Cotabato.

Sometime in 2010, she was invited to a meeting in the house of her sister-in-law in Sitio Ganasi, Bgry. Nunguan, Pikit, South Cotabato. During said meeting, she was asked to convince accused to be one of the witnesses for the prosecution. She said that her sister-in-law who is a neighbor and friend of the Mangudadatu was the emissary. Witness was anxious about the idea because of fear because both parties were from influential families. Her husband used to work for the accused, the victims were friends of their family, and her husband's sisters were neighbors of the Mangudadatus. She then went to see her husband and relayed to him the plan but accused decided that he could not side with anybody because he has no knowledge about the incident. Witness then told her sister-in-law that the accused rejected the idea.

When cross examined, witness confirmed that the accused does not go home everyday. For the travels of her husband in April and November 2009 to the United States, her husband did not show her any leave application nor travel authority. Aside from her testimony, she has no other proof that the accused went to the US with Datu Unsay in November 2009. She said that the picture of their gate was taken only last June 2018, and it does not show the person of the accused. She affirmed that the same cannot be used as proof that accused was indeed in their house on November 23, 2009. She also has no documentary proof or picture to show that a meeting transpired with her sister-in-law in 2010. Witness said that after her husband was arrested in 2017, they did not avail of any legal remedies to question his arrest.

On re-direct examination on even date, witness confirmed that although the picture of the gate was not taken on November 23, 2009, said gate was the one which was repaired by the accused.

On re-cross examination, witness was asked if she has other evidence to prove that they actually reside in said place, to which she answered that she has pictures taken but was not able to bring. She also confirmed that at the time she testified, she has no other proof that it was indeed the gate of their house.

Witnesses for accused PO1 Sandy D. Sabang:
(WITH REBUTTAL EVIDENCE)

1. Accused PO1 Sandy D. Sabang – He is a member of the Philippine National Police assigned in Datu Unsay Municipal Police Station. He claimed that he brought his kids to school in Cotabato City and thereafter, went to his assignment as escort of Mrs. Laila Uy Ampatuan on November 23, 2009.

Testimony of PO1 Sandy D. Sabang

PO1 SANDY D. SABANG appeared in court on March 07, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-marking.***

In his affidavit, witness alleged that he was tasked by their Chief of Police Abbey Guiadem to be the security escort of Mrs. Laila Uy Ampatuan, the wife of Governor Andal Ampatuan, Sr. in Shariff Aguak, Maguindanao, in addition to his usual duties as Station Guard sometime in October of 2009.

On November 22, 2009, he was with his family in their house because that was his day-off considering that he was on duty for the whole day of November 21, 2009 in the house of Mrs. Laila Uy Ampatuan.

On November 23, 2009, he brought his kids to their school before 7:00 a.m. Thereafter, he went to the terminal to ride a PUJ going to Shariff Aguak, Maguindanao, where the house of Mrs. Laila Ampatuan is located. He left PUJ terminal in Cotabato City past 8:00 a.m. and arrived in the house of Mrs. Laila Ampatuan near the Municipal Hall of Shariff Aguak at around 12:00 in the afternoon. He arrived late than usual trip due to several checkpoints along the way. At around 3:00 p.m., after asking permission from Mrs. Ampatuan, he left and and arrived home in Cotabato at past 7:00 p.m.

On November 30, 2009, after receiving an order, he reported on December 1, 2009, at Regional Office in ARMM at Camp BGen Salipada K. Pendatun in Parang, Maguindanao. On December 4, 2009, he received an order to report at Camp Crame, Quezon City, and thereafter, he along with other police officers, were subjected to restrictive custody in the said camp. He then received a subpoena from DOJ which indicated that his address is 1507th PMG unit, but he is not a member of said unit because he is under the Maguindanao Provincial Police Office.

Witness also identified a ***NAPOLCOM Decision*** *dated May 21, 2015,* ***Resolution*** *dated November 10, 2016, and* ***Certificate of Finality*** *dated May 22, 2017* which were marked as ***Exhibits "2", "3", and "4" respectively,*** where he was one of those exonerated from administrative liability.

Witness also testified that Lakmodin Saliao was lying when the latter said that he saw the witness on November 22, 2009 during the alleged meeting at the farm of Andal, Sr. He also claimed that Governor Esmael "Toto" Mangudadatu is his sixth (6th) degree relative by consanguinity thru maternal line that is why he will never do anything against them because they are relatives. He also showed pictures of his wedding where one of his groomsmen, victims Norton Edza, and one of the guests, victim Bai Eden Gaguil Mangudadatu.

When cross-examined, witness confirmed that in October and November 2009 he was reporting to the house of the Ampatuans in Shariff Aguak where Andal Ampatuan, Sr. was residing. He confirmed that Lakmodin Saliao had no ill feelings or personal grudge against him when he testified. He has no documentary evidence, any order from his officer that November 22, which was a Sunday, was his offduty. He did not ask his superior to allow him to have that day-off. But based on his *"**Sinumpaang Salaysay"** dated December 28, 2009* which was marked as ***Exhibit "14"*** **for the accused and Exhibit "(20) A" as rebuttal evidence for the prosecution***,* it was not indicated therein that the witness was off-duty on November 22, 2009 and he brought his daughter to school on November 23, 2009.

On re-direct examination on even date, witness testified that he prepared the *"Sinumpaang Salaysay"* for thirty (30) minutes. He just relayed what really happened in his life for the span of 30 minutes. Laila Uy Ampatuan was living with her husband Governor Datu Andal Ampatuan Sr. in the place where he was assigned as escort.

Witnesses for accused PSUPT Kamaong:

1. Accused PSUPT Bahnarin Kamaong – He is the former Group Director of the Regional Mobile Group of the ARMM. He claimed that he was in Manila escorting then Governor Zaldy Ampatuan on November 23, 2009. ***(His testimony was adopted by accused Datu Zaldy Ampatuan and accused PSINSP Abdulgapor Abad)***

Testimony of PSUPT Bahnarin Kamaong

PSUPT BAHNARIN KAMAONG appeared in court on July 20 and August 03, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-marking.***

In his affidavit, witness alleged that sometime between 2006 to 2010, he was the Oficer-in-Charge (OIC), Chief, Regional Personnel Human Resources and Doctrine Development (RPHRD) until he became the Group Director of the RMG-ARMM. One of his functions was to provide security to the Regional Office, and the process is that the regional office will request his superior officer, the PNP Regional Director, who in turn will give instruction or order to him either by written mission order or verbal command.

His duty in providing security assistance to the Provincial Governor, who at that time was Datu Zaldy Ampatuan, was limited to coordination with other police groups to ensure smooth mobility or travel of the Governor. He usually does not go to personal and social functions of the Governor unless his presence is requested because the area is critical.

On July 20, 2009 at around 10:00 to 11:00 a.m., witness escorted then Governor Zaldy Ampatuan to Camp Aguinaldo for a meeting with then Secretary of Department of National Defense, Gilbert Teodoro. They were with more or less 200 people aboard in 10 to 20 vehicles. He was not a privy to said meeting.

At around 3:00 p.m., they returned to Century Park Hotel where they had a late lunch inside a big restaurant together with about 100 to 150 people composed of the family, friends and political allies of the Ampatuans, and the place was not exclusive to them as there were other customers. He was two round tables away from the Regional Governor, so he cannot hear the conversation made at the table of the Governor and there were too many people inside the restaurant. Witness said that

it is impossible and contrary to human experience that a plan to kill somebody is done in an open and crowded area in front of many people.

He further said that he does not know personally Sukarno Badal and Lakmodin Saliao and came to know them only during the hearing of these cases. He claimed that the testimony of Sukarno Badal on February 14, 2013 that the latter saw him during a meeting of the Ampatuan family, political advisers, lawyers, and political allies held at Century Park in Manila on July 20, 2009 for the purpose of killing Esmael Mangudadatu, wherein Badal claimed that he overheard the witness saying *"pagdating sa punto na iyan, Datu, ako na ang bahala pati ng mga tauhan ko"* , was an absolute lie intended to maliciously implicate him because of his association with the Regional Governor Zaldy Ampatuan.

On November 16, 2009, witness was allegedly at the headquarters in Parang, Maguindanao, since it was a Monday. He never went to the Ampatuan farm in Shariff Aguak contrary to the testimony of Sukarno Badal that the latter saw him on said date during a meeting called by Andal Sr. for the purpose of killing Mangudadatu.

On November 17, 2009, he was allegedly at the headquarters preparing for their flight to Manila to attend the convention of the Lakas party. On November 18-19, 2009, witness was in Manila attending the convention. On November 20, 2009, they went back to Davao City to attend the birthday party of the youngest son of Governor Zaldy at Park and Square Hotel. On November 21, 2009, they stayed in Davao because the party of the Governor's son was extended. On November 22, 2009, witness was still in Davao preparing for their early morning flight to Manila. He said that the testimony of Lakmodin Saliao that he was in Shariff Aguak between 11:00 p.m. to 2:00 a.m. was a lie because it is physically impossible since Shariff Aguak is 250 kilometers away from Davao.

On November 23, 2009 at around 8:00 a.m., they landed in Manila and went to Century Park Hotel to freshen up. At 10:00 a.m., they arrived at Malacañang where Governor Zaldy met with then Presidential Political Adviser Gabby Claudio before proceeding to the Kalayaan Hall where former President Gloria Arroyo was waiting for their meeting. They stayed there until 12 noon, then headed back to the hotel.

While inside the hotel, he opened the television and watched a news flash about the abduction in Maguindanao. He immediately told Governor Zaldy about it and the latter called up Regional Director General Umpa informing him about the news.

On November 24, 2009, they returned to Cotabato City to monitor the incident. He received a call from the OIC PNP Regional Director, PCSUPT Latag to inform him that he was relieved as Group Director of RMG and PSUPT Pagkalinawan assumed his post.

On December 2, 2009, he reported to the CIDG Cotabato under PCINSP Berdin. He returned to said office on December 5, 2009 and was told to participate in the preliminary investigation to be conducted by the Department of Justice. On December 6, 2009, he was placed under restricted status, but on December 30, 2009, he was allowed to go home to Cotabato City. On January 4, 2010, he went to Camp Parang, Maguindanao to report to PRO-ARMM headquarters where he was placed under restricted status again. Then, on February 10, 2010, he was finally detained in Camp Crame. Witness claimed that there were several instances where he could have escaped or fled, but he did not do so since he was a police officer and a gentleman. He also said that the administrative case filed against him was dismissed.

When cross-examined on August 03, 2017, witness testified that Norie Unas is his brother and he is not related by blood to the Ampatuan clan. Witness explained that their division, RPHRDD is not the one in charged with the hiring of personnel but only responsible for receiving applications only.

Witness named the areas of responsibility of RMG-ARMM: all the provinces of ARMM – Tawi-Tawi, Sulu, Basilan, Maguindanao, Lanao and the cities of Lamitan and Marawi. He also said that in 2009, there were several lawless elements that have been existing in Mindanao. He also confirmed that Zaldy Ampatuan has armed bodyguards who were members of the PNP and AFP. The chief security of Zaldy Ampatuan was PINSP Nestor Tiu.

Witness confirmed that on July 20, 2009, he came from Tiara Hotel in Malugay St., Makati, and went to Camp Aguinaldo in a convoy with the Governor who had a metting at the National Defense Department. Then they left Camp Aguinaldo at around 1:00 p.m. or past 12 noon, and proceeded to Century Park Sheraton Restaurant for a late lunch. He affirmed the presence of Zaldy Ampatuan, Akmad Ampatuan and Andal Ampatuan, Sr. at Century Park during lunch, but he cannot remember if Andal Jr. "Unsay" was there.

Witness denied that he attended the meeting on November 16, 2009 at the Ampatuan farm because he was at Parang headquarters. He estimated that Shariff Aguak is around 100 kilometers to Parang Headquarters, Maguindanao or 2 to 3 hours travel with a speed of 40km/h. He also denied that he attended a meeting in Bagong on November 22, 2009 because he was in Davao, and from Parang it is around 250 kilometers away from Davao, or six (6) to seven (7) hours travel with a speed of 40 km/h depending on the situation of the road. He said that he does not know Sukarno Badal and Lakmodin Saliao and he does not know any reason or motive for said witnesses to testify against him.

Witnesses for accused PSUPT Abdulwahid U. Pedtucasan:

1. Accused PSUPT Abdulwahid U. Pedtucasan – He is the former Deputy Group Director of the 15th Regional Mobile Group of the ARMM. He was on office detail at Camp BGen. Salipada, K. Pendatun, Parang, Maguindanao, on November 23, 2009.

2. SPO1 Norkhan Tutin Usop – He was a member of the 15th RMG-ARMM, assigned as a sentinel guard and detailed as security escort of PSUPT Pedtucasan. He was with accused PSUPT Pedtucasan on November 23, 2009.

Testimony of PSUPT Abdulwahid U. Pedtucasan

PSUPT ABDULWAHID U. PEDTUCASAN appeared in court on November 29, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "7" and sub-marking.***

Witness testified that he was the Deputy Group Director of 15th RMG-ARMM. On November 23, 2009, he was on office detail at Camp BGen. Salipada K. Pendatun, Parang, Maguindanao, acting as Senior Duty Officer (SDO) until the following morning on November 24, 2009, and never left said office. He presented a ***Memorandum*** *issued on 20 November 2009* by PINSP. Gani Usop Miro marked as ***Exhibit "1" and sub-markings*** to prove that he was in fact in their office at Camp BGen. Salipada K. Pendatun.

He further testified that he has a ***Joint Affidavit*** executed by several police officers who were also on duty that day together with him which was marked as ***Exhibit "2"***[790] and an ***Affidavit*** that he executed on December 01, 2009 marked as ***Exhibit "3" and sub-marking*** to also prove that he was in fact in said office.

Witness said that prosecution witness Lt. Rolly Gempesao lied when the latter testified that he saw the witness at an eatery in Barangay Labo-Labo during his presentation on November 21, 2012. Lt. Gempesao also lied when he testified that he is familiar with the witness and saw the latter several times. He estimated that the headquarters at Camp BGen, Salipada K. Pendatun, Parang, Maguindanao, is more or less a 2-hour drive or at least 100 to 150 kilometers away from Brgy. Labo-Labo, and from the latter it is around 4 to 8 kilometers away to the alleged crime scene.

He also said that Lt. Gempesao was lying when the latter testified that the witness was a member of the Maguindanao Provincial Police

[790] Marked during trial but was not formally offered as evidence for accused PSUPT Pedtucasan.

Office when in fact he was never assigned in said office and also when the latter testified that the witness was wearing a general office attire for PNP when in fact witness always wore camouflage green during field operations. Witness marked the ***Transcript of Stenographic Notes*** *dated November 21, 2012 pages 18 to 20* as ***Exhibit "5", "5-a" and "6".***

He also alleged that the administrative case filed against him was dismissed as evidenced by a ***Decision*** *dated November 24, 2015* and *Resolution dated November 10, 2016* marked as ***Exhibit "4" and "4-a",*** respectively.

On cross examination, witness confirmed that a week prior to November 23, 2009, PSUPT Kamaong was no longer in the office but with accused Zaldy Ampatuan. He also confirmed that on November 20, 2009, PSUPT Kamaong, verbally instructed him to deploy personnel to Brgy. Maitumaig, Datu Unsay, Maguindanao, and Provincial Capitol in Shariff Aguak, Maguindanao detachments. He then directed his immediate subordinate, PSINSP Abdulgapor Abad, to deploy troops of RMG to said detachments to conduct routinary police duties, police visibility and checkpoint to ensure security of commuters and those who will file their certificates of candidacy. He, however, can no longer recall the names of those deployed and he also did not make any memorandum or written report regarding the deployment.

Witness affirmed that whenever they are outside Camp Pendatun, they wear camouflage green and not a general office attire (GOA). He claimed that he never met Lt. Gempesao in his entire life and had no grudge or misunderstanding with him. He said that he is not aware that Lt. Gempesao is an Intelligence Officer of the Armed Forces. He is also not aware if the testimony of Lt. Gempesao was considered in deciding the administrative case against him.

Testimony of SPO1 Norkhan Tutin Usop

SPO1 NORKHAN T. USOP appeared in court on March 21, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "8" and sub-markings.***

In his affidavit, witness alleged that he is the cousin of accused PSUPT Pedtucasan and was also assigned at 15th RMG-ARMM, Camp BGen. Salipada K. Pendatun, Parang, Maguindanao, as sentinel guard at the Battalion headquarters and detailed as security escort of PSUPT Pedtucasan. He was actually off-duty on November 23 and 24, 2009, but because it was election period, all active officers were required to be within the camp.

On November 23, 2009 at around 8:00 a.m., witness attended the flag ceremony together with accused PSUPT Pedtucasan who was wearing the usual camouflage green uniform, two duty escorts, and his buddy who was also off-duty then at Camp B. Gen. Salipada K. Pendatun, Parang, Maguindanao. Thereafter, witness escorted accused PSUPT Pedtucasan who went to the Battalion Headquarters of 15th RMG-ARMM. At 9:00 a.m., witness attended the Police Information and Continuing education (PICE) conducted by Pedtucasan, which lasted for 30 minutes. Subsequently, PSUPT Pedtucasan went to his office while the witness went to the canteen. At 12 noon, a flash report was aired on the local radio station about the Maguindanao massacre. PSUPT Pedtucasan then went to the canteen to update them about the news flash and they all listened together to the flash report which lasted for about 20-30 minutes. After eating lunch, PSUPT Pedtucasan went back to the Battalion headquarters together with his duty escorts.

On cross-examination, witness testified that he was assigned at the 15th RMG from 2009 to 2014 but he has no documentary evidence attached to his judicial affidavit to prove his assignment. His duty as security escort of PSUPT Pedtucasan is written in his service record but the same was not attached to his affidavit, and he has no documentary evidence to show that he was indeed at the battalion headquarters on November 23, 2009. Neither does he have written instruction to stay inside the headquarters on said date even if he was offduty. He also said that for the Police Information and Continuing Education (PICE) he attended, he has no certificate of attendance to prove the same. He confirmed that from the time the PICE ended at 9:30 a.m. until 12 noon, he did not see accused PSUPT Pedtucasan. He also affirmed that as cousin of the accused, he would want to help the latter be exonerated in these cases.

On re-cross examination, witness clarified that during election period it is already a standard operating procedure (SOP) that the offduty is forfeited and they are supposed to be inside the headquarters. He explained that he brought his service record, but it was left at the gate of the detention facility. Thereafter, witness presented a photocopy of a "***PNP Personal Data Sheet***" marked as ***Exhibit "10" and sub-markings,***[791] where he pointed to entries: "PRO-ARMM RBSD HQS RBSD, ESCORT/SECURITY" under AUTHORITY SLDED, dated 07/31/2008, under the column, "SOURCE, PRO-ARMM", under the column of effectivity date, 07/01/2008. He explained that said assignment lasted in 2010 after the so-called massacre when he was transferred to his present assignment.

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[791] Initially marked provisional and was excluded as evidence of accused per Order dated June 11, 2018, but the "Motion for Partial Reconsideration" was granted and the subject documentary evidence was admitted in view of the submission of a certified true copy of said exhibit pursuant to the Order dated July 16, 2018.

Witnesses for accused PSINSP Abdulgapor B. Abad:

1. Accused PSINSP Abdulgapor B. Abad – He is the former Commanding Officer of the 5th Company of the 15th RMG-ARMM. He was tasked to supervise the routine checkpoint in front of their police detachment in Maitumaig, Datu Unsay, Maguindanao, on November 23, 2009.

2. Accused PSUPT Bahnarin Kamaong – He is the former Group Director of the Regional Mobile Group of the ARMM. He claimed that he was in Manila escorting then Governor Zaldy Ampatuan on November 23, 2009. ***(His testimony was adopted by accused Datu Zaldy Ampatuan and accused PSINSP Abdulgapor Abad)***

Testimony of PSINSP Abdulgapor B. Abad

PSINSP ABDULGAPOR B. ABAD appeared in court on September 13, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "3" and series.***

Witness testified that the 5th Company was assigned in Maitumaig Detachment checkpoint in Datu Unsay Municipality since January 2009. In his company, he had more or less 101 policemen. He presented a ***list*** with all the names of the policemen under his company marked as ***Exhibit "2" and series.***

On November 23, 2009 more or less at 12:00 noon, he was in their detachment supervising the checkpoint conducted by his policemen when they heard over the radio about the kidnapping incident along the national Highway of Ampatuan, Maguindanao. Thereafter, he called up their superior officers PSUPT Abdulwahid Pedtucasan and PSUPT Bahnarin Kamaong about what they heard over the radio. He was ordered to join the other policemen to proceed to Ampatuan and augment their troops and the military soldiers who were already in the area. They were able to reached the area at more or less 4:00 p.m. of November 23, 2009 together with his eight (8) policemen. He confirmed the statement of Prosecution witness Rex Ariel Diongon that they saw each other at more or less 4:00 p.m. after the incident. At around 6:00 p.m., they returned to their detachment in Maitumaig and remained therein until November 30, 2009, as they were ordered to report to the Director of the 15th RMG.

He said that the group of Mangudadatu on November 23, 2009 came from Buluan, Maguindanao going to COMELEC at the Provincial Capitol in Shariff Aguak and they will not pass the detachment in Maitumaig on their way to the Provincial Capitol.

In December 2009, they were brought to Camp Crame, Quezon City, and was submitted for investigation. From then on, they were not allowed to go back to Parang, Maguindanao.

He further testified that there was a case filed against him in the NAPOLCOM for Grave Misconduct denominated as ***NAPOLCOM SD Case*** No. 2010-1964 together with his co-accused, and a *Decision* was already issued where he was EXONERATED by the Commission En Banc which he marked as ***Exhibit "1" and series.***

On cross-examination, witness confirmed that he is not part of the Regional Police Provincial Office, but part of the Regional Mobile Group and their detachment is located in Datu Unsay, Maguindanao, which is far from Ampatuan town. He was supervising a checkpoint in Maitumaig, Datu Unsay, with 20 policemen, and not in Crossing Saniag on November 23, 2009. He was ordered by their Group Director PSUPT Kamaong to supervise said checkpoint, but he does not have a copy of the order. He also clarified that he has been supervising said checkpoint since the time he was designated by their Group Director in January 19, 2009. He also confirmed that in the NAPOLCOM Decision the reason he was exonerated was because the convoy of the Mangudadatus did not pass by the checkpoint he was supervising.

On re-direct examination, witness clarified that Maitumaig is in Datu Unsay, which is nearer to Shariff Aguak than Ampatuan. After Shariff Aguak, there is another municipality before Ampatuan. So, in case there will be firing in Ampatuan, it cannot be heard in Maitumaig. When asked by the court what time did the witness see PINSP Diongon, he answered more or less 2:00 p.m. along the national highway, but he was not particular of the exact place but in Ampatuan Municipality.

Witnesses for accused PO1 Anwar Masukat:
WITH REBUTTAL EVIDENCE
(DEFENSE: IN ANOTHER PLACE)

1. Accused PO1 Anwar Masukat – He is a member of the Philippine National Police assigned at the 1508th PNP Mobile Group and detailed as security escort of accused Kanor Ampatuan.

2. Samon Masukat Nando – He is the uncle of accused PO1 Anwar Masukat. He testified that he was with his nephew on November 23, 2009 in the house of his sister, aunt of the accused, Badria Masukat.

Testimony of PO1 Anwar Masukat

PO1 ANWAR MASUKAT appeared in court on February 28, 2018. For his direct testimony, he executed and identified his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings.*** In

his *Judicial Affidavit,* he alleged that on November 17, 2009, he went home to his family in Glan, Sarangani province and stayed there until November 21, 2009. On November 22, 2009 he went back to Shariff Aguak because they will be going to Davao City. On November 23, 2009, he went to Sitio Malating because Kanor Ampatuan was not in his house to ask the latter if they will proceed to Davao City for Kanor's medical check up.

After being told by Kanor Ampatuan to prepare his things as he will be fetched, witness went to his Auntie's house in Poblacion, Shariff Aguak, at about 8:00 a.m. He waited for the whole day but Kanor did not arrive, so he spent the night in the house of his auntie. He denied any involvement in these cases and even mentioned that none of the prosecution witnesses identified him in court.

On cross examination, he confirmed that in June 2009, he was assigned as one of the PNP personnel of the 1508th PNP Provincial Mobile Group and detailed to Kanor Ampatuan as one of his security escorts. He also confirmed that at 7:00 a.m. on November 23, 2009, he was with Kanor Ampatuan, and at around 8:00 a.m., he returned to Shariff Aguak. He admitted that he went into hiding instead of surrendering. He denied the statements written in the *Counter-Affidavit dated December 28, 2009.* The prosecution sought for the marking of said Counter-Affidavit as its **rebuttal evidence – Exhibit "(19) Z" and sub-markings.** He also denied that he proceeded to Sitio Saniag, Brgy. Salman and that he saw the killing of the victims of the massacre as what was written in the said Counter-Affidavit. He confirmed that there was nothing in his present Judicial Affidavit which mentioned the Counter-Affidavit.

On re-direct examination, he claimed that he did not surrender after the incident because he cannot accept the fact that he will be detained when he is innocent. He reiterated that there is no truth to all of the allegations in his Counter-Affidavit because he was told that he will stand as witness and later be released. The truth is his present Judicial-Affidavit. When asked by the court who told him that he will be a witness and that he will be released, he said it was Atty. Pagaduan, the one who assisted him during the interview at the CIDG on December 11, 2009.

On re-cross examination, he said that he is s not aware that Atty. Pagaduan was not a member of the Panel of Prosecutors. It was only Atty. Pagaduan and no one among the members of the Prosecutors who promised him that he will be enrolled at Witness Protection Program of the government.

Testimony of Samon Masukat Nando

SAMON MASUKAT NANDO appeared in court on April 25, 2018. In his ***Judicial Affidavit*** which was marked as ***Exhibit "4" and***

sub-markings, he alleged that accused PO1 Anwar Masukat is his nephew. On November 23, 2009 at 1:00 a.m., he went to the house of his sister Badria Masukat, aunt of the accused, in Brgy. Poblacion, Shariff Aguak, as he was called by his nephew Anwar because Badria was feeling dizzy. Since he arrived late, he went to sleep together with Anwar and his sister. At around 7:00 a.m., his nephew Anwar left but after roughly one hour, the latter went back and stayed in the house of Badria and looked after her until 4:00 p.m. of that day.

On cross examination on even date, he testified that on November 23, 2009, he was an Administrative Aide and he was not able to report for work that day. He confirmed that it took him nine (9) years before he came out and testify that his nephew accused Anwar was in Pendatun and not in Ampatuan town.

On re-direct examination, he explained that the reason why he did not give statement in support of the defense of PO1 Anwar Masukat in November 2009, was because nobody asked him. He was asked to do a statement for Anwar only two months before he testified in court.

IV. MEMBERS OF THE CIVILIAN VOLUNTEERS ORGANIZATION (CVOs)

Witnesses for accused Nasser Esmael: (IDENTIFIED)
(WITH REBUTTAL EVIDENCE)
(DEFENSE: IN ANOTHER PLACE)

1. Accused Nasser Esmael – He was a family driver tasked to bring and fetch the children of his employer at Ateneo De Davao University. He claimed that he was in Davao City doing his work on November 23, 2009.

2. Roz Diane O. Guiapal – She was working in an eatery near Ateneo De Davao University where accused Nasser Esmael ate lunch and stayed while waiting for the school children on November 23, 2009.

Testimony of accused Nasser Esmael

NASSER ESMAEL appeared in court on March 23, 2017. He executed a ***Judicial Affidavit*** for his direct testimony which was marked as ***Exhibit "1" and sub-markings.***

Witness testified that on November 23, 2009, he was working as a family driver tasked to bring and fetch children to and from their school at Ateneo De Davao University. He was issued an ***Identification Card*** by said school which was marked as ***Exhibit 2"*** **(provisional)**.[792] He narrated that after he brought the children to school at around 8:00 a.m.,

[792] Said document was not admitted as part of accused's evidence for failure to produce the original or certified true copy. *See* TSN dated June 06, 2018.

he ate breakfast at a nearby eatery and stayed there to wait for them until their dismissal at around 11:30 a.m. After he fetched them from school, he brought them to their house at Juna Subdivision, Davao, to have their lunch. Then, he brought them back to school at around 12:00 noon for their afternoon classes. He went again to the eatery where he used to stay to wait for them for their dismissal in the afternoon. He again fetched the school children at 3:30 p.m. and brought them to their house. He stayed at his quarters in said place for the rest of the day.

On cross examination by the prosecution, it was stipulated that it was not indicated in his I.D. whether he was able to fetch the children that he allegedly brings and pick-up at Ateneo De Davao University on November 23, 2009. Witness only knew the school children being called Datu and Bai but he did not know their real names as well as the name of their father. He only knew the name of the mother, Bai Bon Kaw, who was his employer. He was identified by State witnesses Haical Mangacop, Esmail Kanapia and Sukarno Badal when they testified in court, but he did not know of any motive, any quarrel between him and these witnesses.

Testimony of Roz Diane O. Guiapal

ROZ DIANE O. GUIAPAL appeared in court on August 03, 2017. For her direct testimony, she executed a ***Judicial Affidavit*** marked as ***Exhibit "3" and sub-markings.***

In her affidavit, she alleged that she was tending an eatery at the side of the Ateneo de Davao High School in Gen. Douglas MacArthur Highway, Matina, Davao City, on November 23, 2009 at around 7:30 a.m. when she saw accused Nasser Esmael brought school children at said school. Thereafter, accused ate his breakfast at the eatery and stayed there to wait for the school children. She knew the accused because he frequented their eatery and he was also friendly. He left at around 11:00 a.m. on said day because that was the dismissal time of the school children he fetched.

On cross examination by the prosecution on even date, witness testified that the name of their eatery is Lawrence Turo-Turo. She has no proof that she worked there. She only remembered those who were regular customers of the eatery. She just relied on the narration or the statement of the accused as to the latter bringing the children to school. Her Judicial Affidavit was the only affidavit she executed with respect to her testimony. She executed her affidavit on July 28, 2017 which is more or less eight (8) years after November 23, 2009, and she still maintains that she distinctly remembered the latter date.

When asked by the court, witness said that she has not met any of the children whom the accused bring to school. She also said that she knew the accused a year before November 23, 2009.

The prosecution moved for the marking of the *Judicial Affidavit* of the witness particularly Question and Answer 14 as its **rebuttal evidence – Exhibit "(19) I" and series.**

Witness for accused Datutulon (Datutuhon) M. Esmail:
(WITH REBUTTAL EVIDENCE)
(DEFENSE: DRIVING A PASSENGER MOTORCYCLE)

1. Accused Datutulon (Datutuhon) M. Esmail – He claimed that his name is Datutulon Esmail and not Datutuhon Esmail, and he was driving his passenger motorcycle from morning till evening on November 23, 2009.

Testimony of accused Datutulon (Datutuhon) M. Esmail

DATUTULON (DATUTUHON) M. ESMAIL appeared in court on April 04, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***.

He testified that he was driving his passenger motorcycle in Poblacion, Shariff Aguak, Maguindanao from 7:00 a.m. until 9:00 p.m. on November 23, 2009. There was no instance that he went out of Poblacion that day. He denied the accusations against him. He claimed that he was mistaken as Datutuhon Esmail who is the real accused in these cases because their names sound alike. He presented his ***Driver's License*** *with expiry date April 05, 2010* where the indicated name is Datutulon Malaguial Esmail marked as ***Exhibit "2"***, ***Temporary License*** *– Pro No. M01-05-001277 valid until November 16, 2005* marked as ***Exhibit "3"***, and ***Temporary License*** *– Pro No. M01-05-001277 valid until February 06, 2008* marked as ***Exhibit "4".***

On cross examination by the prosecution on even date, witness admitted that the date of birth stated in his Driver's License which is April 05, 1977 is incorrect. The correct date of his birth is September 10, 1986. The original and the true copy of his Birth Certificate which is from NSO are in his possession in his dorm. He changed the date of his birth so it would appear that he was older and qualified for a license. He was born in Shariff Aguak, but he did not know how far is it from the Municipality of Ampatuan. His route in driving the motorcycle was only in downtown Poblacion, Shariff Aguak. He is not familiar with the adjacent municipalities of Shariff Aguak, but he passed by Ampatuan Municipality every time he goes to Isulan and Tacurong which takes about 30 minutes to travel. He also said that he is not aware of any person by the name of Datutuhon Esmael. He claimed that when he was arrested, a gun was

poked at him. From said time up to the present, he did not file any complaint against those who arrested him.

The prosecution moved for the marking of the *Driver's License with expiry date April 05, 2010* where the indicated name is Datutulon Malaguial Esmail as its **rebuttal evidence - Exhibit "(20) L"**, *Temporary License – Pro No. M01-05-001277 valid until November 16, 2005* marked as its **rebuttal evidence – Exhibit "(20) M"**, and *Temporary License – Pro No. M01-05-001277 valid until February 06, 2008* as its **rebuttal evidence – Exhibit "(20) N".**

Witness for accused Sahid T. Guiamadel a.k.a. Arnel Abdullah: (DEFENSE: FARMING)

1. Accused Sahid T. Guiamadel a.k.a. Arnel Abdullah – He was a farmer and fisherman, tilling a land owned by a certain Mukamad on the whole day of November 23, 2009.

Testimony of accused Sahid T. Guiamadel a.k.a. Arnel Abdullah

SAHID T. GUIAMADEL a.k.a. ARNEL ABDULLAH appeared in court on April 05, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** he alleged that he was planting in the land that they were cultivating from 8:00 a.m. until afternoon in Brgy. Tugal, Sultan Sa Barongis, Maguindanao, on November 23, 2009, and he never went out of said place on that day.

On cross examination by the prosecution on even date, witness referred to a certain Mukamad as the name of the owner of the land he was cultivating. He claimed that on November 23, 2009, he was working alone on said farm. He worked every day on that farm but took a rest day with his farming work. He was tilling the land on November 21 and 22, 2009. He was fishing alone in the lake beside his farm in Brgy. Tugal, Sultan Sa Barongis a week after November 23, i.e., on November 30, 2009. He did not execute any other document besides his *Judicial Affidavit* to prove that he was not the one charged as Arnel Abdullah.

On re-direct examination, he said that he was already a widower on November 23, 2009. He lived with his parents. He was a farmer and a fisherman from November 21 to 30, 2009. He was farming almost every day.

On re-cross examination, witness confirmed that no one will corroborate his testimony that he was indeed doing farm work or fishing on November 21, 22, 23 and 30, 2009.

Witness for accused Thong Guiamano a.k.a. Ibrahim Kamal Tatak: (IDENTIFIED) (DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Thong Guiamano a.k.a. Ibrahim Kamal Tatak – He was a farmer planting corn with his family on November 23, 2009. He claimed that he is not Thong Guiamano and his real identity is Ibrahim Kamal Tatak as evidenced by his COMELEC ID.

Testimony of accused Thong Guiamano a.k.a. Ibrahim Kamal Tatak

THONG GUIAMANO A.K.A. IBRAHIM KAMAL TATAK appeared in court on December 07, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

In his affidavit, witness claimed that he is not Thong Guiamano and he never used said name. As proof that he is indeed Ibrahim Kamal Tatak, he presented a ***COMELEC ID*** marked as ***Exhibit "2".*** He also claimed that on November 23, 2009, he was in Brgy. Sapakan, Mamasapano, Maguindanao, planting corn seeds together with his family since early morning until 5:00 p.m. Thereafter, he went home with his wife and mother.

On cross examination on even date, witness testified that his judicial affidavit was explained to him by his nephew Kominie Inggo and a co-detainee at SICA. He described that Mamasapano is far from Municipality of Ampatuan and they have to pay about P50 by motorcycle, but from Brgy. Sapakan, Mamasapano, one can go to the Municipality of Ampatuan within the same day using a motorcycle. He came to know about the Ampatuan clan only in detention. His only proof as to his identity as Ibrahim Kamal Tatak is his COMELEC ID. He explained that his signature in the Judicial Affidavit and Comelec ID is different because he has difficulty in learning how to sign his name. He admitted that the Voter's ID which he presented as proof of his identity bears no date of issuance, no logo of the Comelec, and not legible. He has no other proof to show that he was actually present in the farm in Brgy. Sapakan. He has no idea or no reason for Esmael Canapia to point and implicate him in this case.

On re-direct examination, he confirmed that Kominie Inggo explained to him his Judicial Affidavit in Maguindanaon the contents of which were also explained to him by his counsel, and several persons who were present. He claimed that the original of his Comelec ID is in the possession of Atty. Manuel, and he applied for its issuance a long time ago before the massacre incident happened.

On re-cross examination, witness stated that before he was arrested, his Comelec ID was already in his possession. He has no other basis to show that his identity is actually Ibrahim Kamal Tatak which appears in the photocopy of his Comelec Voter's ID.

Witnesses for accused Mama Habib:
(DEFENSE: FARMING)

1. Accused Mama Habib – He was allegedly a farmer planting from morning to afternoon with his children on November 23, 2009 in Mamasapano, Maguindanao.

2. Sanapia M. Abdullah – She is the wife of accused Mama Habib. She confirmed that the accused was farming the whole day on November 23, 2009 with their children as she was peddling goods that day.

Testimony of accused Mama Habib

MAMA HABIB appeared in court on March 21, 2018. For his direct testimony, he executed a *Judicial Affidavit* marked as ***Exhibit "1" and sub-markings.***

He testified that he was in Brgy. Mamasapano, Maguindanao, on November 23, 2009 planting together with his small children from 7:00 in the morning until afternoon. He said that he just stayed in said place and never left. He denied the accusations against him and claimed that no prosecution witness pointed to him as one of those present at the incident. He presented his ***Voter's ID*** marked as ***Exhibit "2" and sub-marking.***

On cross examination on even date, witness testified that the land he was tilling was half hectare and less than one kilometer from his house, and less than an hour travel. He said that he owned the said land, but he has neither a Certificate of Ownership nor title from the government. He also said that he is not aware of how far Mamasapano is from Ampatuan Municipality. Since the time he was arrested, he never filed any pleadings in court to question his arrest and he did not file any case against the policemen who arrested him.

Testimony of accused Sanapia M. Abdullah

SANAPIA M. ABDULLAH appeared in court on May 10, 2018. She executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings*** as her direct testimony.

Witness alleged that on November 23, 2009, she was in their place in Brgy. Manongkaling, Mamasapano, Maguindanao. At around 4:00 a.m., she rose up from bed to cook "baon" for her husband accused Mama Habib and their children because she knew that they will go to their farm.

At around 6:00 a.m., accused and their children left for their farm in Brgy. Mamasapano, Mamasapano, Maguindanao. Then, she peddled her goods that day and returned home when her goods were sold. At around 5:00 p.m., accused Mama Habib and their children arrived.

On cross examination, she testified that on November 23, 2009, her husband accused Mama Habib went to Mamasapano, Maguindanao, to plant corn together with their two (2) youngest children – Sumaya Habib and Saak Haab who were more than one (1) year old and two (2) years old, respectively. While planting, witness said that her husband leaves their children in a nipa hut located on the side where he plants. Between 6:00 a.m. and 5:00 p.m., on said date, she did not see them. She said that she is not familiar with Ampatuan municipality. She only visited the market in Shariff Aguak and Cotabato. She said that she will never testify against her husband and she will only testify on those things in his favor.

Witness also testified that a person from the Human Rights Office came to their municipality at that time and advised her to write a letter and that was the only time that she made a letter asking help from the Human Rights Office because her husband is innocent. She said that she is not aware that one of the victim's denture was found in Mamasapano.

On re-direct examination, witness said that her real purpose in testifying is to prove that her husband is innocent and is God fearing who loves his family. She claimed that her husband is not capable of committing anything against the law as they have many children. She is asking for his immediate release because she cannot solely attend to the needs of her children and their education.

On cross examination, witness confirmed that she has no other evidence to present that her husband was in Barangay Mamasapano on November 23, 2009 from 6:00 a.m. to 5:00 p.m. When asked by the court, witness said that it was usual for her husband to bring the children to the farm as the younger children do not have companions in the house because some of the elder children go to school. She also explained that the children were in the nipa hut very close to where the accused is planting, and they were being watched over by the accused. Both parties stipulated that the size of the nipa hut is five meters by five meters.

Witness for accused Alimudin S. Sanguyod a.k.a. Norodin Malang:
(DEFENSE: MISTAKEN IDENTITY & DRIVING A PASSENGER MOTORCYCLE)

1. Accused Alimudin Sanguyod *a.k.a.* Norodin Malang – He claimed that he is not Alimudin Sanguyod and his real identity is Norodin

Malang as evidenced by his TIN ID. He was driving a passenger motorcycle in Midsayap, Cotabato the whole day of November 23, 2009.

Testimony of accused Alimudin Sanguyod a.k.a. Norodin Malang

ALIMUDIN SANGUYOD a.k.a. NORODIN MALANG appeared in court on April 05, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** he alleged that on November 23, 2009, he was driving a passenger motorcycle from 7:00 a.m. until 9:00 p.m. in Brgy. Poblacion, Midsayap, North Cotabato and there was no instance that he went out of said place on that day. He denied the accusations against him, and pointed out that no prosecution witness pointed to him. He denied that he is Alimudin Sanguyod, and claimed that his real name is Norodin Malang as reflected in his ***TIN ID*** marked as ***Exhibit "2" and sub-marking.*** He clarified that his name in his TIN ID was misspelled – Nordin. He also explained that said ID was issued on September 8, 2017 and was requested by his relative on his behalf. He also presented his ***picture*** as well as that of Alimudin Sanguyod marked as ***Exhibit "3".***

On cross examination, witness confirmed that it was his relatives who got his TIN ID who also provided the picture therefor though he cannot remember when said picture was taken. He said that he has no other proof of his identity as Norodin Malang y Mamasabuyan. Said ID was brought to him by his relative and he signed it in his quarters. The picture of alleged accused Alimudin Sanguyod was only provided by his relative. He claimed that he has no other IDs particularly a driver's license as a tricycle driver, and such was allowed in their town. He has no proof that he was driving a tricycle on November 16, 23 and 30, 2009.

On re-direct examination, witness confirmed and affirmed the veracity and truthfulness of his Judicial Affidavit. He did not sign any logbook or DTR every time that he was driving a motorcycle that is why he cannot produce any proof that he was indeed driving a motorcycle then.

On re-cross examination, despite the fact that he has no proof, witness can still remember vividly that he indeed drove a tricycle during that time.

Witness for accused Naser Talib a.k.a. Morales Sisay Amilol:[793]
(DEFENSE: MISTAKEN IDENTITY &
DRIVING A PASSENGER MOTORCYCLE)

1. Accused Naser Talib *a.k.a.* Morales Sisay Amilol – He claimed that he is not Naser Talib and his real identity is Morales Sisay Amilol as

[793] Accused Naser Talib *a.k.a.* Morales Sisay Amilol died on January 08, 2019 based on the letter dated January 09, 2019 by JINSP Atty. Jonar M. Suruiz, Warden, Quezon City Jail-Annex, Camp Bagong Diwa, Bicutan, Taguig City. *See* Order dated January 11, 2019.

evidenced by his Birth Certificate. He claimed that he was driving a passenger motorcycle in Brgy. Limpongo, Datu Hoffer, Maguindanao, the whole day of November 23, 2009.

Testimony of accused Naser Talib a.k.a. Morales Sisay Amilol

NASER TALIB a.k.a. MORALES SISAY AMILOL appeared in court on April 18, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

He testified that on November 23, 2009, he was driving a passenger motorcycle from 7:00 a.m. until 4:00 p.m. in Brgy. Limpongo, Datu Hoffer, Maguindanao. Thereafter, he stayed in his house and rest. He claimed that there was no instance that he went out of said place on that day. He also claimed that no prosecution witness pointed to him. He denied the accusation against him and also claimed that that he is not Naser Talib. He further claimed that his real name is Morales S. Amilol as reflected in his ***Certificate of Live Birth*** marked as ***Exhibit "2" and sub-marking.*** He also presented his ***picture*** as well as that of Naser T. Talib marked as ***Exhibit "3" and sub-marking.***

On cross examination, witness confirmed that the picture attached to his Judicial Affidavit was sent to him by his relatives which they got from the internet, but he has no idea whether the picture was edited. Aside from his Certificate of Live Birth, he has the motorcycle registration with his name indicated therein to disprove that he is Naser T. Talib, but it was not attach to his Judicial Affidavit and the copy available was only a photocopy. Since he has no any other documentary evidence to prove that indeed he reported to a motorcycle terminal, he also has no any documentary evidence to prove that indeed he was "namasada" on November 23, 2009. It was stated in the Birth Certificate that the place of birth of Morales Amilol is in the Municipality of Ampatuan, Maguindanao, and yet he claimed that he cannot determine the travel time from Datu Hoffer where he was working and to Ampatuan province where he was born.

On re-direct examination, he said that he did not know how to use the internet, so it was his eldest sister, Fatima Amilol who downloaded the pictures, printed it and gave it to him. He has a photocopy of the ***Certificate of Registration*** *of his Motorcycle* marked as ***Exhibit "4"*** **(provisional)**[794] to prove that he is indeed Morales S. Amilol and not Naser T. Talib, but the original is in Limpongo. He has no logbook, DTR and CCTV when he drives his motorcycle.

On re-cross examination, witness admitted that in the registration of motorcycle, they do not ask for any aliases. The court also

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[794] *See* TSN dated May 10, 2018, pp. 46-48. The Certificate of Motorcycle Registration marked as Exhibit "4" was not formally offered as exhibit for the accused.

asked who Noraine Llauderes is whose name also appeared in the Certificate of Registration, but the accused answered that he did not know said person. He confirmed that the tricycle was his.

Witness for accused Salipad M. Tampogao a.k.a. Tato Tampogao: (IDENTIFIED) (DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Salipad M. Tampogao *a.k.a.* Tato Tampogao – He claimed that he is not Salipad M. Tampogao and his real identity is Tato Tampogao as evidenced by his Birth Certificate. He was farming with his wife in Cotabato City the whole day of November 23, 2009.

Testimony of accused Salipad M. Tampogao a.k.a. Tato Tampogao

SALIPAD M. TAMPOGAO a.k.a. TATO TAMPOGAO appeared in court on March 30, 2017 and April 20, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

He testified that on November 23, 2009, he and his wife Baynot Banchil were in their farm in Cotabato City which was two hours away from their house in Brgy. Mother Tamon Taka, Cotabato City. They left their house at 7:00 a.m. and arrived in their farm at 9:00 a.m. They started farming right away until 3:00 p.m. Thereafter, they went home and travelled again for two hours. He denied the allegations against him as he never left Cotabato on that day. He said that he was included as an accused in these cases because he has the same surname as that of Salipada Tampogao who the real accused is.

On cross examination on even date*,* witness claimed that he did not know that the massacre happened in Maguindanao province and the Ampatuans were powerful political clan in the said place. With respect to his Booking and Information Sheet where there was a written inscription showing the first name SALIPADA, witness denied that the signature therein was his and he claimed that he did not write anything there. He averred that he has a Birth Certificate to prove that his name is Tato and not Salipada, but he admitted that he did not have with him his Birth Certificate. The prosecution emphasized that he was pointed by Esmail Kanapia as one of the CVOs he saw near the mountains of Sitio Masalay by the hut of Jainal on November 23, 2009. Prosecution witness Esmael Enog also identified him as one of the armed CVOs whom he transported to Sitio Malating, Ampatuan, Maguindanao, but he denied the same. Lastly, Sukarno Badal pinpointed him as one of the CVOs who was present in the mountain of Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao and who participated in the Maguindanao massacre case on November 23, 2009. He affirmed that he did not know of any ill motive on the part of Badal to testify against him.

On additional re-direct examination on April 20, 2017, witness identified his ***Certificate of Live Birth*** marked as ***Exhibit "2" and sub-marking.***

Witness for accused Malaguial S. Tanuri a.k.a. Johari Montok Malaguial: (DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Malaguial S. Tanuri *a.k.a.* Johari Montok Malaguial – He claimed that he is not Malaguial S. Tanuri and his real identity is Johari Montok Malaguial as evidenced by his Birth Certificate. He was farming in Brgy. Old Maganoy, Datu Abdullah Sangki, Maguindanao, the whole day of November 23, 2009.

Testimony of accused Malaguial S. Tanuri a.k.a. Johari Montok Malaguial

MALAGUIAL S. TANURI a.k.a. JOHARI MONTOK MALAGUIAL appeared in court on April 05, 2018. He executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings*** as his direct testimony. He narrated therein that on November 23, 2009, he was cultivating the land owned by his father-in-law in Brgy. Old Maganoy, Datu Abdullah Sangki, Maguindanao, from morning till afternoon. Thereafter, he rested in their house until nighttime. He never left said place on that day. He denied any involvement in these cases. He claimed that he was mistaken as one of the suspects because his name is similar to that of Malaguial Tanuri who the real accused is. As proof, he presented his ***Certificate of Live Birth*** marked as ***Exhibit "2".***

On cross examination, witness said that he is not familiar with the political leaders of their municipality in 2009. He was able to vote in a barangay election without having a Voter's ID. He had been to Ampatuan municipality once and from his barangay in Datu Abdullah Sangki, it took him one hour using a motorcycle to reach Ampatuan Municipality. Based on his Certificate of Live Birth, he was born in 1989 and yet he was just registered on September 28, 2015 which is a month after he was arrested. Said Certificate was not even authenticated by the Philippine Statistics Authority. The informant in this late registration is a certain Falao Lasin and said Certificate was secured already when he was inside the detention cell. He has no proof that his real identity is a certain Johari Muntok Malaguial before 2015. He confirmed that other than his bare testimony, he has not shown any proof that he was actually in Barangay Old Maganoy, Datu Abdullah Sangki on November 23, 2009.

On re-direct examination, witness explained that he was not required by the teachers or election tellers to put out a voter's I.D before voting. It was allowed to vote in their place because they were not given an I.D. His wife processed or secured his Birth Certificate assisted by Falao

Lasin, the informant, who is not related to him. In Muslim culture, not everyone has a Certificate of Live Birth. He said that there was no prosecution witness who identified him as a perpetrator of this case.

Witness for accused Norman M. Tatak:
(DEFENSE: FARMING)

1. **Accused Norman M. Tatak –** He claimed that he was in Mother Labu-Labu, Shariff Aguak, Maguindanao, on November 23, 2009, sun-drying corn.

Testimony of accused Norman M. Tatak

NORMAN M. TATAK[795]appeared in court on April 04, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** He testified that on November 23, 2009, he was sun-drying corn not far away from their house in Mother Labu-Labu, Shariff Aguak, Maguindanao. Thereafter, he just rested in their house until nighttime. He presented his ***Certificate of Live Birth*** marked as ***Exhibit "2" and sub-markings.***

On cross examination, witness narrated that on November 23, 2009, he was still young, and it was his father who worked for the family, he just helped whenever he was out of school by gathering and drying left over corns. He said that he was 20 years old when he got married. He finished elementary before he was arrested. He also said that he never visited a place outside of Brgy. Labu-Labu. He claimed that he was apprehended on October 22, 2010 when they were in the market and an army officer blocked their path. He did not complain because he is poor, and he has no capacity to file a complaint and the money to spend. His Certificate of Live Birth was registered late because in Muslim culture, they were born in the house and their parents did not register them, unlike when somebody is born in the hospital, immediately the doctor will facilitate the registration of his birth. Even before he was arrested his birth was already registered. He was not identified but he was just arrested and brought to CIDG, PC Hill, Cotabato.

On re-direct examination, witness claimed that there was no warrant of arrest shown to him when he was arrested. The officers who apprehended him did not say anything about his right under the law. They just handcuffed him from his back, blindfolded and shoved him to a vehicle and he did not know where they brought him. His Birth Certificate was already registered in December 2008 before the massacre happened.

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[795] Accused Norman M. Tatak testified on April 04, 2018.

Witness for accused Sonny K. Pindi a.k.a. Bimbo Salazar Piang:
(IDENTIFIED)
(DEFENSE: MISTAKEN IDENTITY & IN ANOTHER PLACE)

1. Accused Sonny K. Pindi a.k.a. Bimbo Salazar Piang – He claimed that he was in Brgy. Malinis, Shariff Aguak, Maguindanao, in the morning of November 23, 2009, and went to Cotabato City in the afternoon. He also claimed that he is not Sonny K. Pindi and that his real identity is Bimbo Salazar Piang.

Testimony of accused Sonny K. Pindi a.k.a. Bimbo Salazar Piang

SONNY K. PINDI a.k.a. BIMBO SALAZAR PIANG appeared in court on November 16, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** he testified that on November 23, 2009, at around 9:00 in the morning, he left their house in Brgy. Malinis, Shariff Aguak, Maguindanao, and went to the terminal going to Cotabato City, where he was seen by his friend. Witness was invited by his friend to ride in his vehicle as he was also going to Cotabato City. While they were travelling to Cotabato City, there were policemen and CVOs who flagged down their vehicle. When they asked why, they were told that there was an incident happening. He further testified that he arrived in Cotabato City and went to his family at around quarter to 1:00 p.m. He just stayed in said place on that day with his family. He denied that he is accused Sonny Pindi and that he never used said name. As evidence, he presented a ***Voter Certification*** marked as ***Exhibit "2"*** **(provisional)**[796] and *side-by-side* ***pictures*** *of him and the alleged Sonny Pindi* marked as ***Exhibit "3" and sub-marking***.

On cross examination, witness said that he has no proof that he rode the vehicle of his friend going to Cotabato City on November 23, 2009. The Voter's Registration was secured by his father from the Comelec in Cotabato City after he was arrested. He also claimed that there was no ill-motive for Sukarno Badal and Norodin Mauyag to testify against him.

On further inquiry by the court, he further claimed that the name of his friend whom he saw on November 23, 2009 at the terminal was Jeffrey Bandila Abutasil, who is dead already. He did not know the reason why he was shot in 2014.

On re-direct examination, he stated that his voter's registration was sent to him by his father in 2012 which was the actual document sent to him.

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[796] Said document was denied admission as part of accused's evidence. *See* Order dated July 25, 2018.

Witness for accused Edris G. Kasan:
(IDENTIFIED)
(DEFENSE: FARMING)

1. Accused Edris G. Kasan – He claimed that he was planting corn in Sitio Kafengfeng, Brgy. Darugao, North Upi, Maguindanao, on November 23, 2009.

2. Samra A. Mantugay – She was the employer of accused Edris G. Kasan who was with the latter on November 23, 2009 in Sitio Kafengfeng, Brgy. Darugao, North Upi, Maguindanao, planting corn in her land. She also testified that accused Edris G. Kasan was living with her on said date.

Testimony of accused Edris G. Kasan

EDRIS G. KASAN appeared in court on March 22, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

He testified that on November 23, 2009, he was planting corn seeds in Kafengfeng, Barangay Darugao, North Upi, Maguindanao, from 8:00 a.m. until 5:00 p.m. After planting, he went home to the place where he was staying at the house of Samra Mantugay. As additional proof that he was indeed in said place on that day, witness presented the following: "***Pagbati ng Kapayapaan***" dated November 16, 2010 marked as ***Exhibit "2"***, ***Certification*** dated 15 November 2010 issued by Brgy. Captain Emilio P. Deano marked as ***Exhibit "3"***, and ***Certification*** dated 19 August 2010 issued by Brgy. Captain H. Basit G. Zangkala marked as ***Exhibit "4"***.

On cross examination, witness testified that from Sitio Kafengfeng to Sitio Masalay, it will take five (5) hours travel using a passenger jeepney. He remembered that he was pointed to by Esmael Kanapia but he did not know him. He and Esmael Kanapia are not enemies. He did not know of any reason why Sukarno Badal pointed at him when the latter testified.

Testimony of accused Samra A. Mantugay

SAMRA A. MANTUGAY appeared in court on May 29, 2017. She executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** She testified that on November 23, 2009, she was in Kafengfeng, Barangay Darugao, North Upi, Maguindanao, planting corn with accused Edris G. Kasan and some highlanders, who were her employees, from 8:00 in the morning until 5:00 in the afternoon. After planting, they went back to her house together with accused Edris G. Kasan located at the same place. She also testified that the accused

never left the place of Sitio Kafengfeng, Brgy. Darugao, North Upi, Maguindanao on said date.

On cross examination, witness alleged that she has known accused since 2008, but she is not related to him. There were four (4) people tilling her land on November 23, 2009. However, she cannot remember the names of all those highlanders working in her farm, but she remembered the name of Edres Kasan because he lived with them. She claimed that she did not know how far Brgy. Darugao, North Upi, Maguindanao is from Sitio Masalay, Ampatuan, Maguindanao. She also claimed that she merely has a "Kasulatan" that the land that she was tilling is hers.

Witness for accused Kasim T. Lingkong a.k.a. Abdulkadir M. Saludin:
(DEFENSE: MISTAKEN IDENTITY & FISHING)

1. Accused Kasim T. Lingkong *a.k.a.* Abdulkadir M. Saludin – He claimed that he was fishing with one of his siblings and a nephew in Kadigasan, Midsayap, North Cotabato on November 23, 2009.

Testimony of accused Kasim T. Lingkong a.k.a. Abdulkadir M. Saludin

KASIM T. LINGKONG a.k.a. ABDULKADIR M. SALUDIN appeared in court on March 01, 2018. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

He testified that on November 23, 2009, he was fishing with one of his siblings and a nephew in Kadigasan, Midsayap, North Cotabato from 8:00 a.m. until 4:00 p.m. Thereafter, he went home and stayed thereat until nighttime. He denied any involvement in these cases and claimed that he was mistaken as Kasim T. Lingkong who is the real accused. He asserted that his name is Abdulkadir M. Saludin as indicated in his ***Voter Certification*** marked as ***Exhibit "2"***. He emphasized that no prosecution witness pointed to him as accused in these cases.

On cross examination, witness claimed that he doesn't know the Municipality of Ampatuan but admitted that he was once a resident of Datu Piang in 2003 and stayed there for four (4) years. Aside from his testimony, he has no other proof, which will substantiate his allegation that he was indeed fishing on November 23, 2009. He also claimed that he did not know that Midsayap, North Cotabato, is just less than two (2) hours away from Datu Ampatuan Municipality, Maguindanao. His Barangay Clearance will prove that he is not Kasim Lingkong.

On re-direct examination, witness said that he went to Kadigasan, Midsayap, North Cotabato in 2007 when he left Datu Piang,

Maguindanao, and became a fisherman since then. He was fishing almost everyday.

Witnesses for accused Theng Sali a.k.a. Abdullah H. Abdulkahar:
(IDENTIFIED)
(DEFENSE: IN ANOTHER PLACE)

1. Accused Theng Sali *a.k.a.* Abdullah H. Abdulkahar – He claimed that he was on his way to Cotabato City on November 23, 2009 when he met an accident and was confined at Tejada Clinic in Datu Odin Sinsuat Municipality.

2. Mohaimen E. Ali – He found accused Theng Sali *a.k.a.* Abdullah Abdulkahar injured along a road in Datu Odin Sinsuat on November 23, 2019 and brought the accused at Tejada Clinic.

Testimony of accused Theng Sali a.k.a. Abdullah H. Abdulkahar

THENG SALI a.k.a. ABDULLAH H. ABDULKAHAR appeared in court on May 17, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

Witness testified that on November 23, 2009, he was in Brgy. Bagong, Shariff Aguak, Maguindanao. He was requested by his brother Guiame P. Kahal to buy medicine in Cotabato City because the same was not available in their local pharmacy. At around 8:20 a.m., he headed for Cotabato City in a motorcycle to buy the medicine. Upon reaching the National Highway of Brgy. Gubat, DOS, Maguindanao, at about 9:30 a.m., he met an accident and sustained injuries on different parts of his body, as evidenced by a ***Medical Certificate*** marked as ***Exhibit "4"*** **(provisional)**.[797] He was assisted by a certain Mohaimen Ali who brought him at Tejada Clinic in Datu Odin Sinsuat Municipality for treatment. Upon recommendation of the doctor, he was confined for treatment at said clinic for the whole day of November 23, 2009. He admitted that he used the name "Theng Sali" when he worked in an office before but denied the accusation against him.

On cross examination, he affirmed that there was no doctor's prescription and patient's medical record attached to his Judicial Affidavit. Since he had no communications with Guiame P. Kahal, when he was outside his house, Kahal did not know his activities. He also confirmed that there is no statement in the affidavit of Kahal which explicitly states that they are brothers. He admitted that the date of the Medical Certificate was March 02, 2011 although in the body the date and time i.e.,

[797] Said Exhibit, as well as Exhibit "2" – Cetification fom Office of the Muslim Affairs; Exhibit "3" – Affidavit of witness Guiame P. Kahal; and Exhibit "7" – Voter's ID of Mohaimen Ali were denied admission as part of accused's evidence. *See* Order dated May 2, 2018.

November 23, 2009 at 9 a.m., appears. He claimed that he only came to know Sukarno Badal in this court when the latter pointed to him. He also claimed that from Cotabato City to Shariff Aguak, it will take about two and half hours when riding a jeepney.

Testimony of Mohaimen E. Ali

MOHAIMEN E. ALI appeared in court on July 20, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit "6 and sub-markings,*** witness alleged that on November 23, 2009 at around 9:30 a.m., he was travelling to Cotabato City when he noticed a person suffering from injuries and seated on the edge of the road in Gubat, Datu Odin Sinsuat, Maguindanao. He went near said person who happened to be accused Abdullah Abdulkahar. He learned that the injuries suffered by Abdullah were from an accident, hence upon the latter's request, he brought him to the clinic of Dr. Joseph C. Tejada for treatment and arrived thereat at around 10:00 a.m., then he called the latter's relatives to inform them about the accident. Witness identified his ***"Affidavit of Witness"*** dated January 19, 2016 marked as ***Exhibit "5" and sub-marking.***

On cross-examination on even date, witness said that he did not see the actual accident that happened to the accused when it took place. He confirmed that he has no proof that Theng Sali was admitted to the clinic. He claimed that he left Theng Sali at the clinic after an hour and he was no longer aware of the latter's whereabouts thereafter. He said that Theng Sali was not admitted at the clinic as he only sustained minor injuries.

Witness for accused Akad B. Macaton a.k.a. Mohamad Salazar Piang:
(DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Akad B. Macaton *a.k.a.* Mohamad Salazar Piang – He claimed that he was planting corn in Brgy. Balong, Northern Kabuntalan, Maguindanao, on November 23, 2009. He further claimed that he is not Akad B. Macaton and his real identity is Mohamad Salazar Piang as evidenced by his documents.

Testimony of accused Akad B. Macaton a.k.a. Mohamad Salazar Piang

AKAD B. MACATON a.k.a. MOHAMAD SALAZAR PIANG appeared in court on March 03, 2019. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "4" and sub-markings.*** In his Affidavit, he alleged that on November 23, 2009 from 8:00 a.m. to 5:00 p.m., he was planting corn in Brgy. Balong, Northern Kabuntalan, Maguindanao. Thereafter, he went home which is situated near the plantation, to rest. He denied any involvement in these cases. He likewise denied that he is Akad Macaton as he never used said name

and his real name is Mohamad Salazar Piang. As proof, he presented *his* ***picture and that of a certain Akad Macaton*** marked as ***Exhibits "1" and "1-A";*** his **Certificate of Live Birth** marked as ***Exhibit "2";*** and his **Voter Certification** marked as ***Exhibit "3".*** He emphasized that no prosecution witness pointed to him.

When cross examined, witness testified that he transferred from Brgy. Balong, Northern Kabuntalan to Lambayong, Sultan Kudarat in 2013. He said that he did not know the Municipality of Ampatuan, and he has never been there although he knew that the Governor in 2009 was Andal Sr., the father.

Witness also testified that he was a conductor of a pump boat in 2013. It was his wife who obtained his Birth Certificate. He pointed out though that the entry appearing in his Birth Certificate stating that he was born in Shariff Kabunsuan, Cotabato City is not true. With regards to his signature in the Birth Certificate, witness explained that his wife gave the Certificate to him and he signed it while in detention. Comparing the signatures in his Judicial Affidavit and Birth Certificate, witness confirmed that they were different. He also explained that he signed the Birth Certificate hastily because his wife was leaving and in a hurry. He also confirmed that the place of birth "Special Province of Cotabato City" indicated in his Voter's Certification is not true. With respect to the attached pictures, witness said that in 2009, he still had full head hair, but the picture he attached which was taken in 2016 while in detention, has a receding hair line. The picture of a certain Akad Macaton was obtained by the Barangay Captain of Tinumigues and was only given to him.

On re-direct examination, witness confirmed that he was a conductor/dispatcher of a pump boat when he was arrested on September 3, 2016 in Barangay Tinumigues. He said that he cannot read, and he was not able to read the entries in his Birth Certificate although his signatures were different, he confirmed that the signatures in the Judicial Affidavit and in the Birth Certificate were all his.

Witnesses for accused Misuari S. Ampatuan:
(IDENTIFIED)
(DEFENSE: PLAYING BASKETBALL)

1. Accused Misuari S. Ampatuan – He claimed that after he played basketball in Barangay Barrio 3, Shariff Aguak, Maguindanao, on November 23, 2009, he just stayed in their house.

2. Saguira A. Mamantar – She saw his brother Misuari Ampatuan in said barangay, playing basketball near his house on November 23, 2009.

Testimony of accused Misuari S. Ampatuan

MISUARI S. AMPATUAN was presented on the witness stand on March 16, 2017. He executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings*** which was adopted as his direct testimony.

In his affidavit, witness alleged that on November 23, 2009 from 9:00 a.m. to 9:30 a.m., he was in Barangay Barrio 3, Shariff Aguak, Maguindanao playing basketball with a certain Norodin Lasam, Choy and others near their house. Then someone from the barangay stopped their game as there was a commotion at the marketplace. So, he went home and stayed there until nighttime with his pregnant wife and three children. He never left their house since then. He denied any involvement in these cases.

On cross examination, witness affirmed that he was not employed in 2009, but denied that he was a CVO for the Ampatuans. He said that he has no documentary evidence to prove his defense, and despite having been identified by prosecution witnesses, he denied his presence in crossing of Sitio Masalay, Brgy. Salman on November 23, 2009.

Testimony of Saguira A. Mamantar

SAGUIRA A. MAMANTAR was presented on the witness stand on November 23, 2017. She executed a ***Judicial Affidavit*** marked as ***Exhibit "2" and sub-markings,*** which was adopted as her direct testimony.

In her affidavit, witness alleged that she is the sister of the accused and they were neighbors in Brgy. Barrio 3, Shariff Aguak, Maguindanao. On November 23, 2009 at around 7:00 a.m., she saw the accused in their house eating breakfast with his family. At about 9:00 a.m. when she left her house to report for work, she saw the accused playing basketball near his house. Thereafter, she proceeded to her office.

On cross examination, witness testified that at that time, she worked at the Municipality of Shariff Aguak as a casual employee. She confirmed that the mayor of said municipality at that time was Anwar Ampatuan, Sr. She also confirmed that when she left her house, it was the last time that she saw the accused and she did not see him anymore on that day. When asked if she knew how far her house is from the area of the incident, witness answered in the negative.

Witnesses for accused Mohades A. Ampatuan:
(IDENTIFIED)
(DEFENSE: PLAYING BASKETBALL)

1. Accused Mohades A. Ampatuan – He claimed that he was playing basketball near the place of his uncle in Barangay Sipaka, Surala, South Cotabato on November 23, 2009.

2. Mohamedin Alom – He is the brother of accused Mohades A. Ampatuan. He confirmed that he was with his brother on November 23, 2009 playing basketball in Brgy. Sipaka, Surala, South Cotabato.

Testimony of accused Mohades A. Ampatuan

MOHADES A. AMPATUAN[798] appeared in court on March 16, 2017. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** In his affidavit, witness alleged that on November 23, 2009 from 8:00 a.m. to 11:00 a.m., he was playing basketball near the house of his uncle Mabpalendad Alon in Barangay Sipaka, Surala, South Cotabato. Thereafter, he went to his uncle's house to eat and rest until mid afternoon. Then, from 3:30 p.m. to 5:00 p.m., he again played basketball. After they played, they stayed at the court to chat until his uncle called them to watch the news about the massacre. He and his sibling wanted to go home to Ampatuan, Maguindanao because they got worried, but they were prevented by their uncle. He denied the allegations against him.

On cross-examination, witness confirmed that his immediate family was from Ampatuan, Maguindanao. He admitted that he was not employed in November 2009, but he denied that he was a CVO for the Ampatuan. He also confirmed that he submitted documents to his former counsel. However, aside from his present affidavit, he has no other documentary evidence to prove his defense. He averred that he was playing basketball at that time despite being identified by prosecution witnesses.

When asked by the court what were the documents he handed to his former counsel, witness answered that he submitted a Certification from the Barangay Chairman of Barangay Sipaka.

On re-direct examination, witness affirmed that he can produce a copy of said Barangay Certification and that he will be presenting another witness – his sibling, Mohamiden Alom.

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[798] Accused Misuari S. Ampatuan testified on March 16, 2017.

Testimony of accused Mohamiden A. Alon

MOHAMIDEN A. ALON appeared in court on May 10, 2017. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "2" and sub-markings.*** He confirmed that he is the brother of the accused although they have different surnames. He testified that he was with the accused on November 23, 2009, playing basketball near the place of his uncle in Brgy. Sipaka, Surala, South Cotabato. He said that the accused did not leave South Cotabato on said date.

On cross examination, witness testified that on November 23, 2009, he was not earning, and they were just supported by their relatives because they were away from their home. He confirmed that his father is already dead, while his mother is still alive. He is older than accused Mohades. His uncle, Mabpalendad Alon is the brother of his father. He also testified that before his father was killed, they lived in Brgy. Salman, Ampatuan, Maguindanao. But since Rasul Sangki killed their father, they have no permanent address. He estimated that their place in Brgy. Salman is one hour away from the massacre site, while their uncle's place in Brgy. Sipala, Surala, South Cotabato is four (4) hours away from Ampatuan. Witness claimed that he does not know Esmael Amil Enog and Sukarno Badal, but he said that Esmael Canapia was one of the men who killed his father.

Witnesses for accused Macton Bilungan:
(IDENTIFIED)
(DEFENSE: STAYED AT HOME)

1. Accused Macton Bilungan – He claimed that he was in his house in Barangay Timbangan, Shariff Aguak, Maguindanao on November 23, 2009.

2. Baimasla K. Bilongan – She is the wife of accused Macton Bilungan. She confirmed that she was with the accused the whole day of November 23, 2009 at their house in Brgy. Timbangan, Shariff Aguak, Maguindanao.

Testimony of accused Macton Bilungan

MACTON BILUNGAN appeared in court on March 22, 2017. Based on his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** witness testified that the whole day of November 23, 2009, he was in his house together with his family in Brgy. Timbangan, Shariff Aguak, Maguindanao. It was just an ordinary day for them watching TV and eating. He never left his house on that day. He denied the allegations against him. His wife and children could prove that he was just home that day.

On cross examination, witness testified that in November 2009, he worked in a corn and rice field but on November 23, 2009, he did not go to work because he just finished spraying the rice filed. He also confirmed that he was also a construction worker as specified in his Booking and Information Sheet. He knew that November 23, 2009 was a Monday, but his body was aching, so he chose to rest, but said fact was not included in his affidavit. He does not know Sukarno Badal and Esmael Canapia, and he did not know any reason why these witnesses implicated him in these cases.

Testimony of accused Baimasla K. Bilongan

BAIMASLA K. BILONGAN appeared in court on November 09, 2017. For her direct testimony, she executed her ***Judicial Affidavit*** marked as ***Exhibit "2" and sub-markings.*** Based on her affidavit, witness confirmed that on the whole day of November 23, 2009, accused Macton Bilungan was with her and their children at home, eating and watching television. Her husband just stayed inside their house from the time he woke up until he slept on said day.

When cross examined, witness confirmed that her husband accused Macton Bilungan was a farmer on November 23, 2009 and their family owns the land which the accused was tilling. She denied that her husband was associated with the Ampatuan clan. She said that she does not know the Ampatuan family, Sukarno Badal or Esmael Canapia. She also said that the Municipality of Ampatuan is far from their place, but she goes to the market only once a month to buy their things. She also confirmed that her present affidavit was the only affidavit she executed and aside from this, she has no other proof to support her claim that her husband was with her in their house on November 23, 2009.

On re-direct examination, witness was asked why she was able to recall that she was with her husband on November 23, 2009, to which witness answered that because during said date, his husband was sick. When asked by the court what was the sickness of the accused at that time, the witness said that the accused had body pains because days before, he went to the farm and sold seeds.

Witnesses for accused Taya M. Bangkulat:
(IDENTIFIED)
(DEFENSE: FARMING)

1. Accused Taya M. Bangkulat – He claimed that he was planting corn in Barangay Simsiman, Pigcawayan, North Cotabato on November 23, 2009.

2. **Accused Salik M. Bangkulat** – He is the older brother of accused Taya M. Bangkulat, and he was with the latter on November 23, 2009, planting corn in Brgy. Simsiman, Pigcawayan, North Cotabato.

Testimony of accused Taya M. Bangkulat

TAYA M. BANGKULAT appeared in court on March 23, 2017. Based on his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** he testified that on November 23, 2009, he was planting corn seeds with his brother Salik S. Bangkulat from 8:00 a.m. until 3:00 p.m. on the land of Barangay Chairman Rex T. Maliga in Barangay Simsiman, Pigcawayan, North Cotabato. Thereafter, he went home in a small hut beside the house of Brgy. Chairman Maliga. He presented a ***Certification*** *dated November 10, 2010* issued by Chairman Maliga marked as ***Exhibit "2".*** He denied any involvement in these cases.

On cross examination, witness confirmed that the address he gave when he was asked his personal circumstances was Barangay Simsiman, Pigcakawayan, North Cotabato but in the Certification that he identified, it was stated therein that he was a resident of Brgy. Calsada, Sultan Kudarat. He denied that Rex Maliga is his relative. Despite being identified by prosecution witnesses Haical Mangacop and Sukarno Badal, he still maintained that he was in Cotabato on October 23 to November 24, 2009.

Testimony of accused Salik M. Bangkulat

SALIK S. BANGKULAT appeared in court on March 30, 2017. For his direct testimony, he executed his ***Judicial* Affidavit** marked as ***Exhibit "3" and sub-markings,*** where he confirmed that he was with accused Taya M. Bangkulat planting corn in Brgy. Simsiman, Pigcawayan, North Cotabato on November 23, 2009, from 8:00 a.m. to 3:00 p.m. He further testified that they never left said place on said date.

During cross examination, witness affirmed that he is older than his brother Taya Bangkulat, and as a big brother to accused Taya, he would do anything for him and would even testify on his behalf.

Witnesses for accused Salik S. Bangkulat:
(IDENTIFIED)
(DEFENSE: FARMING)

1. **Accused Salik S. Bangkulat –** He claimed that he was planting corn in Barangay Simsiman, Pigcawayan, North Cotabato on November 23, 2009.

2. **Accused Taya M. Bangkulat** – He is the older brother of accused Taya M. Bangkulat, and he was with the latter on November 23, 2009, planting corn in Brgy. Simsiman, Pigcawayan, North Cotabato.

Testimony of accused Salik S. Bangkulat

SALIK S. BANGKULAT[799] appeared in court on March 30, 2017. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** He testified that on November 23, 2009 from 8:00 a.m. until 3:00 p.m., he was planting corn seeds with his brother Taya M. Bangkulat on the land of Barangay Chairman Rex T. Maliga in Barangay Simsiman, Pigcawayan, North Cotabato. Thereafter, he went home in a small hut beside the house of Brgy. Chairman Maliga. He presented a ***Certification*** *dated November 10, 2010* which Chairman Maliga had issued marked as ***Exhibit "2".*** He denied any involvement in these cases.

On cross examination, witness testified that prior to the incident on November 23, 2009, he was a resident of Barangay Calsada, Sultan Kudarat, Maguindanao. He denied the testimonies of Norodin Mauyag, Esmael Canapia and Sukarno Badal that he was one of the armed men wearing Cafgu uniform although he has no other documents to show that he was not in Ampatuan Municipality, specifically in the hilly portion of Sitio Masalay on November 23, 2009.

Testimony of accused Taya M. Bangkulat

TAYA M. BANGKULAT appeared in court on May 04, 2017. Based on his ***Judicial Affidavit*** marked as ***Exhibit "3" and sub-markings,*** he confirmed that he was with accused Salik S. Bangkulat planting corn in Brgy. Simsiman, Pigcawayan, North Cotabato on November 23, 2009, from 8:00 a.m. to 3:00 p.m. He further testified that they never left said place on said date.

On cross examination, he confirmed that aside from the Barangay Certificate, he has no other document to prove that indeed on November 23, 2009, they reported to the owner of the land, Brgy. Chairman Rex Maliga. He confirmed that Chaiman Rex T. Maliga was not with him all throughout the whole day of November 23, 2009. He affirmed that he stated in his Booking and Information Sheet that he resided in Tambak, Sultan Kudarat because they evacuated in that place before he was arrested. He said that he does not know state witnesses Sukarno Badal, Esmail Kanapia, Haical Mangacop and Norodin Mauyag, and whether his brother knows any of said witnesses. He also said that these witnesses had no personal grudge against his brother Salik Bangkulat

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[799] Accused Salik S. Bangkulat testified on March 30, 2017.

when they testified and pointed to him as one of the conspirators in the execution of the Maguindanao massacre.

Witness for accused Mohamad T. Datumanong a.k.a. Nicomedes A. Tolentino:
(IDENTIFIED)
(DEFENSE: MISTAKEN IDENTITY and ALIBI)

1. Accused Mohamad T. Datumanong *a.k.a.* Nicomedes A. Tolentino – He claimed that he was in Glan, Sarangani on November 23, 2009, and that he was mistaken as Mohamad T. Datumanong.

Testimony of accused Mohamad T. Datumanong a.k.a. Nicomedes A. Tolentino

MOHAMAD T. DATUMANONG a.k.a. NICOMEDES A. TOLENTINO appeared in court on April 20, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** witness testified that on November 23, 2009, he was in Brgy. Small Margus, Glan, Saranggani. He was waiting for the vehicle which will fetch them in going to Poblacion Glan, Saranggani as they were going to join the motorcade of Manny Pacquiao who just won a fight then and planning to run as congressman. After he was fetched at 7:00 a.m., they proceeded to Poblacion of Glan. Upon arrival thereat, they waited at the plaza for Manny Pacquiao to arrive. When the latter arrived, he went around the town together with Jinky Pacquiao and other politicians, and then he went up the stage and held a program.

He further testified that he did not finish the program because he has to go back to their barangay to drive "habal-habal". He started driving at 2:00 p.m. and finished around 5:00 p.m. Thereafter, he went home to their house at Brgy. Small Margus, Glan, Saranggani, rested and slept that night. He presented a ***Certification*** marked as ***Exhibit "2".*** He denied any involvement in these cases because he never left Glan, Saranggani on said date and further claimed that he was mistaken as Mohamad T. Datumanong.

On cross examination, witness confirmed that the address stated in his Booking and Information Sheet, was Barangay Kauran, Ampatuan, Maguindanao, but he denied that that his occupation was a security escort as stated therein. He only knew Esmail Enog and Sukarno Badal when they testified in court and he confirmed that he had no any ill motive against them. When showed the Certification attached to his Judicial Affidavit, he affirmed that some of the signatories therein were his close friends and relatives.

On re-direct examination, he admitted that he did not thoroughly read the Booking Sheet and it was not explained to him before

he signed it. He was not personally the one who filled it up, he just signed it.

Witness for accused Samaon M. Andatuan:
(IDENTIFIED)
(DEFENSE: DETAINED)

1. Accused Samaon M. Andatuan – He claimed that he was detained on November 23, 2009 at Shariff Aguak District Jail.

Testimony of accused Samaon M. Andatuan

SAMAON M. ANDATUAN[800] initially appeared in court on May 17, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** witness testified that on November 23, 2009, he was detained because of a Complaint of a certain Mohamad Guilay Sakal. He was detained from October 18, 2009 until December 24, 2009. He presented an ***Affidavit*** executed by Mohamad Sakal marked as ***Exhibit "2"*** and a ***Certification*** from the Shariff Aguak District Jail that he was indeed detained during said period which was marked as ***Exhibit "3".***

Witness was presented for additional direct examination on July 04, 2018, to testify further on the aforesaid Affidavit of Mohamad Sakal. He recalled that he handed the original copy of the said Affidavit to his former counsel, Atty. Real. After him, his next counsel was Atty. Marohombsar and he was not sure if all documents were forwarded to the former.

During cross examination on May 17, 2017, witness confirmed that he was detained from October to December 2009 because he went berserk in the market as he was drunk. He also confirmed that there was no court order and Information attached to his affidavit. There was also no criminal case number written in the aforesaid Certification. He denied that he was a member of the CVO of the Ampatuans despite the Booking and Information sheet from the case record showing his personal information stating that his membership civilian organization was Ampatuan group. He recalled that Sukarno Badal pointed to him in court, but he did not know Badal and the reason why the latter pointed to him in court.

On re-direct examination on May 17, 2017, he said that he was jailed because of the criminal charge filed against him by Mohamad Guilay Sakal and that was his penalty or punishment. He denied being a member of the CVO Ampatuan group.

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[800] Accused Samaon M. Andatuan testified on May 17, 2017.

On re-cross examination on even date, he agreed with the State prosecutor that there was no court order requiring him to be detained or ordering him to be detained attached to his Judicial Affidavit.

As additional cross examination on July 04, 2018, witness confirmed that the Complaint was for Alarms and Scandal and it did not state that he was incarcerated.

Witness for accused Rakim Amil a.k.a. Rakim Kenog:
(IDENTIFIED)
(DEFENSE: DRIVING A PASSENGER MOTORCYCLE)

1. Accused Rakim Amil *a.k.a.* Rakim Kenog – He claimed that he was in Poblacion, Shariff Aguak, Maguindanao driving his passenger motorcycle on November 23, 2009.

Testimony of accused Rakim Amil a.k.a. Ramil Kenog

RAKIM AMIL a.k.a. RAKIM KENOG[801] appeared in court on May 18, 2017. Based on his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** witness testified that on November 23, 2009, he was driving a public utility motorcycle from 8:00 a.m. until 11:00 a.m. in Poblacion, Shariff Aguak, Maguindanao when his co-drivers told him to stop because something happened in Ampatuan, Maguindanao. He felt afraid so he stopped driving at 11:00 a.m. and just went home and stayed in Sitio Inalinan, Brgy. Tuayan, Shariff Aguak, Maguindanao. He denied the accusations against him.

On cross examination on even date, he confirmed that he was just in the Poblacion of Shariff Aguak, Maguindanao plying his route as tricycle driver on November 23, 2009. He affirmed that he grew up in Maguindanao, but he did not know if Ampatuan Municipality is just beside Shariff Aguak. He also confirmed that his Judicial Affidavit has no attachment whatsoever.

On re-direct examination on same date, witness said that before he affixed his signature in his Judicial Affidavit, the same was thoroughly explained to him by counsel.

Witnesses for accused Jimmy Ampatuan:
(DEFENSE: ALIBI)

1. Accused Jimmy Ampatuan – He claimed that he conducted a "kanduli" on November 23, 2009 in Brgy. Old Maganoy, Datu Abdullah Sangki, Maguindanao.

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[801] Accused Rakim Amil *a.k.a.* Rakim Kenog testified on May 18, 2017.

2. Marbawi S. Hasim – He was one of the visitors in the "kanduli" conducted by accused Jimmy Ampatuan on November 23, 2009.

Testimony of accused Jimmy Ampatuan

JIMMY AMPATUAN appeared in court on February 28, 2018. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** where he testified that on November 23, 2009 from 8:00 a.m. till 4:00 p.m., he conducted a "Kanduli" for his child Bai Najima in front of their house together with several barangay officials in Brgy. Old Maganoy, Datu Abdullah Sangki, Maguindanao. He said that he was then the Barangay Captain of said barangay. After the kanduli, he just stayed in their house and never left because he was very exhausted. He denied any involvement in these cases.

On cross examination, he confirmed that he has no documentary evidence such as pictures to prove that he performed "kanduli" (baptismal rites) on that day. He also confirmed that the town of Ampatuan is adjacent to Datu Abdullah Sangki and would only take around 1 to 2-hour travel. He thought that he was included in this case because of his last name and because of politics. He mentioned that he has several siblings who are also surnamed Ampatuan, but they were not included in the charge in this case.

On re-direct examination, he said that he was not able to take pictures of the "kanduli" because they did not request for a photographer and because their place was in a remote area and the road was rough. He also said that it was only him and a brother who were politicians at that time. When asked by the court what was the position of his brother, he answered that his brother Zaydi Ampatuan was a Brgy. Kagawad of Brgy. old Maganoy, Datu Abdulla Sangki, Maguindanao.

Testimony of witness Marbawi S. Hasim

MARBAWI S. HASIM appeared in court on April 04, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "3" and sub-markings,*** he alleged that on November 23, 2009 from 8:00 a.m. to 4:00 p.m., he attended the *kanduli* conducted by accused then Barangay Captain Jimmy Ampatuan for his daughter Bai Najima at the latter's house.

On cross examination on even date, witness confirmed that he was appointed as Barangay Treasurer sometime in 2002 and it was accused Jimmy Ampatuan who appointed him. He also said that he was not familiar with Ampatuan Municipality. He affirmed that the parents or any person can leave while conducting *kanduli*.

On re-direct examination, he said that accused did not leave the occasion from 8:00 a.m. to 4:00 p.m. as the accused attended to his visitors.

On re-cross examination, the place where the "kanduli" was conducted was an open space, and the witness described it as one and half of the court room. He also said that more or less one thousand visitors attended the "kanduli." He cannot remember the color of the dress of the accused at that time. He said that he did not see the accused all the time and they were not together from 8:00 a.m. to 4:00 p.m.

Witness for accused Nasser Malaguia a.k.a. Ramon Dadulo: (DEFENSE: MISTAKEN IDENTITY and Alibi)

1. Accused Nasser Malaguia *a.k.a.* Ramon Dadulo – He claimed that he was repairing his house in Sitio Tugal, Brgy. Daan Suyan, Saranggani Province on November 23, 2009. He said that his real identity is Ramon Dadulo based on his Philhealth I.D. and not Nasser Malaguia.

Testimony of accused Nasser Malaguia a.k.a. Ramon Dadulo

NASSER MALAGUIA a.k.a. RAMON DADULO appeared in court on March 07, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** he alleged that on November 23, 2009, he was repairing his house in Sitio Tugal, Brgy. Daan Suyan, Saranggani Province when Barangay Chairman Herminido Ulog passed by and saw what he was doing. While fixing his house that day at around 7:00 a.m., he was fetched by Mrs. Elina Mante to seek treatment as she was sick since the accused was a healer in their place. After he finished treating Mrs. Mante at around 4:00 p.m., he went home to continue fixing their house. He no longer left since then. He denied that he is Nasser Malaguia and claimed that his real identity is Ramon Dadulo based on his ***Philhealth I.D.*** marked as ***Exhibit "2"*** and the ***pictures*** he attached marked as ***Exhibits "3" and "4".*** He also claimed that none of the prosecution witnesses pointed at him in court.

On cross examination, he confirmed that Brgy. Captain Herminido Ulog did not live in his house and did not know his daily activities because the latter was only passing by that day. He said that he had no formal training to become an "*arbularyo*". He affirmed that the picture itself does not state any date when it was taken. Since the time he was arrested, he never filed any charges or complaints against those who arrested him.

Witness for accused Manny U. Ampatuan:
(IDENTIFIED)
(DEFENSE: MISTAKEN IDENTITY and ALIBI)

1. Accused Manny U. Ampatuan – He claimed that he was on duty as a watchman on November 23, 2009 at the Municipal Hall of Datu Saudi Ampatuan.

Testimony of accused Manny U. Ampatuan

MANNY U. AMPATUAN appeared in court on September 06 and November 09, 2017. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** He testified that on November 23, 2009, he reported for work as a watchman at the Municipal Hall of Datu Saudi Ampatuan. He attended the flag ceremony at 7:00 a.m. then proceeded to his duty which ended at 5:00 p.m. that day. As proof, he presented his ***Certification*** and ***Watchman ID*** marked as ***Exhibits "2"[802] and "3", respectively.*** He denied the testimony of Lakmodin Saliao that he was in the house of Andal Ampatuan Sr. on November 17, 2009 and at the latter's farm on November 22, 2009 to attend meetings because on the earlier date, he claimed that he was on duty as a watchman while on November 22, 2009, which was a Sunday, he was at home playing basketball.

On his cross examination, he agreed that since the Certification did not provide the date within which he was actually employed, he cannot prove that he was indeed an employee of the Municipality of Datu Saudi Ampatuan in the year 2009. He also agreed that there was nothing in his ID that will prove that he was an employee in the year 2009. He said that he does not know Akmad Abubakar, Norodin Mauyag and Lakmodin Saliao and of any reason why they pointed at him in court.

On his re-direct examination, in his Certification it was stated that the approval date was October 17, 2005, which was also the same day he actually reported and started his duty as a watchman.

When asked by the court if he had any bundy clock or daily time record, witness answered in the affirmative. However, he said that he cannot produce any document to show that he reported on November 23, 2009 because the mayor was already replaced.

Witness was also asked why he was having a hard time producing the bundy card, to which he answered that because there has been a change of Mayor, perhaps the documents were already lost.

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[802] This document was not admitted as it was merely a photocopy. *See* Order dated March 21, 2018.

Witness also presented and identified his Daily Time Record (DTR) dated November 23, 2009 marked as Exhibit "4" and sub-markings. He also showed the Appointment Paper from Civil Service Commission marked as Exhibit "5" and sub-marking.

On additional cross examination, he confirmed that the DTR did not bear any mark that it was indeed received by the Personnel Division of the Municipality of Datu Saudi. Aside from his DTR, he has no other evidence to prove that he was still employed in the month of November 2009 as a watchman of said municipality.

Witnesses for accused Armando O. Ambalgan a.k.a. Omar Bulatukan Kayansang:
(IDENTIFIED)
(DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Armando O. Ambalgan *a.k.a.* Omar Bulatukan Kayansang – He claimed that he was planting rice on November 23, 2009 in Sitio Langkuno, Poblacion Paglat, Maguindanao. He denied that he is Armando Ambalgan. He claimed that his real identity is Omar Bulatukan Kayansang.

2. Victor Basilon Kubong – He claimed that he was with the accused on November 23, 2009 planting rice in Sitio Langkuno, Poblacion Paglat, Maguindanao.

Testimony of accused Armando O. Ambalgan a.k.a. Omar Bulatukan Kayansang

ARMANDO O. AMBALGAN a.k.a. OMAR BULATUKAN KAYANSANG appeared in court on October 25, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***, he testified that on November 23, 2009 from 6:30 a.m. until 11:00 a.m., he was in Sitio Langkuno, Poblacion Paglat, Maguindanao, planting rice with his companions Victor Basilon Kubong and Ronnie Kubong. Thereafter, he went home and ate lunch. He just stayed in their house until night. He claimed that there was no instance that he went outside of their place on said day. He also claimed that he never used the name Armando Ambalgan.

On cross examination, he stated that he is not the accused Armando Ambalgan, and that his name is Omar Bulatukan Kayansang. He was born and lived in Sitio Langkuno, Poblacion Paglat, Maguindanao. Since birth until present, he does not know Shariff Aguak. He does not know Esmael Kanapia and why he pointed at him, but he insisted that he is not Armando Ambalgan. He claimed that the land he was tilling was owned by his father, Omar Kayansang.

On re-direct examination, he reiterated that he was with Victor Kubong and Ronnie Kubong while planting rice on November 23, 2009.

Testimony of witness Victor Basilon Kubong

VICTOR BASILON KUBONG appeared in court on November 09, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit* "2" and sub-markings,** he confirmed that on November 23, 2009 from 6:30 a.m. until 11:00 a.m., accused and Ronnie Kubong were with him in Sitio Langkuno, Paglat, Maguindanao, planting rice. Subsequently, they went home to their respective houses. There was no instance that he saw the accused left their barangay on said date.

On cross examination, he testified that it was the father of the accused who asked him to plant rice on that day because he will be paid for his labor. He stated that he has no documentary evidence to prove that he indeed planted rice on November 23, 2009 with the accused. Since, they did not live in the same house, he did not know accused's every move especially when the latter is inside their house. He claimed that he has no documentary evidence to prove that the accused was with him on November 23, 2009. He never went to Shariff Aguak all his life.

Witness for accused Fahad W. Utto a.k.a. Richard Y. Gofel: (IDENTIFIED) (DEFENSE: MISTAKEN IDENTITY & SELLING FISH)

1. Accused Fahad W. Utto *a.k.a.* Richard Y. Gofel – He claimed that he was selling fish at Purok 4, Buayan, General Santos City, on November 23, 2009. He claimed that his name is Richard Gofel and not Fahad W. Utto.

Testimony of accused Fahad W. Utto a.k.a. Richard Y. Gofel

FAHAD W. UTTO a.k.a. RICHARD Y. GOFEL[803] appeared in court on March 07, 2018. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-*****markings.** He testified that on November 23, 2009 from 7:00 a.m. until 4:00 p.m., he was at Purok 4, Buayan, General Santos City, selling fish. Thereafter, he already went home and stayed therein until evening. He denied that he is Fahad Utto. He insisted that his real identity is Richard Gofel based on the ***pictures*** he presented marked as ***Exhibit "2".***

On cross examination, he admitted that he did not attach any identification card in his Judicial Affidavit. He affirmed that the pictures he attached did not state any date. After he was arrested, he hired the

[803] Accused Fahad W. Utto *a.k.a.* Richard Y. Gofel testified on March 07, 2018.

services of Atty. Gevieso who filed a Motion to Quash Warrant of Arrest. A certain Rene Mangay executed an Affidavit attached to the People's Comment to the Motion to Quash stating that Richard Gofel and Fahad Utto are one and the same and that he was a CVO of the Ampatuans, but he said that he did not know Rene Mangay. Said Motion was denied by the court and he did not ask his lawyer to file another motion to reconsider the court's order.

Witness for accused Edris Tekay Nanding a.k.a. Ebrahim S. Kakob:
(DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Edris Tekay Nanding *a.k.a.* Ebrahim S. Kakob – He claimed that he was farming the whole day on November 23, 2009 in Brgy. Malatimun, Datu Abdullah Sangki, Maguindanao. He denied that he is Edris Tekay Nanding. He also claimed that his real identity is Ebrahim Kakob based on his Voter Certification.

Testimony of accused Edris Tekay Nanding a.k.a. Ebrahim S. Kakob

EDRIS TEKAY NANDING a.k.a. EBRAHIM S. KAKOB appeared in court on March 21, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***, he testified that on November 23, 2009 from 6:30 a.m. to 11:30 a.m., then from 1:30 p.m. to 5:00 p.m, he was farming in a field using "bao-bao" (Kubota) in Brgy. Malatimun, Datu Abdullah Sangki, Maguindanao. He stayed in their place and never had the chance to leave that day. He denied the accusations against him. He claimed that he was mistaken as Edris Tekay Nanding, but he insisted that his real name is Ebrahim S. Kakob based on the ***Voter Certification*** marked as ***Exhibit "2"*** and the ***pictures*** he attached marked as ***Exhibit "3".*** He also claimed that no prosecution witness identified him in court.

On cross examination, he confirmed that the address written in his Voter Certification, which is Malatimon, is in Ampatuan, Maguindanao. He also affirmed that in said Certification, Comelec did not ask for aliases. He did not know that Ampatuan, Maguindanao, was the place where the massacre occurred.

On re-direct examination, he clarified that Malatimon is actually located in the town of Ampatuan, and the Mayor at the time he registered as a voter was Datu Abdullah Sangki.

Witness for accused Maot Bangkulat a.k.a. Benjie Dagendengan:
(DEFENSE: MISTAKEN IDENTITY & ALIBI)

1. Accused Maot Bangkulat *a.k.a.* Benjie Dagendengan – He claimed that he was in Brgy. Mini-Forest, Davao City from November 21 to 23, 2009. He further claimed that he is not Maot Bangkulat, but his real identity is Benjie Dagendengan based on his documents.

Testimony of accused Maot Bangkulat a.k.a. Benjie Dagendengan

MAOT BANGKULAT a.k.a. BENJIE DAGENDENGAN appeared in court on March 22, 2018. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** He testified that from November 21 to 23, 2009, he was in Brgy. Mini-Forest, Davao City, taking a rest at a house rented by his friend Abdul Kamal, who was helping him look for a job. He never went out of said place. He denied that he is Maot Bangkulat and claimed that his real identity is Benjie Dagendengan as indicated in his ***NBI Clearance*** marked as ***Exhibit "2"*** and based on the ***pictures*** he attached marked as ***Exhibit "3".*** He also claimed that no prosecution witness identified him in court.

On cross examination, witness narrated that he was born in Datu Montawal, Maguindanao, and has been living there since he was 10 years old. He also said that he lived in Tandang Sora, Quezon City, from 2005 to 2008. Aside from his bare allegation, he has no other documentary proof or basis to support his claim that he is indeed in Davao from November 21 to 23, 2009. He cannot answer the distance between Davao and Ampatuan because he has never been to Ampatuan. He has no actual participation in taking of the photograph of the alleged Maot Bangkulat, and he has no personal knowledge of the alleged death of a certain Maot Bangkulat, but it was his parents who knew about it so they gathered the latter's Death Certificate and picture for the accused to submit in court.

On re-direct examination, he claimed that he was with his sibling when he transferred to Tandang Sora, Quezon City. He was single in 2005, and it was his sister who resides in Tandang Sora and who asked him to move to said place to look for work. After he was arrested, Atty. Marohombsar informed him that he will serve as his lawyer because he had no lawyer at that time. He did not tell his defense to said counsel for the first time. He remembered one time that his lawyer approached him and asked him if he has a defense that can help him. He told him that he has cousins who could testify for him. The names of his cousin are Mohamiden Manlig and Omar Balatamay.

Witness for accused Norhato Kamino a.k.a. Alfechie Banding:
(DEFENSE: MISTAKEN IDENTITY & WORKING IN ANOTHER PLACE)

1. Accused Norhato Kamino *a.k.a.* Alfechie Banding – He claimed that he was on duty as Area Leader of Phela Resources Corporation ITP-Fruits Division in Purok Pao-pao, Brgy. Sinawal, General Santos for eight (8) hours on November 23, 2009. He also claimed that he is not Norhato Kamino and that his real identity is Alfechie Banding based on the documents he presented.

Testimony of accused Norhato Kamino a.k.a. Alfechie Banding

NORHATO KAMINO a.k.a. ALFECHIE BANDING appeared in court on March 22, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***, he testified that on November 23, 2009, he was on duty as Area Leader of Phela Resources Corporation ITP-Fruits Division located in Purok Pao-pao, Brgy. Sinawal, General Santos City, supervising employees from 6:00 a.m. until 11:00 a.m. and from 1:00 p.m. to 4:00 p.m. He was on duty for more or less eight (8) hours. As proof that he was indeed on duty on said day, he presented his ***Company ID*** marked as ***Exhibit "2"*** and the ***Daily Manning and Transaction Report*** marked as ***Exhibit "3" and sub-markings.*** He never left said place on that day. He claimed that he was mistaken as Norhato Kamino when the truth is his real identity is Alfechie Banding. He also showed *side by side pictures* of him and a certain Norhato Kamino marked as ***Exhibit "4".*** He also emphasized that no prosecution witness pointed him in court.

On cross examination, he was asked if he has other proof to support his real identity like Birth Certificate or any document, and he answered in the affirmative. He presented his Voter's Certificate, school records, baptismal certificate, and a document dated December 03, 2007 an Appointment signed by Barangay Captain Sanchez. He confirmed that his Birth Certificate was registered late because he is a "Lumad". The original copies of the documents he presented were all in the possession of Atty. Marohombsar.

Accused's counsel sought for the marking of the following documents, *viz:* ***Voter's Certification*** marked as ***Exhibit "5"; Certification by Barangay Captain Sanchez*** marked as ***Exhibit "6"; Baptismal Certificate*** marked as ***Exhibit "7"; Diploma or "Katunayan"*** marked as ***Exhibit "8"***;[804] ***Certification*** *from Barangay Kruz, Glan, Saranggani* marked as ***Exhibit "9"***;[805] ***Purok Certification***

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[804] This document was not admitted as evidence for the accused as the same is a mere photocopy. *See* Order dated May 10, 2018.
[805] *Id.*

issued by Barangay Secretary marked as ***Exhibit "10";*** [806] and ***Certificate*** *of Employment from Phela Resources Corp. ITP Division* marked as ***Exhibit "11".***

Witness for accused Denga Mentol a.k.a. Ronnie Ofong:
(DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Denga Mentol *a.k.a.* Ronnie Ofong – He claimed that he was feeding hogs and weeding his cornfield on November 23, 2009 in Glan, Saranggani. He denied that he is Denga Mentol and claimed that his real identity is Ronnie Ofong based on his Voter I.D. and Certificate.

Testimony of accused Denga Mentol a.k.a. Ronnie Ofong

DENGA MENTOL a.k.a. RONNIE OFONG appeared in court on April 11, 2018. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***, where he testified that on November 23, 2009, he was in Brgy. Cross, Glan, Saranggani Province. He was raising hogs in the morning of said day, then he was weeding out in his cornfield in the afternoon. After he finished his tasks, he went home and rest until evening with his family. He said that he never left since then. He denied that he is Denga Mentol. He claimed that his real identity is Ronnie Ofong as evidenced by his ***Voter's I.D.*** marked as ***Exhibit "2" and sub-marking***, as well as his ***Voter Certification*** marked as ***Exhibit "4" and sub-marking***. He also attached his ***picture*** and that of a certain Denga Mentol who is the real accused in these cases, marked as ***Exhibit "3" and sub-marking***. He also claimed that none of the prosecution witnesses identified him in court.

On cross examination, he said that he was present when the prosecution presented the arresting officers Alvin Leong de Guia and Buhari Manangca Anducan who identified him as Denga Mentol who participated in the murder, but he said that their testimonies were not true. He does not know of any motive or personal grudge on the part of these two (2) witnesses to pinpoint him as a Denga Mentol who is the real accused in these cases. He confirmed that his Voter Certificate was issued six (6) years after the Maguindanao massacre. He confirmed also that on November 23, 2009, he was in the province of Saranggani located in Mindanao.

On re-direct examination, he emphasized that no one from the prosecution eyewitnesses identified him in court. He did not know that Denga Mentol has a reward on his head. His Voter Certification was registered on October 15, 2009 but it was only issued and signed on November 18, 2015 after he was arrested on November 16, 2015. He

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[806] *Id.*

clarified that his Voter's ID was registered a month before the massacre happened.

On re-cross examination, he admitted that it is not reflected in the Certification anything about his job or occupation in November of 2009. Also, said Certification did not prove that he was indeed in the Municipality of Glan, Saranggani at the time of the Maguindanao massacre.

Witness for accused Samsudin M. Daud a.k.a. David A. Olivarez: (DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Samsudin M. Daud *a.k.a.* David Olivarez – He claimed that he was assisting in the burial of his grandmother on November 23, 2009 in Brgy. Nuro, Upi, Maguindanao. He also claimed that his real identity is David Olivarez and not Samsudin Daud based on his Birth Certificate.

Testimony of accused Samsudin M. Daud a.k.a. David Olivarez

SAMSUDIN M. DAUD a.k.a. DAVID OLIVAREZ[807] appeared in court on March 01, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***, he alleged that on November 23, 2009, from 7:00 a.m. until evening, he was in Brgy. Nuro Upi, Maguindanao, helping in the burial of his grandmother who died on November 22, 2009. He stayed in their Barangay and never left on said day. He denied the allegations against him. He said that he was mistaken as Samsudin M. Daud but his real identity is David A. Olivarez based on his **Birth Certificate** marked as ***Exhibit "2"*** and ***pictures*** of one David A. Olivarez and a certain Samsudin M. Daud marked as ***Exhibit "3".***

On cross examination, he confirmed that he was born and is a resident of Upi, Maguindanao, but he does not know where Ampatuan Municipality is located. He did not know who the Governor of Maguindanao was in 2009 as he is not a registered voter. Aside from his testimony, he has no other evidence to prove his defense. He also testified that he was a farmer in November 2009, and sometimes did fishing. He denied that the information written in the Endorsement of the CIDG when he was arrested on October 10, 2010, that he was a member of the CVO of Datu Unsay, Ampatuan, Maguindanao in November 2009. This was the first time that he made a note or a statement regarding his whereabouts on November 22 and 23, 2009, after nine (9) years. He confirmed that other than his denial, his allegation of mistaken identity, birth certificate and the picture that he had presented, he has no other proof that he was mistakenly arrested as Samsudin Daud.

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[807] Accused Samsudin Daud *a.k.a.* David Olivarez testified on March 01, 2018.

Witness for accused Kudza U. Masukat a.k.a. Datu Teng Ibrahim: (DEFENSE: MISTAKEN IDENTITY and ALIBI)

1. Accused Kudza U. Masukat *a.k.a.* Datu Teng Ibrahim – He claimed that he was at home in Brgy. Tamontaka, Datu Odin Sinsuat, Maguindanao, on November 23, 2009. He also claimed that he is not Kudza Masukat and that his real identity is Datu Teng Ibrahim based on his Birth Certificate.

Testimony of accused Kudza Masukat a.k.a. Datu Teng Ibrahim

KUDZA MASUKAT a.k.a. DATU TENG IBRAHIM *appeared in c*ourt on May 18, 2017. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.*** He testified that on November 23, 2009, he was just resting at his house in Southern Philippines Development Authority (SPDA), Brgy. Tamontaka, Datu Odin Sinsuat, Maguindanao. He claimed that he is not Kudza U. Masukat and does not bear such name. He presented his ***Birth Certificate*** that he is Datu Teng A. Ibrahim marked as ***Exhibit "2."*** He also showed the comparison of his ***picture*** with Kudza U. Masukat marked as ***Exhibit "3".***

On cross examination, witness confirmed that he is disputing his identity in these cases and to prove the same, he attached pictures of two (2) different persons which were provided by his wife without any details. But he asked someone to include the details now appearing below the pictures. He is not certain how his wife was able to get these pictures through the internet. He confirmed that his Birth Certificate was only registered after the date of the massacre and it was not him who registered the same. When he was arrested on April 15, 2013, he also affixed his thumbmark in the Booking and Information sheet at the portion of the name: Kudza Masukat Uguia alias Datu Teng Ibrahim alias Mustapha Ibrahim. No one forced him to affix his thumbmark in the Booking and Information Sheet. He also affirmed that there is actually a national road connecting the town of Ampatuan to the town of Datu Odin Sinsuat. He said that he is not familiar with the town of Ampatuan and he never set foot on said place.

On re-direct examination, he clarified that he asked a relative to register his Birth Certificate when he was not yet arrested. He also said that he was not able to read before he affixed his thumbmark on the Booking Sheet because he does not know how to read. There was no explanation given to him in the Booking Sheet, but he was just instructed to put his thumbmark.

Witnesses for accused Takpan Dilon:
(IDENTIFIED)
(WITH REBUTTAL EVIDENCE)
(DEFENSE: FARMING)

1. Accused Takpan Dilon – He testified that he was at their farm in Sitio Masalay, Brgy. Salman, Ampatuan, on November 23, 2009, planting peanuts with his wife and son.

2. Ali K. Dilon - He was presented to corroborate the testimony of his father, accused Takpan Dilon that they were at their farm planting in Sitio Masalay, Brgy. Salman, Ampatuan on November 23, 2009.

Testimony of accused Takpan Dilon

TAKPAN DILON appeared in court on August 24, 2016. In his ***Judicial Affidavit*** marked as ***Exhibit "3" and sub-markings,*** he alleged that on November 23, 2009, he was at their farm planting peanuts with his wife and son in the mountain of Sitio Masalay, Barangay Salman, Ampatuan, Maguindanao, when he heard gunshots at around 11:00 a.m., about 400 meters away from his place. Prior to the gunshots, he noticed a convoy of vehicles and a backhoe going up the hill. He can see the people but cannot recognize them due to distance. He claimed that he did not understand the contents of his ***Sinumpaang Salaysay*** *dated December 05, 2009* which was marked as ***Exhibit "1" and sub-markings,*** before he signed it. He cannot remember if his former counsel, Atty. Marlon Pagaduan assisted him in the execution of his Salaysay. He confirmed that he was a member of SCAA as security of Datu Rasul Sangki.

On cross examination, he denied having knowledge that he admitted in his Sinumpaang Salaysay his participation in these cases and the he knew something about the massacre. He only signed the Sinumpaang Salaysay upon the instruction of Atty. Pagaduan, but he did not read the same. He admitted that immediately after the killing of the victims in these cases, he was arrested together with Esmael Canapia in Sitio Masalay, Brgy. Salman, Ampatuan, and at the time they were arrested, they were carrying firearms, an M16 and a shotgun but denied that they used the same in killing people.

The prosecution marked the *Sinumpaang Salaysay dated December 05, 2009* as its **rebuttal evidence – Exhibit "(18) M".**

On re-direct examination, he confirmed that the Sinumpaang Salaysay was explained by his present counsel when they made his latest Judicial Affidavit.

When asked by the court where did they use the firearms, witness said that they used it when they were guarding the house of their boss, Datu Rasul Sangki. He was not aware that those firearms which were recovered from them tested positive. He was not informed by his Arresting Officers.

Testimony of Ali K. Dilon

ALI K. DILON appeared in court on September 14, 2016. In his ***Judicial Affidavit*** marked as ***Exhibit "4" and sub-markings,*** he testified that he is the son of accused Takpan Dilon. On November 23, 2009, he said that in the early morning of November 23, 2009 while they were in the mountain of Masalay, he saw a convoy of vehicles from a distance. They heard a series of gunshots at noon of that day. They packed up their things, got their Carabao, and went to the hut of his lolo Bapa Salim in the same mountain of Masalay together with his Ama Takpan Dilon, Ina Saya Dilon and Esmail Kanapia. They went down to Poblacion with his mother Saya Dilon using the carabao while his father Takpan Dilon and Esmail Kanapia used a motorcycle and passed by a different way to avoid the muddy road. Upon reaching Poblacion, someone informed them that Takpan Dilon and Esmail Kanapia were apprehended along the way.

On cross examination, he confirmed that he is under the Witness Protection Program and his counsel, Atty. Gay did not inform him of the consequences of his testimony in favor of his father. He was only ten (10) years old when the massacre happened. He also confirmed that Takpan Dilon and Esmael Kanapia were with them on November 22 and 23, 2009. He had personal knowledge that his father Takpan Dilon and Esmail Kanapia had firearm at that time. He said that when he got separated from his father on that day, he no longer saw his father and Esmael Kanapia.

Witnesses for accused Talembo "Tammy" Masukat a.k.a. Talembo Kahar Abdulrahman:
(IDENTIFIED)
(DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Talembo "Tammy" Masukat *a.k.a.* Talembo Kahar Abdulrahman – He claimed that he is not Talembo "Tammy" Masukat, and that his real identity is Talembo Kahar Abdulrahman. He further claimed that he was in his farm in Barangay Limpongo, Datu Hoffer Municipality, Maguindanao on November 23, 2009.

2. Guiaria Abiden Abdulrahman – She is the wife of accused Talembo "Tammy" Masukat *a.k.a.* Talembo Kahar Abdulrahman and she corroborated the testimony of said accused.

3. Norodin Lindongan – He was one of the workers at the farm of the accused Talembo "Tammy" Masukat *a.k.a.* Talembo Kahar Abdulrahman who was present while farming in Brgy. Limpongo, Datu Hoffer, Maguindanao, on November 23, 2009 and saw the accused at said place.

Testimony of accused Talembo "Tammy" Masukat a.k.a. Talembo Kahar Abdulrahman

TALEMBO "TAMMY" MASUKAT a.k.a. TALEMBO KAHAR ABDULRAHMAN appeared in court on September 28, 2016. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***.

He testified that he is not the person charged as Talembo "Tammy" Masukat in the above-entitled cases. His real name is Talembo Kahar Abdulrahman. As proof of his identity, he presented the following documents: a) ***Birth Certificate*** marked as ***Exhibit "2" and sub-markings;*** b) ***Voter Certification*** marked as ***Exhibit "3" and sub-markings;*** c) ***GSIS Certificate of Membership*** marked as ***Exhibit "4" and sub-markings;*** d) ***Panunumpa sa Katungkulan*** marked as ***Exhibit "5" and sub-marking;*** e) ***Service Record*** *dated June 11, 2008* marked as ***Exhibit "6" and sub-marking;*** f) ***DILG Certification*** *dated February 18, 2013* marked as ***Exhibit "7" and sub-marking;*** g) ***Office of the Municipal Local Government Operations Officer, Municipality of Mamasapano Certification*** *dated February 15, 2013* marked as ***Exhibit "8" and sub-marking;*** and h) ***MILF Basic Military Training Course Certificate*** marked as ***Exhibit "9".***

He further testified that on November 23, 2009, he was in Barangay Limpongo, Datu Hofer Municipality, Maguindanao, supervising the workers in his farm from 7:00 a.m. until 5:00 p.m. He went home to Poblacion Mamasapano, Maguindanao after supervising his farm.

On cross examination, he clarified that as per his Birth Certificate, he was born in Maganoy, Maguindanao which was the former name of Shariff Aguak. He narrated that when he was arrested, he was only forced to put his fingerprint/signature on the Booking and Information Sheet, but he confirmed all the details written therein. He also confirmed that he was identified by Sukarno Badal when the latter testified on May 21, 2014. It was the first time he saw Sukarno Badal. He denied the testimony of Badal that he was one of the commanders who participated in the killing of the victims. He remembered that on that particular hearing, Sukarno Badal testified and identified him as Talembo "Tammy" Masukat a.k.a. Talembo Abdulrahman, Talembo Ampatuan and Talembo Abotasil. He did not know of any personal grudge that Sukarno Badal is harboring against him to pinpoint him. He confirmed that no document coming from the Municipality of Mamasapano or the barangay

in Mamasapano where he resided at that time that his name is Talembo Kahar Abdulrahman and not Talembo "Tammy" Masukat.

On re-direct examination, he reiterated that he was forced to sign the booking sheet, but he was not the one who supplied those information written on the document.

On re-cross examination, he affirmed that despite knowing how to read and write, he just affixed his signature in the Booking and Information Sheet because he was asked by the investigator to just affix his signature therein because the latter said there was nothing in that document.

Testimony of Guiaria Abiden Abdulrahman

GUIARIA ABIDEN ABDULRAHMAN appeared in court on October 20, 2016. In her ***Judicial Affidavit*** marked as ***Exhibit "12" and sub-markings***, she corroborated the testimony of her husband, accused Talembo "Tammy" Masukat *a.k.a.* Talembo Kahar Abdulrahman that on November 23, 2009, they were at their farm in Brgy. Limpongo, Datu Hoffer, Maguindanao farming from 7:00 a.m. till 5:00 p.m. She denied the allegations against her husband and that the latter is not Talembo "Tammy" Masukat.

On cross-examination*,* witness testified that she has no proof as to their marriage because it was the practice of Muslims that they do not have Marriage Certificates. She said that her husband was a former councilor of Mamasapano, but she cannot recall when. She admitted that the accused was an affiliate or member of the political party of the Ampatuans, but he was not close to them. It was stipulated by the parties that the witness' Voter I.D. was registered on 2010. She confirmed that she has no documents to prove her testimony. She testified that from their place, Ampatuan Municipality is farther than Shariff Aguak, and that she had never been to Ampatuan. She also said that she did not know the Mangudadatus. She confirmed that her husband did not have any firearms when he was arrested.

Testimony of Norodin Lindongan

NORODIN LINDONGAN[808] appeared in court on November 10, 2016. For his direct testimony, he executed a ***Judicial Affidavit*** marked as ***Exhibit "13" and sub-markings.*** He testified that on November 23, 2009 at around 6:00 a.m., he was on his way to the farm of accused Talembo Kahar Abdulrahman when he saw the latter in his house. After an hour, he saw the accused and his wife Guiaria Abdulrahman arrived at the farm located in Brgy. Limpongo, Datu Hoffer,

[808] Norodin Lingongan testified on November 10, 2016.

Maguindanao. They finished at 5:00 p.m. that day and he never saw the accused left because the latter was supervising his farmers.

On cross examination, witness confirmed that there were no other documents attached to his affidavit to support his statements. He said that he did not receive any payment from the accused as a farmer. When asked by the court where was the accused when he left at 5:00 p.m., he answered that the accused was still in the farm supervising other farmers as the witness left ahead of the others because he had to catch the evening prayer. He also said that they were more than 10 but less than 15 present thereat.

On re-direct, witness explained that he did not receive payments from the accused because he only worked during harvest season and he was given a share on the harvest which would serve as his compensation.

On re-cross, witness was asked to identify his employer in open court and he touched the shoulder of a person who identified himself as Talembo Kahar Abdulrahman. He further said that he did not know of any other name of the accused, and that the accused did not use other names.

Witness for accused Zacaria P. Akil a.k.a. Quago Pagalad Akil / Quago Pama Akil / Tintingan Kamad Makaalay
(IDENTIFIED)
(DEFENSE: MISTAKEN IDENTITY & FARMING)

1. Accused Zacaria P. Akil a.k.a. Quago Pagalad Akil / Quago Pama Akil / Tintingan Kamad Makaalay – He claimed that his real name is Quago Akil, and he was at a farm in Barangay Datu Hoffer Municipality, Maguindanao, on November 23, 2009.

Testimony of accused Zacaria P. Akil a.k.a. Quago Pagalad Akil / Quago Pama Akil / Tintingan Kamad Makaalay

ZACARIA P. AKIL a.k.a. QUAGO PAGALAD AKIL / QUAGO PAMA AKIL / TINTINGAN KAMAD MAKAALAY appeared in court on March 15, 2017. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings***, he alleged that his real name is Quago Akil. On November 23, 2009, he was at a farm near the Maguindanao Hospital in Datu Hoffer, Maguindanao. They were plowing the farm using a tractor from 8:00 a.m. until 6:00 p.m. Thereafter, he went home in Poblacion, Shariff Aguak, Maguindanao. He was with a certain Macky, but the latter is already dead. He denied any involvement in these cases.

On cross examination, he testified that he does not know the owner of the corn farm they were tilling, and he did not bother to know who the owner is. He was only asked by Macky to accompany him. It was Macky who paid his salary and there were no other helpers who can

corroborate his testimony. He confirmed that in November of 2009, he was residing in Shariff Aguak, which is very near the town of Ampatuan, Maguindanao. He said that Datu Hoffer is quite far from Ampatuan, MAguindanao, and he cannot estimate the distance between these places. He said that he has never been in Ampatuan but just happened to pass by the said town when he went to Tacurong. He does not know prosecution witness Akmad Abubakar Esmael and he did not hear the testimony of the latter implicating him as one of those who participated in the massacre. He also does not know prosecution witness Sukarno Badal, and he denied the latter's testimony pinpointing him as one of the participants in the massacre cases. He does not know of any ill motive or personal grudge that Sukarno Badal might be harboring against him at that time when he testified and pointed to him as one of the participants.

Witness for accused Abedin Alamada:
(IDENTIFIED)
(DEFENSE: ALIBI)

1. Accused Abedin Alamada – He was a commander of the CAFGU in 2009. He claimed that he was in a meeting with Datu Unsay and other Sangguniang Bayan members on November 23, 2009. He denied that he attended any meetings with the Ampatuans where the plan to kill the Mangudadatus was discussed.

Testimony of accused Abedin Alamada

ABEDIN ALAMADA appeared in court on January 24 and February 14, 2018. For his direct testimony, he executed his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings.***

In his *Judicial Affidavit*, he admitted that his alias is "Kumander Bedi" because he was a commander of the CAFGU. Among the prosecution witnesses who identified him, namely: Sukarno Badal, Thonti Satol Lawani, Akmad Abubakar Esmael and Norodin Zailon Mauyag, he only knew Sukarno Badal, but he denied his testimony that he attended a meeting on July 20, 2009 at Century Park Hotel Manila. He claimed that he was in a farm with his family in Datu Unsay, Maguindanao on said date. He also denied the statement of Badal that he attended the meeting in the house of Datu Unsay on November 21, 2009, and claimed that he was in the aforesaid farm with his family. He denied another statement of Badal which was corroborated by another prosecution witness, Norodin Zailon Mauyag that he was in Crossing Saniag on November 23, 2009 giving instructions to the men while waiting for the convoy of the Mangudadatu to arrive and then proceeded to Sitio Malating. He alleged that he was in the Municipality of Datu Unsay attending a meeting which started from 7:00 a.m. and ended at 1:00 p.m., thereafter he went to a farm located in Brgy. Mata, Datu Unsay. He denied also the statement of Akmad Abubakar Esmael that he was one of those who fired at the victims.

On cross examination, witness confirmed that he was presented as witness for accused Datu Unsay on November 25, 2015, and he testified that they attended a meeting together with other members of the Sangguniang Bayan on November 23, 2009, but he did not attach any documentary evidence to support his contention.

The prosecution adopted the cross-examination they conducted on November 25, 2015, in connection with the presentation of said witness as rebuttal witness for Datu Andal Ampatuan Jr. in his petition for bail.

As additional cross-examination, he confirmed that he was a commander of the CAFGU and he had 88 armed members who were under his care in 2009, but he did not know if they were also charged in these cases. He also confirmed that in 2009, he was armed with an M-14, while his personnel were also armed using long firearms such as M-14, M-16, M-203 and Garand. He denied that he was a political ally of the Ampatuan together with Sukarno Badal, but he said that he was an ally of the military which was contrary to his statement on November 25, 2015. He said that he stated back then that he was an ally of the Ampatuans because he alleged that he was under their control. He also testified that he did not know of any personal grudge or ill motive on the part of the prosecution witnesses to pinpoint him as one of the participants in these cases.

Instead of conducting his re-direct examination on February 14, 2018, accused's counsel adopted the ***Judicial Affidavit*** of the accused *dated November 25, 2015* marked as ***Exhibit "2" and sub-markings*** **(Exhibit "18" and sub-markings rebuttal-bail Datu Unsay)** and the ***Minutes of the Meeting*** *dated November 23, 2009* marked as ***Exhibit "3"*** **(Exhibit "17" and sub-markings rebuttal-bail Datu Unsay [provisional])**.[809]

Witness for accused Tho A. Amino:
(DEFENSE: FARMING)

1. Accused Tho A. Amino – He claimed that he was farming in Brgy. Malingaw, Midsayap, North Cotabato, on November 23, 2009.

Testimony of accused Tho A. Amino

THO A. AMINO appeared in court on August 23, 2018. In his ***Judicial Affidavit*** marked as ***Exhibit "1" and sub-markings,*** he testified that on November 23, 2009 from 7:00 a.m. till 5:00 p.m., he was

[809] This document was denied admission as part of accused's evidence for failure of Zainodin M. Ayod, SB Secretary, to authenticate the same. *See* Order dated February 14, 2018, and Order dated December 1, 2016 re: FOE of accused Datu Andal Ampatuan Jr., denying admission of said exhibit for being hearsay.

planting "palay" in Barangay Malingaw, Midsayap, North Cotabato. Thereafter, he went home in the place where he was staying. He denied the allegations against him. He claimed that no prosecution witness identified him in court.

On cross examination, he testified that he worked as a construction worker in Lamsam, Cotabato when he was arrested in January 2018. At that time, he was residing in Sultan Kudarat. He was not aware of Ampatuan, Maguindanao and the massacre. In 2009, he was living in Midsayap, Cotabato. He had not seen the Ampatuan clan pictures posted. He was not aware that Maguindanao was then controlled by the Ampatuan clan. He used to work in a ricefield owned by his uncle located in Midsayap, North Cotabato, and it took him one half hour travel from his residence in Sultan Kudarat, Maguindanao to Midsayap. He confirmed that he has no proof whether documentary or affidavit executed by anyone who will back-up his claim that on November 23, 2009 he was working in said rice field.

Accused Jonathan Ampatuan

Accused Jonathan Ampatuan did not present any evidence. He instead filed a *"Demurrer to Evidence with Waiver to Present Evidence"* on February 6, 2017, but the same was not given due couse as it was filed out of time and sans notice to the prosecution. On February 13, 2017, accused then filed a *"Motion to Submit Case for Resolution"* which was not also given due course for lack of hearing and proof of notice to the prosecution pursuant to the Order dated February 14, 2017. Then on February 23, 2017, accused filed a *"Motion for Reconsideration*," citing among others, the right of the accused to waive his right to present defense evidence. Thus, on May 11, 2017, the court granted said *Motion* and accused was considered to have waived his right to present evidence.[810]

V. OTHERS

Witnesses for accused Bong Andal:
(IDENTIFIED)
(WITH REBUTTAL)

1. Bong Andal – He was the Motor Pool Manager of the Province of Maguindanao, in charge with the heavy equipment. He was the one who brought the backhoe in Crossing Masalay and dug a hole where the vehicles and bodies were buried as instructed by Datu Andal, Sr., Datu Andal, Jr. and Zaldy Ampatuan.

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[810] *See* Order dated May 11, 2017.

2. Monina Macarongon – She was the Department Head of the Provincial Human Resource Management Office (HRMO) of the Province of Maguindanao who testified on the employment records of accused Bong Andal.

Testimony of Bong Andal

BONG ANDAL appeared in court on July 13, 2016, October 27, 2016, and November 08 and 24, 2016. Before he was presented, the parties stipulated that the accused is a former long time employee of former Governor Datu Andal Ampatuan, Sr. as heavy equipment operator, in charge of the heavy equipment and machineries owned by the Province of Maguindanao as exemplified in Exhibit "Decuple C-1" and "Decuple C-2"[811] of the Formal Offer of Evidence of the prosecution which was submitted in August 2015.

For his direct testimony, witness executed his ***Judicial Affidavit*** which was marked as ***Exhibit "1" and sub-markings.*** He testified that he was the motor pool Manager of the heavy equipment of the Provincial Government of Maguindanao. He said that the heavy equipment was owned by the Provincial government, but it was only the Ampatuans who can use them. He held his office at the Petron Gasoline Station owned by then Governor Andal Ampatuan, Sr. He narrated that he and some of his family members were servants of the Ampatuans. He used to work as a gasoline boy and janitor at their gasoline station. Because of his long and loyal service and since Andal "Unsay" Ampatuan, Jr. learned that he has knowledge about heavy equipment, he was appointed as Manager of the motor pool.

He described that the Ampatuans were very close to each other because even if they were busy with their respective works, the children always had meetings with their father, Andal, Sr. He recalled that a few days before November 23, 2009, the Ampatuan family had a meeting at the rest house called "Bagung" located within the compound of the mansion of Andal, Sr. He was present at said meeting because he was called by Andal, Sr. and was ordered to go to said resthouse that time. He identified the following people as present at said meeting: **Andal Ampatuan, Sr., Zaldy Ampatuan, Andal "Unsay" Ampatuan, Jr., other Ampatuan family members, a certain Tamano, Akmad, Datu Kanor Ampatuan, Uztadz Paret, Kagi Milo and other people who were in CVO uniforms.** When he arrived thereat, Andal, Sr. asked him if the backhoe was in good condition and if the gas tank was full to which he answered in the affirmative. He did not know the details of the meeting but he heard that they were discussing about the Mangudadatus. After a few minutes, he asked permission to leave and he was allowed to go.

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[811] Equipment Status Report of the Engineering Office of the Province of Maguindanao, dated June 2009, consisting of two (2) pages.

In the morning of November 23, 2009, he went to the office of the motor pool because they were about to go to Datu Hoffer Ampatuan to continue with the riprapping. He then called **Efren Macanas** and **Pedro Fudolig** because they were the drivers of the backhoe and the prime mover, respectively. He said that the backhoe was always loaded on the prime mover. When they were about to leave at around 9 or 10 in the morning, Andal, Sr. called him and told him to bring the backhoe in Crossing Masalay. After a few minutes, it was Andal "Unsay" Jr. who called him, directing him to hurry up and bring the backhoe in Crossing Masalay as they were waiting for him there. He cannot afford to disobey the Ampatuans because he said that those who disobeyed them were either scold excessively, tortured or even killed.

Thereafter, the witness, together with Pedro Fudolig who drove the prime mover, Efren Macanas who sat at the driver seat of the backhoe, and some other companions, namely: **Torky, Garu, Daly, and Randy,** proceeded to Crossing Masalay. When they were already near, they needed to unload the backhoe from the prime mover because the latter cannot traverse the road going to Masalay since the road was uphill. Pedro and the other companions went back using the prime mover. While the witness and Efren were going towards the place where Andal, Jr. was, they heard a lot of gunshots. They both got scared. Efren hurriedly disembarked from the backhoe and the witness was left alone. He was the only one who drove the backhoe going to Crossing Masalay. While on his way, he came across a police checkpoint at the corner of the highway going to the hill of Masalay. He also came across many armed CVO and policemen.

When he arrived at the hill of Masalay, Brgy. Salman, he met with Andal, Jr. and the latter told him that he should bury the dead bodies and the vehicles left at the place. He agreed to do it but against his will. He had no choice but to obey because he also got scared knowing that Andal, Jr. had a long firearm like a baby armalite or bushmaster with him and there were armed men surrounding him. He described that there were more than 50 dead bodies, some scattered and lying on the ground and some still left inside the 6 vehicles. Andal, Jr. and some of his armed men then left but the group of Datu Kanor Ampatuan remained at the place together with some policemen and members of the military. Thereupon, Datu Kanor ordered him to do what Andal, Jr. told him. They surrounded him, ensuring that he will not escape, and he will do what he was told. Hence, he complied by digging a large hole enough to bury the vehicles and bodies using the backhoe. When the hole was almost full, he covered it with soil to conceal it. While digging the hole, then Regional Governor (RG) Zaldy Ampatuan (Datu Puti) called him and told him: *"Bong, si Datu Puti e-nya. Pakadalem ka-i kakal"* which means, make the hole deeper. Out of fear, he just answered "yes". He said that he really wanted to escape but because he was guarded by armed men, he failed to do so,

and instead, complied with their orders. Thereafter, a certain **Kled A**, a CVO under Datu Kanor, came near him, shouted at him and told him to hurry up his work while pointing a long gun at him. While he was digging for more than an hour, suddenly, the engine of the backhoe stopped. He was not able to finish digging so Datu Kanor and his men threatened him and ordered him to immediately fix the backhoe. He tried fixing it but to no avail. All of a sudden, he heard the sounds of a helicopter and from a distance, he saw soldiers coming towards them. Datu Kanor and his group fled, and so, he also immediately ran away from said place towards the mountains. When it was already nighttime, he went home in Barrio Gandingan and told his wife to get their children because they were leaving the place. He hid in Midsayap out of fear that he will be killed by the Ampatuans especially Andal, Jr because he saw the dead people.

On November 24, 2012, he was arrested and immediately brought to CIDG Camp Crame. He applied to become a state witness which was approved, but it was recalled for reasons unknown to him. He is currently detained at Camp Crame Custodial Center. At said detention center, he was able to mingle with **Lintang Bedol**. He got to know the latter because he was connected with the COMELEC Maguindanao office and he saw him during his visits at the house of the Ampatuans before he was detained. He recalled that during one of their usual morning jogs, around June 2014, Lintang Bedol asked him if somebody will pay him ₱300,000.00 so that he will not point RG (Datu Zaldy), will he accept it, to which he answered in the negative. He told Lintang Bedol that he will not sacrifice his family for money. He asked Bedol who will give him the money in case he agrees, and Bedol said he will. He reitereated that he will not agree and then walked away.

On cross examination by the prosecution on October 27, 2016, witness identified the *Affidavit dated November 28, 2012* which was marked by the **prosecution as its rebuttal evidence – Exhibit "(18) N".** He confirmed that when Datu Andal, Sr. called him and gave his instruction on November 23, 2009, he did not threaten or harass the witness or his family, it was just an ordinary instruction. He said that he was scared if he will not comply with the instruction of Datu Andal, Sr. and Datu Unsay because he already saw evidence that those who disobeyed them were killed in their place. When he was going to the hilly portion of Masalay with Efren Macanas and heard the gunshots, they got scared but he confirmed that there was no real threat or duress yet to him or his family made by Datu Unsay, Zaldy or Andal, Sr. at that time. He said that Efren Macanas was able to escape and ran away and affirmed that the latter was not killed after the incident, in fact, he was able to testify in court in 2012. When asked by the prosecution that at the time that Efren Macanas jumped off the backhoe, witness could also jump off and ran away when no one was pointing a gun at him, he answered that he had no opportunity to do so. Based on his Affidavit dated November 28, 2012, there was no statement that Datu Kanor was guarding him

while burying the bodies, and in fact what was stated therein was that he saw Datu Kanor together with Datu Unsay when they left the place of the incident. But in his present Judicial Affidavit, he said that Datu Kanor and his men were guarding him. When Zaldy called him directing him to dig deeper, witness affirmed that Zaldy was not actually present thereat and that no one was threatening him at that time. He further confirmed that the fear that was created on his mind was the fear that he and his family might be killed by the Ampatuans in the future if he did not follow their orders.

The prosecution requested for the marking of the witness's Judicial Affidavit dated October 27, 2014 as its rebuttal evidence - **Exhibit "(18) O".**

On cross examination by the counsel[812] of accused Datu Zaldy Ampatuan on November 08, 2016, witness testified that it was his family who approached Atty. Torreon to represent him in these cases and it was his family also who paid for the cousel's legal services. He said that he was aware that Atty. Torreon was also the lawyer of Esmael Mangudadatu. He clarified that he was an employee of the province of Maguindanao and not of ARMM. He again confirmed that when Datu Unsay talked to him in Crossing Masalay, the latter was holding his gun but he never pointed the gun at him nor did the latter shout at him or threaten him verbally, yet he was gripped by uncontrollable fear for his and his family's life. He said that it was a certain Kled who pointed a gun at him. He also said that when he received a call while he was digging a hole, RG[813] Datu Zaldy was the one who called him and introduced himself to the witness. He claimed that he was able to hear his phone rang and had conversation with Datu Zaldy because the engine of the backhoe stopped at that time. He also said that there was no one else aside from him to confirm that Lintang Bedol approached him and actually asked him about the ₱300,000.00 bribe.

When cross examined by the counsel[814] of accused Datu Andal "Unsay" Ampatuan, Jr. on November 8, 2016, Atty. Raymond Fortun adopted the cross examination conducted by Atty. Andre De Jesus, counsel of Datu Zaldy Ampatuan, and was allowed by the court to conduct additional cross examination. He was asked to produce documents and identification card which will prove that he was indeed an employee of the Motor Pool. He described that the resthouse in Bagong owned by Andal, Sr. has a mansion and smaller structures like a small hut, but he cannot recall how many. He claimed that during the meeting held in Bagong, it was only Andal, Sr. who talked to him and it was just a brief conversation about the condition of the backhoe. After he was asked

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[812] Atty. Andre De Jesus of EDJC Law Offices.
[813] Regional Governor
[814] Atty. Raymond A. Fortun of Fortun and Santos Law Office.

about it, he immediately left, so he did not know what else transpired during the meeting.

On further cross examination by counsel of accused Datu Unsay on November 24, 2016, witness produced documents pertaining to his employment in the government, such as his Service Record, Certificate of Employment and his Appointment Paper with stamp dated February 23, 2009, which states that he was appointed as a Construction and Maintenance *"capataz"* (means manager in Spanish), a permanent item at the Office of the Provincial Engineer. He confirmed that he has no personal knowledge whether or not Andal, Jr. was involved in the shooting or had ordered the shooting of any of the 58 victims in these cases because when he arrived at the place of incident in Crossing Masalay, there were dead people already. He described that Andal, Jr. was wearing a white round neck shirt and denim pants attire on November 23, 2009. He said that he had no photographs to establish that Andal, Jr. was in fact in Crossing Masalay on November 23, 2009.

On his re-direct examination on November 24, 2016, witness again named those who were present at the meeting at Bagong: **Governor Zaldy Ampatuan, Datu Andal Ampatuan, Jr., Datu Anwar, Datu Sajid and Governor Datu Andal Ampatuan, Sr.** He said that when Efren Macanas left him, he was thinking of running away too but due to fear, he was not able to do so because there were armed men of Datu Unsay and Datu Kanor who were close to the area. The parties stipulated that the distance between him and Datu Unsay when the latter gave his instruction was around three (3) to four (4) meters.

During his re-cross examination by the prosecution on even date, witness confirmed that based on his Service Record, his first entry in the public service was on January 23, 2009. The parties then stipulated that his appointment as construction and maintenance "capataz" was an original appointment and that he was not promoted to that position. He confirmed that when Efren Macanas abandoned him, there were already armed men around surrounding the place. From the place where Efren Macanas left to Crossing Masalay, the distance is only one kilometer away, and there were armed men in said place up to the place where the incident happened.

The witness was also subjected to re-cross examination by the counsel of accused Datu Zaldy Ampatuan. He said that as manager of the motor pool, he handled four (4) backhoes, and in the course of his eight (8) years stint as manager, it was only on November 23, 2009 that he was able to drive a backhoe. The counsel adopted the cross examination of Atty. Raymond Fortun and also the re-cross examination by Chief City Prosecutor Robles.

The counsel of accused Datu Andal "Unsay" Ampatuan, Jr. also adopted the re-cross examination conducted by Atty. Andre De Jesus.

Testimony of Monina K. Macarongon

MONINA K. MACARONGON[815] appeared in court on January 19 and 26, 2017. For her direct testimony, witness executed a ***Judicial Affidavit*** which was marked as ***Exhibit "5".*** At the time she testified, she was the Department Head of the Provincial Human Resource Management Office (HRMO) of the Province of Maguindanao. Among her functions, was being the custodian of the employment records of the employees of said province. She also presented the employment records of accused Bong Andal.

On cross examination by the prosecution on January 26, 2017, the prosecution adopted the following documents as its **rebuttal evidence** marked as follows: 1) ***Personal Data Sheet*** of Bong Andal marked as ***Exhibit "(18) P" and sub-markings* (*Exhibit "5-U" for Bong Andal*);** and 2) ***Application for Leave*** *dated August 05, 2009* marked as **Exhibit "(18) Q" and sub-marking (*Exhibit "5-Z" for Bong Andal*).** Based on the leave form, accused applied for 122 days leave from August 01, 2009 to November 30, 2009. Witness confirmed that the accused was dropped from the rolls only on December 31, 2009. She also confirmed that there is nothing in the records of their office showing that the accused reported back for work after November 30, 2009.

The witness was also subjected to cross examination by counsel[816] of accused Datu Zaldy Ampatuan on even date. Atty. Rachel Abelinde adopted the cross examination conducted by the prosecution. On additional cross examination, the witness confirmed that there were no documents indicating the governmental structure of the Province of Maguindanao and the definition of a "construction and maintenance capataz". She further confirmed that there was no designation as "Manager" of motor pool and heavy equipment under the Province of Maguindanao except Chief of Motor pool Division. She affirmed that there is no document in her office indicating that the accused was Chief of the Motor pool because that was not his position.

The counsel of accused Datu Andal Ampatuan, Jr. adopted the cross-examination propounded by the prosecution and the counsel of Zaldy Ampatuan.

On re-direct examination, witness was able to verify with the accused regarding his educational attainment since he had two (2)

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[815] Monina Macarongon testified on January 19 and 26, 2017.
[816] Atty. Rachel Abelinde of EDJC Law Offices.

Personal Data Sheets (PDS), in the first one, he was an elementary graduate, and the second, he was a high school graduate, and there were two (2) different signatures as well. The accused affirmed that the signatures were all his, but the first PDS was when he was appointed as casual appointee and the entries therein were already filled-up by another employee of the province per instruction of then Governor Datu Andal Ampatuan, Sr. because he only finished grade one.

The witness was asked by the prosecution on re-cross examination, that after the discussion that she had with the accused, the latter did not deny the existence of the PDS marked as **Exhibit "5-U"** where it states that he was a high school graduate.

I S S U E S

In view of the fact that one (1) of the issues raised by some of the accused herein[817] specifically pertains only to the 58th Third Amended Information[818] docketed as Crim. Case No. GL-Q-12-178638, this court deems it proper to tackle first the latter case. The following are the issues raised herein, viz:

I. Whether Reynaldo G. Momay was among those who died on November 23, 2009 incident

II. Whether the accused conspired with each other and committed the crime of murder under Article 248 of the Revised Penal Code, on November 23, 2009, in Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao

III. Whether evident premeditation, superior strength, cruelty, treachery, uninhabited place, by a band with the use of high-powered weapons attended the commission of the crime charged

IV. Whether the accused are liable for damages

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[817] Datu Andal Ampatuan, Sr. (deceased), Datu Andal "Unsay" Ampatuan, Jr., Datu Zaldy Ampatuan, and Abedin Alamada.
[818] Filed by the prosecution on March 04, 2016.

DISCUSSION

The 58th Third Amended Information

After a perusal of the testimonies of the prosecution witnesses, this court finds that the prosecution has established the following relevant facts in relation to the 58th Third Amended Information for murder:

Before November 23, 2009

1. Reynaldo "Bebot" Momay worked as a photo journalist for Midland Review. As such, he would go to press conferences and take pictures for the newspaper.

November 23, 2009

2. Between 6 to 7 in the morning, witness Judy Agor (wife of Reiner Momay Agor - Reynaldo Momay's nephew), conversed with Momay as the latter borrowed the *Kawasaki Bajaj* motorcycle with plate no. MA 4565 of her husband. Momay said that he would use the motorcycle to attend a press conference in Buluan, Maguindanao.

3. At around 7:00 a.m., witness Joseph Jubelag, likewise a journalist, saw Momay at the house of Khadafeh Mangudadatu in Buluan. In said place, the journalists gathered before they travelled to Shariff Aguak for the filing of the Certificate of Candidacy of then Vice Mayor Esmael "Toto" Mangudadatu. According to the witness, Momay was properly dressed. He wore a vest jacket worn by reporters and donned a cowboy hat.

4. At around 9:00 a.m., when the convoy was about to leave, witness Jubelag sighted Momay riding a dark green *Toyota Grandia* van with plate no. MVW-885 assigned to the field reporters. According to the witness, inside that van with the victim were Bong Reblando, Andy Teodoro, Joy Duhay, Rey Merisco, Nap Salaysay, Ronie Perante and others that he could not recall the names anymore. He claimed that there were more than 10 people aboard said van.

5. While still in Buluan, the convoy stopped to refuel. Witness Jubelag maintained that Momay was riding in said van. He said that his car was behind tailing the convoy but upon reaching Tacurong City, he stopped because he was not feeling well and decided to go back to the Pension house where he stayed the night before.

6. After 9:15 a.m., the witness, with the use of a cellphone, called Bong Reblando. The latter said that the convoy was already somewhere in the vicinity of the Ampatuan area. During their

conversation, witness allegedly heard voices in the background including that of Momay.

7. After 10:00 a.m. of November 23, 2009, allegedly, no one has ever seen or heard from Momay anymore.

8. After 5:00 p.m., the *Kawasaki Bajaj* motorcycle borrowed by Momay was found inside the Mangudadatu compound in Buluan.

9. None of the witnesses extracted the cadaver of Momay in the massacre site.

November 24, 2009 and thereafter

10. Still, none of the witnesses recovered the cadaver of Momay in the massacre site. His live-in partner, Marivic Bilbao, and relatives did not find his body in any of the funeral parlors in Koronadal, Isulan, and Tacurong City. None of the documentary evidence showed the death certificate of the victim.

11. On December 1, 2009, the investigators from the Commission on Human Rights (CHR) and the Scene of the Crime Operatives (SOCO) were able to recover a denture from the massacre site.

12. The denture which was in an upturned position and sprinkled with dirt was found in the upper portion of the massacre site. "The denture presented by the witness appears to be a denture of upper mandible part with 4 complete incisors with a gap on its immediate left and another false tooth next to it. There is a stainless wire bracket at the right side thereof. The denture is set on a pink material which appears to be stained with black specks scattered thereon. The teeth appear to be generally white with yellowish tinge."

13. According to witness Marivic Bilbao, said denture belonged to Momay. She was able to identify the same because she cleaned it every night for the last six (6) years, since 2003. The one who made the denture, Mr. Patricio Abellar, also relayed to the investigators that he made the denture.

Article 248 of the Revised Penal Code defines and penalizes the crime of murder. The elements of murder that the prosecution must establish are: 1) that a person was killed; 2) that the accused killed him or her; 3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248; and 4) that the killing is not parricide or infanticide.[819]

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[819] *People v. Lagman y Piring,* G.R. No. 197807, [April 16, 2012], 685 PHIL. 733-750.

Based on the foregoing facts, the prosecution only established with moral certainty that after having been sighted with the convoy of journalists en route to Shariff Aguak with the Mangudadatus, Reynaldo Momay could no longer be found after 10:00 a.m. of November 23, 2009. While the bodies of the victims were recovered in Sitio Masalay, Momay's cadaver was never found.

Whether Momay died or was missing after said date could not be ascertained as no evidence of his actual death was adduced. He has no cadaver and neither was his death certificate presented on record.

The evidence of the prosecution would then rely on the existence of the denture (Exhibit "13 S") to come up with the following conclusions: (1) the denture belonged to Momay; and (2) the recovery of the denture in Sitio Masalay meant that Momay was one of the victims who was killed on November 23, 2009.

The court finds that the probative value of the denture does not lead to the aforesaid conclusions.

First, the prosecution unsuccessfully established that the denture belonged to Momay. The testimony of his live-in partner, Marivic Bilbao, that she cleaned the denture everyday for six (6) years since 2003, which capacitated her to know that the same belonged to Momay, is an implausible narrative. Who would ever clean everyday the denture of a loved one or live-in partner when the latter is not physically incapable of cleaning it himself/herself? Is it a normal human behavior? The court can only surmise that Bilbao resorted to this kind of narration in order to convince it of her ability to identify said denture as belonging to Momay. Regrettably, the court is not convinced. For a testimony to be credited, the testimony should not only come from the mouth of a credible witness, it should likewise be credible and reasonable in itself.[820] It must be consistent with human experience, and occurring in the normal course of things.[821]

Then, as for the testimony of Patricio Abellar (the missionary who allegedly made the denture), the court is baffled on how that account ensures – with moral certainty – that the denture recovered in Sitio Masalay belonged to Momay. To convince the court, he identified the alleged marking he placed thereon which is the stainless wire being closed at its end ("ang dulo ng ring naka closed"). On cross-examination however, Abellar admitted that he made the same closed ring with his other patients as his signature or marking that he made the denture and not as signature or marking for the patient ("Ginagawa kong palatandaan yon para makilala ko na sa akin talaga yun"; "Palatandaan din na ako ang

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[820] *People v. Torion,* G.R. No. 120469, May 18, 1999.
[821] *People v. Polo,* G.R. No. 193386, February 5, 2014.

gumawa").[822] Having failed on this point, the prosecution could have shown the mould by which he patterned the mouth and the teeth of the victim so as to fit the denture. Should said option be no longer available, at the very least, the prosecution could have also shown the pictures of the victim wearing the denture he made.

Simply put, there is no sufficiently relevant proof connecting the object evidence – the denture – with the person of Momay. The mere say-so of the prosecution witnesses that the victim wore the subject denture will not amply establish its identity. Mere allegation and speculation is not evidence, and is not equivalent to proof.[823]

Second, the fact that the investigators found the denture at the crime site eight (8) days after November 23, 2009 does not perforce mean that Momay – assuming that he perished – died in the hands of the accused in Sitio Masalay. In fact, as testified by the investigators from CHR, various objects were unearthed at the crime scene: 2 SIM card cases, 2 live ammos of 5.56mm, 1 slug of 5.56mm, 17 empty shells of M16, 1 belt buckle, 1 eyeglass frame, and 1 Identification Card of a certain Ernie Ibañez.

These objects do not have a unique thumbprint that could have connected these to specific persons. To illustrate, the Identification Card of Ernie Ibañez which was found therein will not lead to a settled conclusion that Ernie Ibañez possessed or wore that Identification Card. Neither does that depict that he died in Sitio Masalay on November 23, 2009. In fact, he is not one of the victims in these cases.

The same could be said of the denture found in Sitio Masalay. The records do not portray that the denture has a unique identification marking sufficient to exclusively connect it with any person, let alone Momay. Significantly, neither does the presence of the purported denture of Momay in Sitio Masalay lead to a morally certain conclusion that he died along with the victims of the alleged massacre on November 23, 2009.

Ergo, this court concludes that the first element of murder – "that a person was killed" – is absent in this case. The 58th count of murder will not prosper for it lacks *corpus delicti.*

It must be borne in mind that proof of corpus delicti is indispensable in prosecutions for felonies and offenses, such as the crime of murder. *Corpus delicti* is the body or substance of the crime. It refers to the fact that a crime has been actually committed. [824]

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[822] TSN, September 12, 2013, pp. 50-51.
[823] *People v. Santillan*, G.R. No. 227878, August 9, 2017.
[824] *People v. Oliva*, G.R. No. 122110, September 26, 2000.

The *corpus* is the body or material substance upon which a *delicti* has been committed.[825] It has two components: (1) the existence of a certain **result** forming the basis of the criminal charge, i.e. a person has died[826] and (2) the existence of a **criminal agency** as the cause of this act or result. As applied to a particular offense, it means the actual commission by someone of the particular crime charged.[827]

Jurisprudence exemplifies that the corpse of a murdered person or a necropsy report with the accompanying photographs of the victim's body, together with credible direct witness' accounts on the killing of the victim, are pieces of evidence that establish *corpus delicti*.[828] Hence, a variety of proofs may be presented by the prosecution to establish the fact of death and the criminal agency of the accused.

Citing Wharton and Francisco, *People v. Sasota* explains:

> There are even cases where said death and the intervention of the criminal agency that caused it may be presumed or established by circumstantial evidence. Wharton in his book on Criminal Evidence, Vol. 2, Sec. 871, pp. 1505-1506, says:
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> > ". . . the rule now established by the weight of authority is that the element of death in the corpus delicti may be established by circumstantial evidence. Hence, in case of the destruction of the body, or in case of its disappearance, as in murder upon the high seas, where the body is rarely, if ever, found, death may be proved circumstantially. To establish the corpus delicti by circumstantial evidence, facts are admissible, to show the impossibility of rescue, as at sea; to show the existence and extent of wounds, and deceased's condition of health; and to show that the wound was sufficient to cause death, and that the party was reported dead. Death is sufficiently shown by the testimony of a witness that he saw the flash and heard the report, and that the deceased fell to the ground, declaring he was shot, and that accused did the shooting."
>
> Francisco in his book on Criminal Evidence, Vol. III, section 27, p. 1517, also has the following to say:
>
> > "A conviction for murder cannot be supported unless the body has been found or there is equivalent proof of death. The more modern rule is that the fact of death as well as the other branch of the corpus delicti may be established by circumstantial or presumptive evidence. Thus it is held that, where the body has been destroyed or is not recovered, it is competent to establish both elements by presumptive evidence . . ."

Hence, *corpus delicti* is not limited to the presentation of the corpse of the victim.[829] Producing the body of the victim, as well as proving its disposal, is not necessary for a murder conviction.[830] In the following

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[825] *People v. Marcelino*, G.R. No. 126269, October 1, 1999.
[826] *People v. Barlis*, G.R. No. 101003, March 24, 1994.
[827] *People v. Roluna*, G.R. No. 101797, March 24, 1994.
[828] *People v. Kalim*, G.R. No. L-1172, May 27, 1948; *People v. Labinia*, G.R. No. L-38140, July 20, 1982, *Cortez v. Court of Appeals*, G.R. Nos. L-32246-48, June 30, 1988; *People v. Cabodoc*, G.R. No. 118320, October 15, 1996.
[829] *People v. Ferrera*, G.R. No. L-66965, June 18, 1987.
[830] *People v. Marcelino*, G.R. No. 126269, October 1, 1999.

cases, the accused therein had been convicted even if the body of their victims were never recovered from the crime scene.

In *People v. Ansang,*[831] the victims and the fishing boat they boarded never resurfaced. Nonetheless, the Court affirmed the conviction of the malefactors based on circumstantial evidence: (1) they had a grudge with the victims; (2) they sailed towards the fishing boat claiming that they will also fish; (3) they carried three hand grenades; (4) upon their return, they no longer had hand grenades nor did they bring any fish; and (5) the shattered pieces of the victims' fishing boat washed ashore later on.

Likewise, in *People v. Luna,*[832] the Court disposed the claim that the *corpus delicti* has not been proven given its factual finding that the three Ilahan boys were dumped into the sea and since then were seen no more. Evidently, they are dead.

In *People v. Marcelino,*[833] the victim was shot while performing his duties to investigate the abuses by military and para-military groups in the hinterlands. A state witness testified that no trace of the crime existed because the corpses were incinerated. Highlighting the danger that the victim faced, the Court therein issued a judgment of conviction.

Synthesizing the aforementioned cases, the court ruled for conviction because the victims were identified, the perils they faced were recognized, and their deaths transpired at locations where the finding or recovery of the body is impossible.

Here, the prosecution failed to produce witnesses identifying Momay as one of the passengers of the convoy allegedly waylaid in Malating and brought to the hilly portion of Sitio Masalay. It merely relied on the testimony of witness Joseph Jubelag, a journalist from Socsargen area, having seen Momay riding in a Toyota Grandia van assigned to the field reporters when the convoy left Buluan at 9 a.m. on November 23, 2009, for Shariff Aguak; and thereafter, in the course of his conversation with Bong Reblando (one of the victims herein), whom Jubelag called through his cellphone, the latter allegedly heard voices in the background including that of Momay while being told that they were somewhere in the vicinity of Ampatuan area. Consequently, there is no evidence on record of any danger that could have jeopardized Momay's life in relation to the charge of murder. The prosecution also did not ascertain whether the recovery of his corpse was impossible. No one had testified to this effect.

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[831] G.R. No. L-4847, May 15, 1953.
[832] G.R. No. L-15480, January 28, 1961.
[833] *People v. Marcelino,* G.R. No. 126269, October 1, 1999.

The case at bar is similar to *People v. Roluna.*[834] In ascertaining whether *corpus delicti* existed, the Court not only ascertained whether the victim is dead, it also required from the prosecution to show that the victim faced danger in the *locus criminis.* Hence:

> However, the circumstances presented by the prosecution would not be enough to hold accused-appellant responsible for the death of Moronia.
>
> x x x x
>
> In this case, however, the prosecution witnesses testified that they merely saw one of the accused, Carlos Daguing, tie up the hands of Moronia. He was then taken in the direction of barangay Monterico and was never seen or heard from since. At no point during the trial was it ever established that any of the eight (8) accused beat up Moronia or in any way laid a violent hand on him. Nogalada even testified that he did not hear any shot fired by any of the eight (8) armed accused so as to warrant a reasonable conclusion that Moronia was killed by accused-appellant or any of his co-conspirators. Indeed, even the possible motive of accused-appellant and his group for abducting Moronia was not definitively established. To be sure, the circumstances proved are insufficient to produce a conviction beyond reasonable doubt for the serious crime of kidnapping with murder.

All told, the prosecution altogether failed to show whether Momay himself reached Sitio Masalay and experienced the same danger that the other victims of the convoy faced. Absent such moral certainty, this court is not convinced that the accused murdered Reynaldo G. Momay.

Regardless of the number of counts of the crime in the Information, an accused is still presumed innocent until proven otherwise. No less than proof beyond reasonable doubt is required to sustain a conviction.[835] On the whole, this court views that the evidence adduced by the prosecution would not prove with moral certainty that accused should be convicted for the serious crime of murder in the 58th Third Amended Information.

With the foregoing finding, further discussion of the other issues raised herein is no longer necessary.

Decision: Murder Charges, conspiracy, the qualifying and other attending circumstances

The evidence on record, as perused by this court, establishes the following relevant facts in relation to the fifty seven (57) charges of murder, their qualifying and other attending circumstances:

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[834] G.R. No. 101797, March 24, 1994.
[835] *People v. Ramirez, Jr.,* G.R. Nos. 150079-80, June 10, 2004.

Facts

**Main Cast of Characters*

1. The Ampatuans led by their patriarch Datu Andal Ampatuan, Sr., and the Mangudadatus led by their patriarch Datu Esmael "Toto" Mangudadatu, were reigning politicians in Maguindanao.

2. Datu Andal, Sr. has four sons in these cases: Datu Andal "Unsay", Jr., Datu Anwar Ampatuan, Sr., Datu Zaldy Ampatuan, and Datu Sajid Islam Ampatuan while Datu Akmad "Tato" Ampatuan is a son-in-law. Datu Andal, Sr. has three accused grandsons: Datu Bahnarin Ampatuan[836], Datu Anwar Sajid "Ulo" Ampatuan, and Datu Anwar "Ipi" Ampatuan, Jr.

3. Datu Zaldy Ampatuan was then the Regional Governor of the Autonomous Region in Muslim Mindanao (ARMM). Datu Sajid Islam Ampatuan and Datu Akmad "Tato" Ampatuan were the Governor and Vice-Governor respectively, of Maguindanao but as Officer-in-charge (OIC) capacity only.[837]

4. The Ampatuans had their own armed group, numbering not less than 300 men. Datu Andal, Sr. provided them with firepower. The Ampatuans had some control over some members of the PNP and military.

5. The Mangudadatus also had their own armed escorts of at least 200 men.

**Setting*

6. In November 2009, Datu Toto Mangudadatu stood by his decision to run as governor of Maguindanao, contrary to the wishes of the Ampatuans. Consequently, political tension in the locality grew.

7. The Mangudadatus planned that their female relatives would be the ones to file the Certificate of Candidacy (COC) of Datu Toto Mangudadatu in Shariff Aguak in order to avoid trouble because for them, women were highly respected. They also tapped the media to witness the event.

8. Those who filed the COC of Datu Toto included his wife, Bai Genalin "Gigi" Mangudadatu; his sisters, Bai Eden G. Mangudadatu and Bai Farina Mangudadatu Hassan; his aunts, Mamotabai Mangudadatu and Wahida Ante; cousins Rowena

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[836] Still at large.
[837] Please see Exhibits "(7)X-1" and "(7)X-2."

Mangudadatu, Pinky Balayman and Raida Sapallon; and his lawyers Atty. Cynthia Oquendo and Atty. Connie Brizuela.

9. In Maguindanao, during elections, numerous people usually accompany politicians when they file Certificates of Candidacies. During election period, it was also normal for police officers to escort a convoy for purposes of filing a Certificate of Candidacy.

** Law Enforcement and Checkpoint Operations*

10. The law enforcers in Maguindanao belong to the Armed Forces of the Philippines (Philippine Army) and the Philippine National Police. The AFP protects the sovereignty, while the PNP handles internal security.

11. The Philippine Army assigned in Maguindanao is under the Eastern Mindanao Command (EASTMINCOM), which included the 64th Infantry Battalion (IB) which had jurisdiction over Ampatuan municipality. The 64th IB figured in the discovery of the incident.[838]

12. The Philippine Army is divided into 7 areas of command, which includes the Eastern Mindanao Command. In turn, the Eastern Mindanao Command is composed of 3 Infantry Divisions: 4th Infantry Division, Cagayan de Oro, 6th Infantry Division based in Cotabato and the 10th Infantry Division based in Davao City. The 6th Infantry Division is stationed in Camp Siongco, Datu Odin Sinsuat in Cotabato City. At that time, the leader of the group was Major Gen. Alfredo Cayton. Under that Division are three groups: 601st Infantry Brigade in Tacurong City, 602nd Infantry Brigade in Carmen, North Cotabato, and the 603rd Infantry Brigade based in Barira, Maguindanao. Col. Medardo Geslani was the Commander of the 601st Infantry Brigade. The units under that group were: 46th Infantry Battalion, 64th Infantry Battalion and the 75th Infantry Battalion. The Commander of the 64th Infantry Battalion at that time was Lt. Col. Rolando Nerona, and directly under him was Major Peter Edwin Navarro who acts as the Battalion Executive Officer and at the same time the Chief of Staff, and under him are 6 offices: Battalion S1, Battalion S2, Battalion S3, Battalion S4, Battalion S7, and Headquarters Company. Overall, the 64th Infantry Batallion is concerned with conducting the counter-insurgency and internal security operations against threat posed by the MILF, the Misuari breakaway group, the Abu Sayaf group and other armed lawless groups.

[838] According to Lt. Rolly Stefen Gempesao,

13. The Provincial Government of Maguindanao and the ARMM employ the following for law enforcement: police officers from the Philippine National Police (PNP), armed units designated as Civilian Armed Forces Geographical Unit (CAFGU), Auxiliary Army (SCAA), Police Auxiliary Units (PAU), and Civilian Volunteers Organization (CVO).

14. There are 3 sets of police provincial mobile groups (PMG) in Maguindanao: the 1506th PMG headed by P/Insp. Armando Mariga, the 1507th PMG headed by accused P/Insp. Saudi Mukamad, and the 1508th PMG headed by P/Insp. Rex Ariel Diongon. The overall Provincial Director (OIC) of Maguindanao PNP was Major Sukarno Dicay. In November 2009, P/Supt. Abusama Maguid already replaced Major Dicay, who was then assigned as Deputy Provincial Director.

15. CVOs were auxiliaries of the PNP, and were not from the Philippine Army to which CAFGUs belong. Officers from the PNP and the CVOs have the same uniform. But, a CVO's uniform is distinguished by the patches appended to its left breast pocket. Policemen have patches with names in their uniforms, while the CVOs do not have said patches.

16. During election period in Maguindanao, conducting checkpoints, also known as road security operations, was a regular occurrence. In order to set-up a check point, there was no more need to coordinate with local government unit. An advisory, followed by verbal or written instructions, is sufficient to have a checkpoint.

17. There were four (4) relevant checkpoints set up by the members of the PNP from November 19 to 23, 2009, *viz:* 1) Crossing Saniag manned by the 5th Company of the 15th RMG; 2) Malating manned by the 1508th PMG; 3) Crossing Masalay manned by the 1507th PMG (the other members of 1507th were assigned in Sitio Binibiran); and 4) in front of the Municipal Hall of Ampatuan Municipality manned by the Ampatuan Municipal Police Station (MPS) headed by SPO4 Badawi Bakal.

<u>The distances of the significant checkpoints[839] in the municipality of Ampatuan along the Cotabato-Isulan Highway are as follows:</u>

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[839] Other checkpoints were likewise named. Sitio Bente Kwatro, according to Sukarno Badal, was manned by him. It is not located in Ampatuan municipality, but in Datu Unsay municipality, which comes after Shariff Aguak. From South to North, Ampatuan municipality is followed after 3KM by Shariff Aguak; and after 1KM is Datu Unsay municipality. Sgt. Jimmy Coronel testified that there is a Labo-Labo checkpoint that comes located one kilometer away after the checkpoint in Masalay.

From South to North, and by order of narration of events, the 3 checkpoints along the Isulan Road are arranged to wit: [840]

Crossing Saniag; after 2 KM,[841] **Malating Checkpoint**; after 600 to 800M,[842] the checkpoint in **Sitio Masalay**.[843]

18. The aforesaid checkpoints are all located in the municipality of Ampatuan, Maguindanano. The 1508th PMG has jurisidiction over that area, as well as the rest of the 2nd district of Maguindanao that are relevant to these cases: Shariff Aguak, Ampatuan, Buluan and Datu Unsay.

19. CVOs augmented the checkpoint operations of the police officers. The 15th Regional Mobile Group (RMG) ARMM, 5th company, was also posted in Crossing Saniag.

20. The accused members of the 1508th PMG include: P/Insp. Michael Joy Macaraeg, SPO1 Eduardo H. Ong, PO3 Felix Eñate, Jr., PO3 Rasid Anton, PO2 Hamad Nana, PO2 Saudi Pasutan, PO1 Herich Amaba, PO2 Hernanie Decipulo, PO1 Esprielito Lejarso, PO1 Narkouk Mascud, PO2 Saudiar Ulah, SPO2 Oscar Donato, PO1 Abdullah Baguadatu, PO1 Pia Kamidon, PO1 Esmael Guialal, PO1 Michael Madsig, PO1 Arnulfo Soriano, and PO3 Abibudin Abdulgani.

21. The accused members of the 1507th PMG include: SPO1 Ali M. Solano, SPO2 Samad U. Maguindra, PO3 Gibrael Alano, PO3 Felix Daquilos, PO2 Kendatu S. Rakim, PO2 Datu Jerry M. Utto, PO1 Marsman Nilong, PO1 Abdulmanan Saavedra, PO1 Jimmy Kadtong, PO1 Abdulbayan U. Mundas, PO1 Badjun Panegas, PO1 Abduhraman Batarasa, and PO1 Marjul T. Julkadi, herein referred to as "**Solano Group**" as well as SPO2 George S. Labayan, SPO1 Alimola L. Guianaton, PO1 Bensidick (Bersedick) T. Alfonso, PO1 Amir Solaiman, PO1 Ebara Bebot, PO3 Ricky Balanueco, SPO1 Elizer Rendaje, PO1 Tamano Hadi, PO1 Pendatun Dima, PO1 Michael Macarongon, PO1 Mohammad

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[840] According to Rasul Sangki, the convoy came from the Isulan round ball. A vehicle running at a speed of 60 to 70 kilometers per hour will travel 10 minutes from Isulan Round Ball to Crossing Saniag.

[841] The following witnesses estimated the distances between Saniag and Malating: Rasul Sangki (2 kilometers); Sgt. Jimmy Coronel (1.5 kilometers).

Based on the testimony of Corporal Zaldy Raymundo, whose reference point is the CAFGU detachment right next to the checkpoint in Crossing Masalay (Crossing Salman), his detachment is: one kilometer away from Crossing Saniag and 500 meters away from that in Sitio Malating. Aritmethically, then, Crossing Saniag is 500 meters away from Sitio Malating checkpoint.

[842] The following witnesses estimated the distances between Malating and Masalay: Sgt. Jimmy Coronel (600 to 800 meters; on cross, he said that the distance is 500 meters); Cpl. Zaldy Raymundo (500 meters); Lt. Rolly Stefen Gempesao (200 meters)

[843] Sgt. Jimmy Coronel implied that Crossing Masalay is the same as Crossing Salman.

Balading, and PO2 Rexson Guiama, herein referred to as "**Labayan Group.**" They were divided into two (2) groups: one in Masalay and another in Binibiran.

Before November 23, 2009

**1995 Elections*

22. On March 14, 1995, Nasser Sansaluna saw that Datu Zaldy Ampatuan fired his gun and killed Akas Paglala and Omar Paglala, who were the Ampatuans' political rivals.

**June 2009*

23. Datu Toto Mangudadatu vocalized in a meeting his intention to run against the Ampatuan family as Governor of Maguindanao.

**July 20, 2009*

24. The Ampatuans and the Mangudadatus went to a meeting at the office of the Department of National Defense (DND) in Camp Aguinaldo. The meeting was about the candidacy of Datu Toto Mangudadatu for governorship.

25. At 8:00 p.m., the Ampatuans gathered for a meeting at the Century Park Hotel. Those who attended included the following: **Datu Andal Sr., Datu Andal "Unsay" Ampatuan, Jr., Datu Zaldy, Datu Sajid, Datu Anwar, Datu Akmad "Tato", Datu Kanor**, **Datu Nords, Datu Ulo, Datu Ipi,** Datu Pandag, and Samsudin Ampatuan. Also present were the following political advisers, allies, and lawyers of the Ampatuans: Norie Unas, Atty. Sayadi, Kagi Ali Midtimba and Mama Uy. The following commanders were likewise present on said occasion: Commander Kagi Nasser Adam, Commander Kempar, Commander Boy, Commander Cuatro, Commander Katorse, and many others. **Moktar Daud and Nasrudin Esmael** attended said meeting. **Abedin Alamada,** also known as Datu Unsay's commander "Kagi Bedi", was also seen in meeting.

    Datu Ulo and **Datu Ipi,** sons of Datu Anwar Ampatuan and Sahara Ampatuan, attended said meeting as well. Likewise, a CVO commander and Mamasapano councilor named Talembo Abdulrakman a.k.a Talembo Masukat a.k.a. Talembo Abotasil or Talembo Ampatuan, under the employ of Akmad "Tato" Ampatuan, was present in that meeting.

26. On said occasion, Datu Andal, Sr. said that Datu Toto must be killed because he cannot be prevented from running as governor. Datu Zaldy agreed and vocalized his support to his

father; and reiterated that the plot must be organized so as to prevent its discovery that will lead to a tarnished reputation and incarceration. Datu Unsay remarked that whoever steals the power of the Ampatuans should be killed, especially the Mangudadatus. Bahnarin Kamaong volunteered to be the one in-charge.

27. Based on the billeting records of Century Park Hotel, Datu Andal, Sr., Datu Unsay, and Datu Sajid Islam had booked rooms on this date at the hotel.

28. Based on the flight records of Philippine Airlies (PAL), Datu Unsay, Datu Andal, Sr., Datu Bahnarin Ampatuan, Akmad Ampatuan, and Kanor Ampatuan, Anwar Ampatuan, Jr., Anwar Ampatuan, Sr., Norie Unas, Datu Zaldy Ampatuan, Bahnarin Kamaong, Abdulhawid Pedtucasan, Datu Sajid Ampatuan, Norodin Ampatuan, Sukarno Dicay, and Rex Ariel Diongon flew from either Davao or Cotabato to Manila before July 20, 2009.

29. Based on the flight records of Philippine Airlines (PAL), Datu Puti Ampatuan, Norodin Ampatuan, Akmad Ampatuan, Datu Unsay, Datu Andal, Sr., Datu Bahnarin Ampatuan, Kanor Ampatuan, Norie Unas, Sukarno Badal, Jonathan Engid, Abbey Guiadem, Datu Sajid Islam Ampatuan, Norodin Ampatuan, Sukarno Dicay, Rex Ariel Diongon, Datu Zaldy Ampatuan, Anwar Ampatuan, Jr., Anwar Ampatuan, Sr. and Bahnarin Kamaong, flew out of Manila to either Davao or Cotabato after July 20, 2009.

**July 21, 2009*

30. Some 200 firearms belonging to the Ampatuans stocked at the Century Park Hotel were loaded to the plane carrying them for Davao. These included M14s, armalites, M203s, and bushmasters.

31. Governor Datu Andal Ampatuan, Datu Unsay Ampatuan, Datu Anwar, Mayor of Shariff Aguak Datu Sham, Mayor Datu Saudi of Saudi Municipality, Mayor Jack, Mama Uy" and many others were there.

**July 24, 2009*

32. Datu Unsay, at his house, talked to Sukarno Badal specifying that they were going to implement the plan to kill Datu Toto Mangudadatu. Subsequently, the former gave 10 M14 rifles to Badal.

**November 16, 2009*

33. At around 10:00 a.m. of November 16, 2009, Datu Andal, Sr. was at his farm in Brgy. Bagong, Shariff Aguak, Maguindanao. On record, Datu Andal, Sr. has four land titles in Bagong, Shariff Aguak.

34. In a "purok" or a hut, the following members of the Ampatuan family attended a meeting: **Datu Andal, Sr., Datu Zaldy, Akmad Tato,** Kagi Akmad, Bahnarin, Datu Pandag, Datu Siyam and many others. The political allies seen were: "Mayor Mama Uy, Mayor Kagi Ali Midtimba, Mayor Allandatu Angas, Ramdatu Angas, Roger Mamalo and many others." Among the political advisers included Atty. Cynthia Sayadi and Nori Unas. The police officers present were: **Colonel Kamaong, P/Insp. Saudi Mukamad and Major Dicay.** And as for the commanders, Cmdr. Billy, Cmdr. Kempar, Cmdr. Boy, Cmdr. Sanggutin, Cmdr. Naser Adam, Cmdr. Cuatro, Cmdr. Katorse, and many others, attended the meeting. Around 400 persons attended that meeting, including: "Datu Kanor Ampatuan, Norodin Ampatuan, **Sajid Ampatuan, Anwar Ampatuan**, Rebecca Ampatuan, Bai Midtimbang Ampatuan, Benzar Ampatuan," and many others.

    Bahnarin Kamaong, who was a police colonel and a trusted man of Datu Zaldy uttered that he and his men will take care of matters for Datu Andal, Sr.

    None of the police officers who were present raised an objection during the meeting.

35. The meeting was about the plan to kill the Mangudadatus since Datu Toto Mangudadatu would run as Governor of Maguindanao.

36. The meeting focused on the three possible locations, and the persons-in-charge, where Datu Toto would file his candidacy. Datu Zaldy said that through Ulama Akad or "Maestro," he would handle Manila; Atty. Cynthia Sayadi and Nori Unas would be in-charge of Cotabato City; and Datu Andal, Sr. would manage Shariff Aguak.

37. Datu Anwar specified that the Mangudadatus would have to be killed, and their vehicles buried. Kagi Akmad Ampatuan suggested the use of their backhoe; while Allandatu Angas offered his men. Bahnarin Kamaong specified that he and his men would be the one in-charge. Datu Zaldy Ampatuan expressed his full support, and acquiesced to the use of his own

guns. He impressed that the plan must be executed well, lest they be incarcerated.

**November 17, 2009*

38. From 8:30 p.m. to 11:00 p.m. of November 17, 2009, at the house of Datu Zaldy, the following persons had a meeting: **ARMM Governor Datu Zaldy, Datu Sajid Islam Ampatuan, Datu Akmad Tato Ampatuan, Datu Anwar Ampatuan**, Datu Digo Mamalapat, Datu Munir Asim, Akmad Baganian Ampatuan, **Datu Ulo Ampatuan**, Datu Moning Ampatuan, Datu Jacob Ampatuan, Datu Harris Makapendeng, Yasser Ampatuan, Shariff Ampatuan, Jainodin Abutasin, Shaidi Ampatuan Abutasin, Noria Ampatuan, Reshal Santiago Ampatuan, Shara Umpa Ampatuan, Bai Rakma Amolugto, Alex Tumaois, Nori Unas, Kabili Sumagkang, Samir Mama Uy, Manak Malaguial, Kagi Milo Luminda, Aling Saton, Dinodin Abutasin and Tamano Mamalapat as well as Munir Ampatuan Asim. **Col. Bahnarin Kamaong** and **Manny Upam Ampatuan** (who escorted Datu Saudi Shamron Ampatuan, Jr.) were also present in said meeting.

39. The subject of that meeting was how to prevent Toto Mangudadatu from filing his COC for the upcoming elections in Maguindanao.

40. Datu Ulo Ampatuan did not do anything and merely listened during the meeting. His brother, Datu Ipi Ampatuan, did not attend said meeting.

**November 19, 2009*

41. Datu Unsay held a meeting at his mansion in Poblacion, Shariff Aguak. Among others, P/Insp. Diongon, Mariga, Insp. Mukamad, Major Dicay, Datu Unsay, Kanor Ampatuan, and Nords Ampatuan attended the meeting.

42. The meeting at the house of Datu Unsay pertained to the setting up of checkpoints during the filing of COCs. P/Insp. Mukamad said he had 30 men to help. Major Dicay surmised that Datu Toto Mangudadatu, escorted by armed men servicing the Mangudadatu family from Lanao, will pass by Sitio Malating. Datu Unsay ventured that Datu Toto Mangudadatu may not be the one to file his own COC; but regardless of who will file the same, he wants them blocked and brought to him; and if killed, make sure that they are dead. Datu Unsay also suggested that guns could be taken away from those who will file the COC. Datu Unsay gave money to Major Dicay.

43. At the end of said meeting, the installation of checkpoints started.

44. Major Dicay installed a checkpoint with a detachment in Malating to be manned by the 1508th PMG. Later on, Major Dicay had them augmented by policemen from Parang, Buldon, Sultan Kudarat and Sultan Mastura Municipal Police Stations (MPS).

45. The members of 1508th PMG were told by their Group Director, P/Insp. Diongon, to be ready because armed men would accompany Datu Toto Mangudadatu in filing the COC.

46. The 1508th PMG were also told to expect resistance and retaliation against the armed men servicing the Mangudadatu family if the latter were inspected during a checkpoint operations. They were further informed that the security of the Mangudadatu family carried high powered firearms, compared to the malfunctioning and incomplete weaponry of the police officers. The 1508th PMG only had 12 firearms at the time of the abduction.

47. In Crossing Masalay, at 6:00 a.m., a detachment was being set up by men alighting from police cars and black pick-up. These were CVOs who wore military uniforms carrying bullets and firearms like 45s, M23s, M40s, M60s, and armalites. These men established a checkpoint at the detachment. Police cars with markings "1507" and a sanggoku was also seen at the checkpoint.

48. According to a witness, there were more than 20 police officers and 30 CVOs that set-up the checkpoint and one of those was **P/Insp. Saudi Mukamad. PO3 Felix Daquilos**, the designated driver of the pick up truck of the 1507th battalion, was also seen in that area. He also served as a cook for the seven (7) police officers at the detachment. **Misuari Ampatuan** was identified as one of the CVOs in front of the CAFGU detachment.

49. Police officers and CVOs in the area were difficult to identify for they were wearing their bandoliers. There were more CVOs than policemen. The firearms of the CVOs, like machine guns, were superior than those carried by the police officers.

50. The checkpoint was near a CAFGU detachment headed by Corporal Zaldy Raymundo (from 38th Infantry Battalion). His detachment is: one kilometer away from Crossing Saniag, 800

meters away from that in Sitio Binibiran, 500 meters away from that in Sitio Malating,[844] and 100 meters away from Crossing Salman.

51. The barriers were made of wood, with the word "checkpoint". That arrangement was present from November 19 to 23, 2009. Datu Unsay was at this checkpoint on these dates. He even talked to **Abedin Alamada**, one of the alleged Ampatuan commanders.

52. In the afternoon, Datu Unsay communicated to Rasul Sangki that he will utilize his people in the Ampatuan Municipality, since the Mangudadatus will be passing by that area.

**November 20, 2009*

53. Datu Unsay relayed his plan during a meeting that he will ambush the Mangudadatus, to Rasul Sangki, after they entered the vicinity of Malating.

54. In Malating, police cars labeled "Police Parang" parked along the national highway. Several armed men carried long firearms, such as armalite, M14, M203, and M16, machine guns, and wore different uniforms: CVO, auxiliary unit, CAFGU. They set up a detachment and were ordered to wait for the Mangudadatus coming from Buluan to file a Certificate of Candidacy. Datu Kanor brought additional CVOs, which grew in number. Major Dicay also brought police officers summoned from different Municipal Police Stations.

55. Datu Kanor Ampatuan arrived in Malating, and instructed the men to be prepared, because when the Mangudadatus pass, they will shoot at them; and those who have children in Malating should leave.

56. At Crossing Masalay checkpoint, a witness heard some CVOs saying that when the convoy of the Mangudadatu arrives, they were to shoot it. Hence, residents in that area evacuated and relocated to the MNLF camp for fear of getting involved. The MNLF camp is located 350-400 meters away from the house of prosecution witness Anok Akil which is located in front of National Highway fronting a small road going up to Sitio Masalay.

57. Some other checkpoints seen on this date (from the CAFGU Detachment in Sitio Masalay to Kauran Headquarters) include:

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[844] Witness Elo Sisay mentioned that the distance from the detachment to Malating was 1 kilometer.

Sitio Binibiran, Sitio Malating, and Crossing Saniag. Sitio Malating was 500 meters from the CAFGU detachment; Sitio Binibiran, 800 meters; and Crossing Saniag, 1 kilometer.

**November 21, 2009*

58. At around 1:30 p.m., at the house of Datu Unsay at No. 33 Shariff Aguak, the Ampatuans and their supporters had a meeting presided by Datu Unsay. **Major Dicay, Insp. Mukamad,** Abusama Guiadem, and many others like Commander Kagi Nasser, Commander Katorse, Commander Cuatro, Commander Umpag, Commander Boy, **Tammy Talembo** attended the meeting. "Commander Abedin Alamada, Naser Adam, Commander Kempar, Commander Boy, Commander Norodin Ampatuan" also attended that meeting.

    Theng Sali attended this meeting. **Datu Ulo**, as well as **Datu Ipi**, were also present at that time.

59. The meeting pertained also to the installation of checkpoints in order to prevent the Mangudadatus from filing the COC and in order to kill them.

60. These were additional checkpoints on top of the usual checkpoints utilized for the upcoming elections in Maguindanao.

61. The checkpoints were located along the roads that would be possibly utilized by the Mangudadatus to file the COC. One road is from Isulan going to Shariff Aguak. The other road is from Cotabato (Midsayap, Cotabato) going to Shariff Aguak.

62. The major locations of the checkpoints, and their leaders, were Crossing Saniag (Datu Unsay), Malating (Major Dicay and P/Insp. Diongon [Group Director] for 1508th PMG; and Datu Kanor for the CVOs), Brgy. Salman and Sitio Binibiran (Solano and Labayan, respectively, and P/Insp. Mukamad [their Group Director] for 1507th PMG) Sitio Bente Kwatro (Sukarno Badal and Commander Nasser Kamsa, Commander Datu Kamad Ampatuan; and Insp. Mariga for their police counterparts), and Salbo in Saudi Ampatuan Municipality (Commander Sanggutin Musa and Commander Katorse).

63. Each checkpoint had numerous CVOs and police officers. Police officers will flag down the vehicles, while the CVOs would fire the guns. The orders from the police came from Major Dicay, while Datu Unsay commanded the CVOs.

64. In Malating, the number of armed men increased. Datu Kanor called on the residents of Sitio Malating, announcing that they, especially those with children, should leave their houses. Datu Kanor Ampatuan mentioned that when the Mangudadatus pass by, the armed men would shoot them even if they were with soldiers. Hence, by this date, most of the residents from Malating had evacuated.

**November 22, 2009*

65. The same group as those who met on November 17, 2009 had a meeting, but now at the farm of Datu Andal, Sr. in Brgy. Bagong, Shariff Aguak, Maguindanao. In addition Sandy Sabang was also present in said meeting.

66. Sandy Sabang guarded Datu Andal, Sr. while Manny Ampatuan kept watch over Mayor Saudi Ampatuan. Bahnarin Kamaong gave instructions to the police officers to bring out the firearms coming from the vehicles of Datu Andal, Sr.

67. On that occasion, Datu Zaldy confirmed that since their final decision was to kill all of those involved in the filing of the COC, he will have to be in Manila, and they will correspond through calls, so that their plot to kill will not be obvious.

68. In Malating, armed men continue to increase in numbers. These armed men wore the uniforms of CAFGU, Auxiliary Unit, CVO and police. Sukarno Dicay even bought chicken/rooster from prosecution witness Norodin Zailon Mauyag, one of the residents therein. At 4:00 p.m., **P/Insp. Michael Joy Macaraeg**, the Executive Officer of the 1508th PMG, arrived at the Malating checkpoint.

69. The checkpoint in Malating was bordered with filled-up sacks and had a signboard. It measured two arms length, and reads "checkpoint, full stop." Trucks and vehicles were stopped at the checkpoint, people on board alighted and were frisked.

70. There were two other checkpoints seen by a witness on this date. One was in front of the office of Datu Iya Sangki, and another in Ampatuan National Highway. **SPO2 Badawi Bakal** manned the latter checkpoint. **Edres Kasan, PO2 Datu Jerry Utto, PO1 Mohammad Balading, PO1 Badjun Panegas, PO1 Michael Macarongon, PO3 Ricky Balanueco, SPO2 Samad Maguindra, PO1 Amir Solaiman, Gibrael Alano,** and **PO1 Abdulbayan Mundas** were seen at said checkpoint.

71. This checkpoint in Ampatuan was in the *sentro,* an eyesight away from the checkpoint in Crossing Masalay. Before November 22, 2009, there was no checkpoint in this area. Later on, as the facts would show, the checkpoint of SPO2 Badawi Bakal established a roadblock to close the national highway. However, the convoy of the Mangudadatus did not pass by said checkpoint on November 23, 2009.

72. At 7:00 p.m. of November 22, 2009, Lt. Rolly Stefen Gempesao already received an information (text message) that the Mangudadatus on board numerous vehicles, escorted by armed men, would be filing a Certificate of Candidacy in Shariff Aguak on November 23, 2009. Sgt. Jimmy Coronel also said that they had earlier information that once the Mangudadatus file a COC, the Ampatuans will ambush them. He even classified that as an "A1" information, known throughout the province of Maguindanao. He maintained that the planned ambush had already been known to the people; the exact place where it would be carried out was likewise known. It was public knowledge and "open book" that Datu Toto would be filing a Certificate of Candidacy for governorship in Maguindanao during the 2010 elections.

November 23, 2009

**Bagong, Shariff Aguak*

73. At his farm in Bagong, Shariff Aguak, on November 23, 2009, between 2:00 a.m. to 3:00 a.m., Datu Andal, Sr. had Lakmodin Saliao executed his instructions to bring out the firearms and put red markings on them. Later on, Datu Unsay and Datu Andal, Sr. conversed over the radio.

**Buluan*

74. Meanwhile, in Buluan, at 5:00 a.m., the Mangudadatu convoy composed of family, friends, and members of the media, who will accompany Bai Genalin Mangudadatu to file the Certificate of Candidacy, assembled at the house of Assemblyman Khadafeh Mangudadatu. The convoy was to depart for the COMELEC office in Shariff Aguak, then return later to have a press conference at the house of Datu Toto Mangudadatu in Buluan.

75. At past 5:00 a.m., Khadafeh Mangudadatu called SPO2 Cixon J. Kasan, OIC of Buluan Municipal Police Station, and asked for escort security for the filing of the Certificate of Candidacy. However, when Kasan went to the house of Khadafeh, the

latter said that he preferred that the police will not join since it was better that no firearms would be seen with the convoy.

76. Also asking for security escorts was Datu Toto Mangudadatu, who called up Lt. Gen. Raymundo Ferrer at 6:00 a.m. but to no avail.

77. Several media reporters asked about security escorts especially that the media had received messages that there were heavily armed people on blockade along the highway going to Shariff Aguak. However, the Mangudadatus failed to secure them security personnel. Khadafeh Mangudadatu said that it would be better for the convoy not to have security personnel bearing firearms.

78. The persons joining that time the Mangudadatu convoy included the following media reporters: Henry Araneta (DZRH), Bong Reblando, Bert Maravilla, Joseph Humilah, Anthony Sonio, Bong Bernales, Andy Teodoro, Bebot Momay, Joy Duhay, Jimmy Cabillo or Jimmy Pal-ac, and the media from SOCSARGEN.[845] Other media men included Rey Merisco, Nap Salaysay, and Ronnie Perante. Bai Eden Mangudadatu together with Atty. Connie Brizuela, followed by Bai Genalin Mangudadatu, Mamotabai Mangudadatu Rowena Ante Mangudadatu, Raida Sapallon, Rahima Peuto Lawan, Ella Balayman, Pinky Balayman, Meriam Calimbol, and Suraida Bernan also joined.

79. The cars, and their drivers, were likewise arranged: Silverado van driven by Norton Edza, White van driven by Abdilla Ayada, Green van driven by Eugene Demillo, Super Grandia driven by Daud. Cynthia Oquendo, Wahida Kalim, Faridah Sabdullah, McDelbert Areola were also seen with the convoy. Reynaldo Momay was last seen riding the Toyota Grandia van.

80. By 9:00 a.m., the Mangudadatu convoy left the house of Khadafeh Mangudadatu.[846] The convoy consisted of 6 vehicles: Black Wagon Ssangyong (owned by Henry Araneta), Super Grandia white, Toyota Hi-Ace white, Silverado Van Toyota Hi-Ace, Toyota Hi-Ace green, and UNTV van. The convoy left with unarmed passengers and without any security personnel.

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[845] The name of prosecution witness Joseph Jubelag who is a journalist from Socsargen and who joined the convoy when it jumped start was not expressly mentioned by witness Khadafeh Mangudadatu

[846] Witnesses Khadafeh Mangudadatu and Joseph Jubelag testified that the conoy left at around 9:00 a.m. of November 23, 2009 from Buluan, Maguindanao to Shariff Aguak.

**Crossing Saniag*

81. At Crossing Saniag checkpoint, armed men, police officers and commanders were present at the site together with **Datu Unsay**. **Abedin Alamada, Abdullah Abdulkahar or Theng Sali,** and **Talembo Masukat, Saudi Mukamad, PO1 Warden Legawan** were seen at said checkpoint. **Datu Unsay,** Commander Kempar, Commander Boy, **Commander Bedi,** Commander Kuatro, a certain "Biton" from the PNP, and many others manned the checkpoint in Crossing Saniag. **Datu Ulo Ampatuan** was also seen in Crossing Saniag.

82. Datu Unsay was then wearing a white shirt, maong pants, and held a radio.

83. Firearms like M60, M16, M14, Baby M203, AK407, Bazooka, and K3 were seen in the crime site. There was also a Sangguko (big fatigue truck mounted with long and highpowered firearm, like a canon) owned by Datu Unsay. Two black Hilux vehicles, two police cars, and one Hummer vehicle were also at that checkpoint.

84. Abedin Alamada was one of the top commanders of Datu Unsay. He gave instructions to his men. Theng Sali carried an armalite and awaited for the coming of the Mangudadatu convoy.

85. Datu Unsay gave instructions about how to block the convoy with the use of the Sangguko.

86. Datu Unsay received a call through an I-com radio from Major Dicay that the Manguddatu convoy has already passed the Tacurong round ball (rotunda); then Major Dicay radioed that the convoy reached the the Isulan round ball.

87. Datu Unsay gave an instruction to let the convoy in, then the Sangguko will block the path.

88. Moments later, Datu Unsay received a call on his I-Com radio, relaying that the convoy of the Mangudadatus was on its way. The message also included the number of vehicles, as well as their plate numbers.

89. Thereafter, the convoy of the Mangudadatus headed towards Shariff Aguak passed by Crossing Saniag.[847]

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[847] According to witness Rasul Sangki, it takes 10 minutes from Isulan Round Ball to reach Crossing Saniag, which was about 7 kilometers apart.

90. After the convoy passed by him, Datu Unsay gave an order to block the road so that no one can pass. Two Sanggukos were used to block the road. A Sangguko is a camouflage-colored big truck with high powered weaponry installed.

91. Specifically, Datu Unsay called Major Dicay to close Malating because the convoy was already on its way there.

92. When the convoy was already blocked, Datu Unsay called Major Dicay to look for the file of Toto Mangudadatu.

93. Datu Unsay together with his men, including Insp. Saudi Mukamad and PO1 Warden Legawan, boarded their 50 vehicles and proceeded for one to two kilometers[848] to the checkpoint in Malating.

**Malating*

94. Major Dicay, Insp. Saudi Mukamad, and Datu Kanor Ampatuan manned the checkpoint in Malating. That checkpoint had police cars and a Sangguko.

95. Police officers from the PNP accompanied Major Dicay at the Malating checkpoint. Armed men in military uniforms also manned that check point. Armed men were brought in the morning by a vehicle called "weapon" from the house of Datu Kanor Ampatuan to Malating. They wore uniforms and carried firearms like M14s, M60s, and armalites. Those men brought by the "weapon" included **Tato Tampogao, Mohades Ampatuan, and Nicomedes Amad Tolentino and Moactar Daud. Misuari Ampatuan** was likewise seen in Malating.

96. Upon being informed that they have to be ready, Datu Kanor Ampatuan told them that the armed men had to dress up in auxiliary uniform in order to merge themselves with those stopping the cars at the checkpoints.

97. **Quago Akil**, a CVO under Datu Kanor, was seen in the Malating checkpoint. **Abedin Alamada, Theng Sali,** Kudza Masukat, and **Talembo Masukat, Insp. Saudi Mukamad** were also seen in Malating. **Taya Bangkulat** and **Salik Bangkulat** were also seen at the checkpoint, holding an armalite and M14. Likewise, **Bimbo Salazar Piang** and **Datu Ulo Ampatuan** were seen on November 23, 2009 at the Malating checkpoint. Alamada accompanied Datu Unsay, Piang

[848] According to Sukarno Badal, the distance between Crossing Saniag and Malating checkpoint is one kilometer; and 2 kilometers per Rasul Sangki.

carried a firearm, while Datu Ulo Ampatuan, together with Datu Unsay, were beating the women.

98. By 9:00 a.m., the policemen from the 1508th PMG were no longer seen at the Malating checkpoint area. They were already replaced by the augmentation provided by Major Dicay. The CVOs from Datu Kanor increased in number. Moments later, Datu Kanor shouted that the convoy they were waiting for already arrived.

99. P/Insp. Rex Ariel Diongon halted a white UNTV L-300 van and inspected it. The driver informed him that the vehicle was on its way to Shariff Aguak. But, Datu Kanor aimed a gun at the cameraman who was sitting at the back of the van.

100. When the rest of the convoy passed by in Malating, Datu Kanor Ampatuan and Major Sukarno Dicay halted the vehicles and had the passengers alight. A total of eight vehicles stopped. These were colored white, black, red, and blue. One truck had a marking of UNTV. Four of the vehicles were white. <u>These vehicles were: one red Vios car, one blue Tamaraw FX, one black SUV, one UNTV van, and four Toyota Grandia van.</u>

101. The facts would later on unfold that the red Toyota Vios car was not part of the convoy. Rather, it was on its way to Cotabato City Hospital to bring Eduardo Lechonsito together with Gemma Palabrica. They were accompanied by Cecile Lechonsito, Mercy Palabrica, and Darryl Delos Reyes.

102. Thereafter, Datu Kanor Ampatuan summoned his armed men. The armed men rushed to the vehicles. They struck, kicked, and pointed firearms at the vehicles. Passengers were ordered to lie prostrate on the ground in Malating. Meanwhile, the drivers of the convoy had to park their respective vehicles at the shoulder of the highway. Thereafter, Major Dicay took the car keys from them.

103. Numerous vehicles from Crossing Saniag arrived. Men alighted therefrom and rushed to get the confiscated items from the passengers. Then, Datu Unsay arrived in a black vehicle, followed by police cars and a Hummer with a firearm. He shouted "dapa."

104. Datu Unsay and his armed men hit the people lying prostrate on the ground. They were maltreated, hurt, and mauled. One witness saw a certain Jimmy Pal-ak being hit by Datu Unsay and his armed men. Another witness saw Datu Unsay shooting Bai Gigi Mangudadatu between her legs, pulled her, and

boarded her in a vehicle. Another lady, Ella Balayman, was also boarded by Datu Unsay in his truck. Another witness saw guns being used to hurt Andres Teodoro despite his pleas. Datu Unsay even fired at some of the vehicles.

105. Even when the witnesses were pleading, Datu Unsay and his armed men took the shoulder bags, cell phones, video cameras, and folders from the victims. These were placed on a table by the shoulder of the highway. The armed men simultaneously hit the herded people with the butt of their firearms; punched, kicked, knocked their head, and slapped all of them – even those who claimed that they were from the media. Later on, a witness would see cameras, such as a video camera from UNTV, inside the vehicle of Datu Unsay.

106. Abedin Alamada complied with the instructions to him of Datu Unsay that he had to grab the camera of the cameraman of UNTV. Theng Sali pointed his firearm to the people lying prostrate on the ground; and asked the passengers to lie down on the ground. Datu Unsay, as well as Insp. Saudi Mukamad also pointed their guns at the victims and had them laid prostrate to the ground.

107. Thus, by 10:30 a.m., the convoy of Toto Mangudadatu was already with Datu Unsay; however, Toto Mangungudatu was not there – only his wife Bai Gigi and younger sister Bai Eden.

108. Datu Kanor Ampatuan grabbed and held Bai Eden Mangudadatu, while Major Dicay held Bai Gigi Mangudadatu. They were supposed to file Datu Toto's COC for Governor of Maguindanao.

109. Based on the billing records of Smart Communications, Inc., Bai Gigi Mangudadatu called the number used by Datu Toto Mangudadatu at 10:17 a.m. of November 23, 2009.

110. According to Datu Toto, his wife said that they were blocked by numerous armed men. She also said *"malapit na si Unsay…sinampal ako."*

111. Datu Unsay communicated with his father that he already had the convoy. Datu Andal, Sr., instructed Datu Unsay to kill everyone except the members of the media but Datu Unsay said that it would be safer to kill everyone to which the former agreed.

112. Datu Unsay took the bag of Bai Gigi and successfully located the COC. Then, he approached the people lying prostrate on the ground, and slapped one of the women.

113. Next, these people were asked to go back to the vehicles. They returned to their vehicles each assigned to one of the armed men of Datu Unsay. While the convoy passengers returned to their respective vehicles, they pleaded for mercy since they were being hit and dragged, with guns pointed at them, by the men of Datu Unsay.

114. Thereafter, they all went to Masalay, which was the way towards the mountain. The drivers of the waylaid vehicles rode in a black Toyota Hi-Lux, while the rest of the passengers boarded the vehicles. Hence, the Ampatuans were in full command of the waylaid convoy that proceeded to Masalay.

115. As for those who were left in Malating, they were asked to remove the checkpoint and the signage. Hence, after the group of Datu Unsay left said checkpoint, there were no more armed men or police officers left in the area.

116. Major Dicay together with P/Insp. Diongon, and Macaraeg were left in Malating. Later on, Maguid, P/Insp. Mukamad, and two police escorts arrived in a gold Toyota Hi-Lux vehicle. They conveyed "bomb threat, false alarm" and then ordered Major Dicay to burn all the evidence left in Malating. In turn, Major Dicay instructed one of the CVOs of Datu Kanor in Malating to do the burning. The latter burned the belongings, such as papers from the folders and camera films, at the side of the abandoned store.

117. There were more than 50 vehicles carrying hundreds of passengers when they left Malating. The sequence of the convoy vehicles was: (1) a lead car; (2) Datu Unsay; (3) Abusama Guiadem; (4) Sukarno Badal; (5) Datu Kanor Ampatuan; (6) the Mangudadatu Convoy; and (7) the rest of the vehicles of the followers of Ampatuan. Their route to Masalay seemed like a warlike situation because of the many vehicles that passed with armed men on board.

118. From the highway entering Sitio Masalay to the hilltop portion, the Mangudadatu convoy together with their captors traversed 3 kilometers of dirt road, roughly 5 to 6 meters wide.[849]

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[849] Both Rasul Sangki and Akmad Abubakar Esmael testified that the site of the shooting, which has a higher elevation than the highway, from the highway was approximately 3 kilometers apart.

**Masalay*

119. Sitio Masalay had a checkpoint at its crossing. Armed men were seen in that area, wearing camouflage and police uniforms. The armed men carried firearms like M14, M16 and M60. Earlier that day, at the Masalay checkpoint, Datu Unsay arrived at 7:00 a.m. He instructed the armed men to be on alert because the Mangudadatus will be arriving. Witnesses, in fact saw that the armed men were on alert status. One of the armed men was heard saying that they were to ambush or kill the passengers of the convoy of Mangudadatu. Later on, the CVOs stationed in that area positioned themselves with their firearms towards the CAFGU detachment of Corporal Zaldy Raymundo. The firearms - M16, M14, and machine guns were all directed towards the witness' detachment.

120. This checkpoint had a very small opening so that no one can pass. It had Sanggukos operated by armed men and police cars. The Sanggukos were approximately between 4 to 5 meters long, with a machine gun measuring about one meter long. On November 23, 2009, the armed men at said checkpoint reach 300 persons.

121. Some of these armed men included **PO1 Herich Amaba,** and **Misuari Ampatuan**. Major Dicay was also seen aboard the police car that arrived in Sitio Masalay. **Nasser Esmael, Taya Bangkulat and Salik Bangkulat** were seen here.

122. Between 10:00 a.m. to 11:00 a.m.,[850] the convoy and the vehicles reached the mountain of Masalay (called in their locality as *"bundok ng Masalay");* Datu Unsay stopped and then all the vehicles halted. Datu Unsay alighted. The vehicles consisted of vans, pick-ups, Hummer, police car, multicab, cars, motorcycles, and others.

123. Then, Datu Unsay shouted and commanded that everyone should alight. Datu Unsay shouted "walang sasali." After they alighted, they were asked to lie prostrate on the ground.

124. Bai Eden Mangudadatu and Bai Gigi Mangudadatu were successively brought in front of Datu Unsay by Datu Kanor Ampatuan and PO1 Inged, respectively. Then, the co-passengers of these women were also brought in front of Datu

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[850] Both Akmad Abubakar Esmael and Anok Akil testified that the vehicles arrived in Sitio Masalay at around 10:00 a.m. of November 23, 2009. Corporal Zaldy Raymundo testified that the vehicles were seen going to the area between 10:00 a.m. to 11:00 a.m. He also testified that the convoy reached the Crossing Masalay detachment at 10:30 a.m.

Unsay. According to witness Rasul Sangki, Datu Unsay himself shot Jimmy Pal-ak and two women.

125. At the time that these passengers were taken, there were other men with Datu Unsay: *"Datu Kanor,* ***Datu Nords, Datu Akmad, Datu Bahnarin, Datu Ulo, Datu Ipi,*** *Datu Pandag at marami pang iba, mga Commanders."*[851] **Talembo Masukat and P/Insp. Saudi Mukamad** were also seen in said premises although he was with Elo Sisay when the shots were fired, and he was hiding. After the shooting, Mukamad later left and went to Malating.

126. After this first set of passengers were herded in front of Datu Unsay, Bai Gigi Mangudadatu and Bai Eden Mangudadatu were pushed. Then, gunshots followed. All the passengers were killed. Datu Unsay and armed men simultaneously shot at numerous persons.

127. Another set of passengers was dragged, now coming from the second vehicle, towards Datu Unsay. Those armed men which he assigned to that vehicle were the ones pulling the passengers. The witness described the situation in this wise: "*parang hindi magkamayaw nakita na nila yung nauna sa kanila namatay na, hinihila nila tapos ganun pa rin, pinatindig sa harap ni Unsay binaril nanaman uli".*[852] Like the first batch of passengers, the second batch of passengers pleaded for mercy, but were all gunned down and killed.

128. The witness recalled that they were shot in this manner: *"pinaputukan, contest sila nakatindig, lahat sila nagbaril sila ng mga taong walang nagawang kasalanan walang kalaban-laban".*[853] Rowena Ante was one of the victims identified by a witness being fired at.

129. Next, the passengers of the third batch were pulled and dragged in front of Datu Unsay. The driver of the van, who represented himself as a regular driver of the Ampatuans, asked Datu Unsay to stop the shooting; but the latter still shot the driver. Thereafter, the rest of the passengers from the third batch were shot by the same armed men.

130. The fourth and fifth batches of passengers met a similar fate. As they were being pulled towards Datu Unsay, the passengers shouted; and as they were being killed, they were crying.

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[851] TSN, February 14, 2013, pp. 87.
[852] Id. at 88.
[853] Id. at 90.

131. The sixth set of passengers locked their vehicle. Datu Unsay tried to open it. Then, Datu Unsay received a call from Datu Andal, Sr. through an I-Com. The latter relayed the instruction that all passengers should be killed.

132. The passengers of the sixth vehicle, since they refused to alight, were shot right then and there, inside their van.

133. The passengers from the seventh van also suffered from the same tragedy. They were all killed inside the vehicle because they refused to alight therefrom.

134. Datu Unsay called Datu Andal, Sr. He said that the plan was finished; and that everyone died already.

135. Witnesses observed that before the victims were shot, they pleaded and screamed for their lives. They were repeatedly shot at, even if already gunned down.

136. Subsequent to the killing, Datu Unsay called upon his people and said that all the ambitious people had been killed. Later on, Datu Unsay asked his men to do the "finishing"[854] of the victims.

137. Those who fired the shots included **"Datu Unsay, Datu Kanor,** Kage Akmad, Datu Nords, **Bahnarin, Datu Ipi**, Datu Peru, Datu Pandag Ampatuan, and many more." Datu Unsay used an M203 first, then he changed his firearm. Datu Kanor used a Baby-K3 (around 2.5 feet); while Bahnarin, **Datu Ulo,** Datu Ipi, Datu Pandag, and Datu Unsay used a Baby M60.

138. Other men who fired shots at the mountain of Sitio Masalay included: **Moktar Daud, Nasrudin Esmael, and Misuari Ampatuan.** Daud was seen accosting two women. Witnesses recalled that Misuari Ampatuan was a CVO who warned some of the local residents not to proceed to the MNLF camp for they might not like what they would see.

139. The following were also seen therein: **Mohades Ampatuan, Tato Tampogao, Nicomedes Amad Tolentino, Bimbo Salazar Piang, Samaon Andatuan, Tommy Abas, Nasrudin Esmael, Macton Bilungan, Salik Bangkulat, Taya Bangkulat, and Edris Kasan**, as well as **PO2 Tany Dalgan** and PO1 Ahmad Badal. **Manny Ampatuan** and **Quago Akil**, who both carried a firearm, were also seen in that area carrying an armalite.

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[854] The witness, Sukarno Badal referred to "finishing" as: "Yung patay na, binabaril uli sa mga part ng katawan, sa mga ulo. Kahit saang part ng katawan na mabaril. Basta sinisigurado na di maka-survive".

Abedin Alamada and Theng Sali, respectively, using an M60 and armalite, also fired and killed the passengers of the convoy, including the last two batches of passengers who refused to alight and were just shot inside the vehicles. Alamada gave orders to the armed men to bring down the passengers. Alamada dragged the victims himself. P/Insp. Saudi Mukamad (Mokamad), also joined in the shooting of the victims.

Datu Ulo and **Datu Ipi** also fired at the victims. They had a contest as to who had the most number of passengers killed. Those who joined the contest were Bahnarin, Datu Kanor, Kudza Masukat, Datu Pandag, Datu Moning and many others. **Talembo Masukat** also participated in the contest of killing.

Sukarno Badal, **Datu Mama Ampatuan**, Datu Peru, and Datu Ban were also seen firing at the victims. Datu Not was also seen in Sitio Masalay.

140. By 10:30 a.m., victim Cynthia Oquendo texted Atty. Arnold Oclarit. She asked for help from a lawyer of the Ampatuans for the latter to stop.[855] She had relayed that the Ampatuans had just kidnapped her and her father, along with many others; and that because they were firing guns, they might get killed. She requested help, and reiterated it at 10:42 a.m. None could call her for cellphones were disallowed where she was. At 10:52 a.m., she texted that she was at *"nlf hq nascom 12."* Moments later, she texted *"mnlf hq sh aguak nascom 12, daghan na patay, dadulo mi, please tell tom."*[856] She essentially said that many already died, and it was almost her turn to get killed; and that Tom must be informed.

141. <u>The gunshots were heard at around 11:00 am.[857] The shooting was rapid, successive, and loud, which lasted for more than an hour.[858] It can be heard from the mountain of Masalay. The location of the killing was near the house of Akmad Abubakar Esmael (a farmer), in Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao.</u>

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[855] "Christian greetings. Kidnap mi with tatay. Please tell Tom to tell client Ampatuan to stop. We could get killed here. Please tell Tom."

[856] Other versions include: *"mnlf hq 12 sh aguak daghanna patau, dadulo mi ingatom"; "Christian greetings, kidnap me with tatay, daghan patay, they are shouting, please tom"*.

[857] Corporal Zaldy Raymundo testified that he heard the shooting at 11:00 a.m. Esmael Enog testified that the shots were heard before noon time.

[858] Akmad Abubakar Esmael testified to this effect. Abdul Satar Maliwawaw said that the shooting lasted for 20 minutes. Anok Akil stated that the shooting lasted for 30 minutes. Thonti Lawani said that the shooting lasted not for more than an hour. Elo Sisay stated that the loud gunshots lasted for more than 30 minutes. Esmael Enog said that the shooting lasted for about an hour.

142. After 15 minutes,[859] Datu Unsay was signaled that soldiers were coming.

143. Using his I-Com, Datu Unsay called Bong Andal, who was the backhoe operator. The former asked the latter of his whereabouts.

144. Thereafter, a yellow backhoe, initially carried by a prime mover, was seen proceeding to the hilly portion of Sitio Masalay. The prime mover was left parked in Crossing Masalay, while the backhoe went up to the hilly portion. Both these heavy equipment belong to the Provincial Government of Maguindanao.

145. After a few minutes, Datu Unsay and his companions went down the hilly portion and left the site. This was about 11:00 a.m. Those CVOs who established the blockade in Crossing Masalay also left and went with Datu Unsay.

146. Collectively, more than 30 vehicles left the scene. 4 vans, a UNTV vehicle, and one red car were left in the scene with more than 20 armed men. These armed men gathered and stacked together the dead bodies to where Datu Unsay used to stand.

147. 30 to 40 meters aways from the site, Datu Unsay saw the backhoe being driven by Bong Andal. Earlier, several witnesses saw a bed trailer truck that carried a backhoe.

148. Datu Unsay instructed the backhoe operator to hasten the complete burial of the bodies and vehicles of the victims. **Mohades Ampatuan, Nasser Esmael, Tato Tampogao, and Omar Bulatukan** were seen with Datu Unsay when the latter was radioing a certain Jerry for Bong Andal to hurry up the burial.

149. Only Datu Kanor, who was carrying an M203, and about 40 of his men, who were all armed, remained at the site and guarded the backhoe. **Salik Bangkulat, Makton Bilungan**, **Not Abdul, Ibrahim Kamal Tatak** and **Rakim Kenog** were seen with Datu Kanor at this occasion. They actually asked how to proceed to Boayan, Datu Hoffer. **Takpan Dilon** was also seen in Sitio Masalay, in the hut at the mountain of Masalay.

150. **Bong Andal** operated the backhoe. At around noon, the backhoe was used to make a pit and drop the dead bodies therein. It also crushed the vehicles– UNTV vehicle, red car,

[859] Sukarno Badal gave this figure. Akmad Abubakar Esmael testified that 20 minutes passed.

and van – and dropped them inside the hole. Later on, the backhoe broke down, preventing it from further pushing the bodies and vehicles.

151. Thereafter, its driver operator alighted. But before he left, he was heard over the radio asking for fuel lest the backhoe be caught, and there would be evidence.

**Datu Hoffer, Brgy. Limpongo, and the Checkpoints*

152. Datu Unsay and Datu Bahnarin hid at the mountains of Datu Hoffer Municipality. Datu Andal, Sr. mobilized Datu Anwar Ampatuan, Sr. to meet with Datu Unsay and Datu Bahnarin so that all three of them could escape together.

153. Numeous men hid in Datu Hoffer, including the people from the checkpoint in Isulan to Shariff Aguak. They were about 400. At Datu Hoffer Municipality, their ammunitions were changed, especially for those people who had used their firearms. Datu Unsay had to change his t-shirt for it was full of blood. He also instructed the people to hide their own vehicles.

154. The men went to Brgy. Limpongo, which was more or less 4 kilometers away from Datu Hoffer Municipality, and hid there for 3 hours. These included: **"Datu Unsay, Bahnarin,** Kagi Akmad Ampatuan, **Norodin Ampatuan,** Datu Pandag Ampatuan, Ramdatu Angas, Jokner Angas and many others." **Tammy Talembo** was also there. He found a horse for Datu Unsay to ride on. Then, Datu Unsay was fetched. Abedin Alamada and Theng Sali also hid with the men in Brgy. Limpongo.

155. Meanwhile, at the <u>checkpoints</u>, Sgt. Jimmy Coronel saw that in Crossing Saniag, the CVOs were running and boarding their vehicles. But before that, the CVOs and police officers in that area were still on full alert status. The sanggukos operated by 6 men and their respective guns, as well as the police cars, remained in the area.

156. In Malating, the CVOs and police officers were withdrawing and boarding their vehicles. When the 64th Infantry Battalion passed by the checkpoint in Malating, they saw Dicay, Diongon and Macaraeg in battle dress uniforms. Dicay looked tensed, Diongon appeared uneasy, while Macaraeg was ready to engage.

157. The PNP personnel positioned along the highway likewise donned battle dress uniforms and carried M16s and M14s.

158. The members of the Philippine Army inquired about the situation from Major Dicay. He denied any knowledge of abduction in the area.

159. In Crossing Masalay, **Takpan Dilon** and Esmael Canapia were arrested by **SPO2 Badawi Bakal**. On that occasion, Bakal threatened the men not to speak about what they saw; otherwise, bad things will happen to them and their family. Bakal punched Canapia.

160. At past 12:00 p.m., the police officers and the CVOs left the checkpoint premises.

**Discovery of the Crime Scene by the Authorities*

161. The 64th Infantry Battalion, who had information about an abduction in Ampatuan municipality as early as around 10:30 a.m., decided to go to Masalay, when camouflage-wearing armed men denied them passage in the blockades.

162. Major Peter Edwin Navarro, the executive officer of the 64th Infantry Battalion, led the mission. His team, that included Lt. Rolly Stefen Gempesao and Sgt. Jimmy Coronel, assembled in their headquartes at 11:30 a.m.

163. By 1:30 p.m., reinforcements from the 64th Infantry Battalion, followed by the CAFGU detachment, arrived and located the crime scene.

164. En route to the rescue mission, the team saw P/Supt. Pedtucasan assigned to the Maguindanao Provincial Police Office in Brgy. Labolabo. The team also saw the checkpoints, a trailer truck, police vehicles and some police personnel.

165. The road leading up to the hill was very rough. The site they saw was grassy, with a terrain that is rolling, uncultivated, and isolated. The houses therein were few and situated wide apart from each other. The surroundings consisted of green vegetation, corn fields, some trees, and houses.

166. They cordoned off the area. They saw a backhoe, which appeared to be still running. The waylaid vehicles blocked at the checkpoint were discovered in Sitio Masalay. Some of these vehicles were crushed and found dropped inside the hole. The vehicles had bullet holes, with some of their doors pried open.

167. The yellow backhoe has the markings of the local government of Maguindanao. The backhoe was yellow, and had markings which read "Acquired under the administration of Datu Andal S. Ampatuan, Sr., Governor, and Sangguniang Panlalawigan Members, Province of Maguindanao," "PC 300," and "Komatsu". (The prime mover also had a label "Province of Maguindanao.")

168. The authorities saw dead bodies scattered and sprawled on the ground, while some remained inside the vehicles. Some were found in the pit or buried in the ground. Inside one vehicle, the women were positioned as if they embraced each other. Eugene Demillo died with his hands tied.

169. Dead people were covered by bullet holes; some, with blood still oozing from them. The victims sustained serious wounds in the body, including the private areas, head and ligaments. Some had gouged eyes. The clothes of some of the victims were torn.

170. At 10:00 p.m., members of the PNP SOCO from PRO Region 12 arrived, which was followed in the morning by those from PRO ARMM.

** Discovery of the Crime by Other Witnesses*

171. Not long after, a white helicopter belonging to the Mangudadatus hovered above the crime site being cordoned off by the 64th Infantry Battalion.

172. Earlier, Datu Toto Mangudadatu called Major Dicay about the fate of his wife. The latter denied any knowledge of the death of Bai Gigi Mangudadatu. At around 10:00 a.m., Datu Toto announced over the radio that his wife was abducted.

173. At 4:00 p.m., Mayor Jong Mangudadatu and Ibrahim Mangudadatu, with the help of a chopper, discovered the crime site.

174. They identified their relatives and other cadavers. They described the crime scene as savage. Some of the victims had their hands tied, clothes were open, killed inside the vehicle; and that the bodies were crushed; and their items were scattered all over the ground.

175. At 5:00 p.m., news brokeout that Datu Unsay was the primary suspect in the killing of the victims in Sitio Masalay, Maguindanao.

176. Later, witness Anok Akil was summoned to the house of Datu Andal, Sr. Major Sukarno Dicay and P/C Insp. Rex Ariel Diongon told him that when interviewed, he must answer that he only arrived in Sitio Masalay and Sitio Malating at 11:30 a.m. of November 23, 2009. He also heard that **Sajid Ampatuan**, together with Atty, Cynthia Guiani and Nori Unas, discussed that they had to save the backhoe and make it appear that it was there in Sitio Masalay even before the incident. Sajid Ampatuan then handed the witness ₱2,000.00 to buy fish.

After November 23, 2009

**Processing of the Crime Scene*

177. The members of the SOCO from Region 12 and ARMM processed the crime scene. There were also other videographers and other authorities at the crime site.

178. The members of SOCO of Region 12 arrived in the evening of November 23, 2009 and processed the site until early next day morning, November 24, 2009. Then, the members of SOCO ARMM arrived the next day because they had to wait for security detail from P/Supt. Maguid and P/Supt. Dicay, but to no avail.

179. The SOCO members found that there was a disturbance of the soil, or digging of pits in the crime site. There were 2 grave sites. The finished grave site measured more or less 15 feet deep and 10 feet wide. The second grave site was not yet finished given that the bucket of the backhoe was still entrenched in it.

180. From there, they recovered a total of 57 bodies.

181. The first batch of 22 cadavers were found in the elevated portion of the crime scene (November 23, 2009). Some were inside the vehicles. Then, the second batch of 24 cadavers were excavated from the grave site (November 24, 2009). Later on, their partner team, the SOCO ARMM, recovered 11 cadavers and 3 totally wrecked vehicles in the crime site (6 of the cadavers were dug and excavated with the use of the backhoe from Sultan Kadarat commissioned to the team) (November 25, 2009). These cadavers were later on transported to the funeral homes in Tacurong City, Koronadal, and General Santos City.

182. The 3 smashed vehicles that were totally wrecked and beyond recognition consisted of a red Toyota Vios with label Tacurong City, clearly marked on the left side of the car; a white van with

marking UNTV made of paint in bold letters; and a light blue Tamaraw FX. Based on the video recording, the red Vios had a plate no. SGL 834 (the inside of the said vehicle had the ID of Joy Duhay); while the Tamaraw FX had plate no. UTG 234.

183. 9 vehicles were also recovered consisting of 4 vans, 1 Ssangyong, 1 backhoe and 3 smashed vehicles. The vehicles were just behind the backhoe, in a line position, in one direction, except the Ssangyong vehicle.

184. They also found firearms, personal belongings of the victims, and vehicles. These were turned over to the Firearms Examiner, the latter's relatives respectively, who were able to identify the bodies, and the CIDG.

185. The crime scene processing concluded on November 25, 2009 at 6:00 p.m.

186. To be specific, the Evidence Logbook of ther recovered crime scene objects (Exhibit "Quintuple T-130") includes the following: (1) backhoe with marking of Datu Andal, Sr., and Province of Maguindanao; (2) 5 vehicles: Toyota Hi Ace White (MVW 789 and LGH 247); Toyota Hi Ace Green (MVW 885); Toyota Hi Ace Gray (MVW 884); and Ssangyong Blue (MCB 335).; (3) several bags and personal items. The Sketch (Exhibit. "Quintuple T-222") of the area corroborated the vehicles and the backhoe found in the crime scene. Two of the vehicles had bulletholes: the Toyota Hi Ace White (LGH 247) and the Ssangyong Blue (MCB 335). Notably, 3 vehicles were dug up: Red Toyota Vios (SGL 834), White Mitsubishi FB Almazura (LGJ 859), and Toyota Tamaraw FX (UJG 234). The site of the vehicles and the bodies are depicted in the computerized sketch in Exhibit "(11) J".

187. The following were also recovered: (1) fired cartridges from 5.56mm & AK47; (2) live ammunition of 5.56mm; and (3) fired bullet of 5.56mm. "A total of one hundred ten (110) empty shells from 5.56 cal and two (2) M14 empty shells were recovered and collected." But, the car radios and batteries of the cars were no longer found (Exhibit "Quintuple T-230").

188. The police sketches revealed the following major elements of the crime scene: two grave sites; one backhoe (with the bucket in one of the grave sites); two vehicles with dead bodies insite it; dead bodies sprawled on the ground; three other vehicles.

189. By November 25, 2009, the recovery team collected 126 pieces of 5.56 mm empty shells, 3 pieces of 7.62 mm empty shells, 1

pc AK-47 empty shell, 32 pieces of a link or chain of mini maz, 1 pc of 5.56 live ammo, 4 pcs 5.56 fired bullet, and 1 metal fragment. The microscopic examination revealed that the firearms used in the scene were 6 5.56 mm FAs, 1 7.62 mm M-14, 1 AK-47, 5 M-14 rifles, and 13 garand rifles. (Exhibit "Quintuple T-231").

190. But on December 1, 2009, crime scene investigators went back. SPO4 Jessie Garcia found, bagged, and tagged a set of denture found at the crime site.

**Medico-Legal Analysis*

191. Medico-legal experts autopsied the victims from November 24 to 26, 2009. The victims still had their clothes with them. Slugs were recovered from the cadavers. According to the ballistician, the slugs were 5.56mm copper jacketed bullets, which were fired from an armalite type of firearm different from a shotgun and M-14 firearm.

192. The autopsy revealed the following: (1) almost all 57[860] of the victims sustained multiple gunshot wounds that caused their death;[861] (2) the wounds were ante-mortem; (3) the location of the wounds were in the head, neck, chest region, trunk or abdomen, lower back, extremities, and genitals.[862]

193. According to the expert witnesses, the wounds were caused by high powered firearms. Some of the victims were attacked from the front, back, side, while rolling, and while laying down. Some of the wounds signified that the attack was made from a distance, near the victim, or a contact[863] shot; or that there were multiple assailants.

194. Some of the female victims tested positive for the presence of semen.[864] Some victims also experienced other ante-mortem wounds like amputation,[865] shrapnel wounds,[866] **contusions or hematoma**, [867] fractures, [868] incision wounds, [869] and avulsion.[870]

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[860] Meriam Calimbol and Raisa Abdul sustained only one GSW. Romeo Cabillo sustained the most number of injuries at 28 GSWs.
[861] The following sustained multiple GSWs, of which only one was fatal: Eduardo Lechonsito and Fernando Razon.
[862] Atty. Cynthia Oquendo-Ayon.
[863] Cecil Lechonsito, Surayda Bernan.
[864] Rahima Palawan, Leah Dalmacio.
[865] Leah Dalmacio (amputation of th 4th finger of the left hand).
[866] McDelbert Areola.
[867] Romeo Cabillo, Lindo Lipugan, Atty. Cynthia Oquendo-Ayon, Catalino Oquendo, Jr., and Rasul Daud.
[868] Bai Eden Mangudadatu, Rasul Daud, Anthony Ridao, Hannibal Cachuela.
[869] Bai Genalin "Gigi" Mangudadatu.
[870] Rasul Daud, Wilhelm S. Palabrica

**November 24, 2009*

195. Top government officials, headed by Secretary Jesus Dureza, formally organized the Crisis Management Committee. Subsequently, Maguindanao, as well as Sultan Kudarat and the City of Cotabato were placed under a State of Emergency.

196. P/Supt. Abusama Maguid and PCI Sukarno Dicay were terminated as OIC of Maguindanao PPO, and as Deputy Provincial Director, respectively. They, together with P/Insp. Rex Ariel Diongon and SPO2 Badawi Bakal were also relieved from Maguindanao PPO.

197. At 5:00 p.m., news brokeout that Datu Unsay was the primary suspect in the killing of the victims in Sitio Masalay, Maguindanao.

198. At the house of **Datu Sajid Ampatuan,** P/Insp. Maguid, Atty. Cynthia, Atty. Sampulna, and Atty. Pantojan talked about how to hide the backhoe. Major Dicay suggested that they may explain that the backhoe was there because of the quarry operation for the road construction at the back of the market in Ampatuan Municipality.

199. Major Dicay drafted in a yellow piece of paper a narrative that the incident was a bomb threat, false alarm. The abovementioned lawyers, Norie Unas, and **Datu Sajid Ampatuan,** helped in the preparation of the affidavit.

**November 25, 2009*

200. The following vehicles were turned over to the PNP: One (1) Unit Silver Green Van with Plate No. MVW-884, One (1) Silver white van Plate No. LGH 247, One (1) unit dark green Van with Plate No. MVW 885, one (1) unit black 4WD New Family Jeep type Plate No. MCB 335; one (1) unit Toyota Tamaraw with Plate No. UTG 234 light blue, totally destroyed; one (1) unit Vios color red, Plate No. SGL 834 (totally destroyed); one (1) unit L3 Van color white Plate No. LGT 859 with 1 spare tire (totally destroyed).

**November 30, 2009*

201. The following vehicles were turned over to the PNP: one (1) unit ¾ Ton Truck Scout Car, one (1) unit ¾ Ton Truck Scout car which is reflected in the same Extract Police Blotter, Entry No. 379 dated 27 November 2009, referring to the two

improvised Armored vehicles with sign in front 1508th MAG PPO PMG, and the other one (1) sign MAG PPO/MPS, color camouflage; one (1) unit Heavy Duty Backhoe, brand Komatsu PC-300 color yellow.

**November 26, 2009*

202. Meantime, Secretary Jesus Dureza turned over the living person of Datu Unsay to Secretary Agnes VST Devanadera, who ordered NBI Director Atty. Nestor Manataring to effect arrest; who then instructed Atty. Ricardo Diaz to: make the actual arrest, announce the rights of the accused, and prepare the documents for inquest.

203. The Joint Task Force of the AFP and the PNP took Datu Unsay into custody. Datu Unsay was carried in a helicopter from the Maguindanao Capitol and brought to General Santos for inquest. The inquest proceedings of Datu Unsay, assisted by his counsel Atty. Fortun, took place at the VIP Lounge, General Santos Airport. The accused was flown in to NBI Head Office, Taft Avenue, Manila at 7:00 p.m.

204. P/Supt. Abusama Maguid as Acting Regional Logistic Resource Division and P/Supt. Bahnarin Kamaong as Group Director were relieved of their duties. Supt. Bahnarin U. Kamaong, P/Supt. Abdulwahid Pedtucasan and P/Insp. Cabunay were likewise relieved from their designation and re-assigned to the Regional headquarters effective on even date.

**November 27, 2009*

205. Several members of the 1508th PMG were also relieved of their duties.

**November 30, 2009*

206. P/Insp. Armando S. Mariga, P/Insp. Saudi Mokamad and P/Insp. Abdulgapor P. Abad, P/Supt. Abdulwahid Pedtucasan, and other PCOs were transferred or placed under restrictive custody.

**December 1, 2009*

207. Abo, Sabang, Guiadem, Dalus, Draper, Ebus, Engid, Haron, Ibad, Masukat, Omar, Pagabangan, Pala, Samson, Zainal,

Bandila and Macatimbol of Maguindanao PPO were transferred or placed under restrictive custody.

208. Members of the CHR, as well as other authorities, returned to the crime site. They recovered 2 SIM card cases, 2 live ammos of 5.56mm, 1 slug of 5.56mm, 17 empty shells of M16, 1 belt buckle, 1 eyeglass frame and 1 set of denture. The next day, the denture was identified to be allegedly owned by Reynaldo Momay.

**December 5, 2009*

209. Lt. Col. Randolph G. Cabangbang, pursuant to the orders of then President Gloria Macapagal Arroyo, announced in a press conference that martial law had been declared in the province of Maguindanao on December 4, 2009.

210. The CIDG seized motor vehicles, firearms, live ammunitions and bandoliers from the warehouse of Datu Andal, Sr. One of the vehicles, a Hummer was allegedly bought by Datu Sajid Ampatuan.

211. The following vehicles were turned over to the PNP: One (1) Sangguko or Armored vehicle "Pulisya", One (1) Patrol Isuzu LS; one (1) unit Armored vehicle, one (1) Toyota Hilux; one (1) Isuzu LS, and one (1) Unit 10 wheeler truck.

**December 12, 2009*

212. After the Ampatuans had already been arrested, the proclamation of Martial Law was lifted.

**January 12, 2010*

213. Major Dicay called P/Insp. Diongon asking that **Rainier Ebus** be helped to escape for a promise of ₱5 million for Ebus and ₱10 million for Diongon. Major Dicay also offered money for Diongon to buy fare tickets. Later on, Maguid asked Diongon not to implicate him in the incident.

**May 2010*

214. Lt. Col. Randolph G. Cabangbang met Lakmodin Saliao, whom he knew as the personal aide of Datu Andal, Sr. at a mall in Davao City. Saliao relayed that he had been receiving threats that somebody was trying to harm him.

**June 4, 2010*

215. Khadafeh Mangudadatu regained possession of his Toyota Grandia. The vehicle had gunshots along the side. He also found several items left inside the van, including cellphone, wrist bands, sunglasses, i.d.s, cards, and empty shells. The shells came from a 5.56 firearm per police investigation from Buluan National Police Station.

**November 3, 2011*

216. The NBI Headquarters with the help of Atty. Gemma Oquendo, were able to analyze the cellphone retrieved from the body of victim Atty. Cynthia Oquendo. The analysis revealed that there was an exchange of text messages in the morning of November 23, 2009, starting at 10:39 a.m. and ending at 11:14 a.m. The last text message revealed that there were already numerous dead bodies at 11:14 a.m.

Having established the foregoing, this court will now determine whether the prosecution had established beyond reasonable doubt, the crime of murder, including the qualifying, aggravating and mitigating (if any) circumstances alleged in the Third Amended Informations.

As priorly discussed, under Article 248 of the Revised Penal Code, the essential elements of murder are: (1) a person was killed; (2) the accused killed him/her; (3) the killing was attended by any of the qualifying circumstances mentioned therein; and (4) the killing is neither parricide nor infanticide.[871] For obvious reasons, the 4th element being a non-issue, the court deems it proper to no longer discuss the same.

A Person was Killed

Insofar as the remaining fifty seven (57) cases are concerned, this court finds that based on overwhelming evidence, the following were killed in Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao, on November 23, 2009, namely: Bai Genalin T. Mangudadatu, Bai Farinah M. Hassan, Bai Eden G. Mangudadatu, Faridah G. Sabdullah, Surayda Bernan y Gaguil, Rowena Ante y Mangudadatu, Lailani Balayman, Pinky Balayman, Wahida A. Kalim, Marife Cordova y Montaño, Marites Cablitas, Mamotobai G. Mangudadatu, Raida S. Abdul, Gina dela Cruz y Carpenteros, Concepcion Brizuela y Jayme, Bienvenido Legarta, Norton "Sedick" Edza y Ebus, Rasul Daud, Rosell Morales y Vivas, Eugene P. Demillo, Rahima P. Palawan, Noel Decena, Jephon Cadagdagan, Alejandro Medrano Reblando, Catalino Palmani Oquendo, Jr., John

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[871] ||| *(People v. Delmo y Isla, G.R. Nos. 130078-82, [October 4, 2002], 439 PHIL 212-265)*

Caniban, Mercy Palabrica, Anthony Ridao, Hannibal D. Cachuela, Romeo O. Cabillo, Joy "Jose" Duhay, Benjie Adolfo, Henry Heneroso Araneta, Ernesto S. Maravilla, Jr., Jolito Evardo, Daniel D. Tiamzon, Eduardo Lechonsito, Cecile Lechonsito, Fernando Razon, Lindo Lupogan, Daryll Vincent delos Reyes, Andres M. Teodoro, Abdillah Ayada, Wilhelm S. Palabrica, Cynthia Oquendo-Ayon, Francisco Subang, Jr., Napoleon Salaysay, Leah Dalmacio y Soguilon, Meriam Paandal Calimbol, Mc Delbert Areola, Junpee Gatchalian, Arturo Betia, Rey Villareal Merisco, Joel V. Parcon, Ronnie Laru-an Perante, Rubello R. Bataluna, and Victor O. Nuñez.

Their cadavers were retrieved in the aftermath of the carnage, and conclusively identified based on the account of their respective relatives, medico-legal examiners, and operatives from the NBI and the PNP (SOCO Region 12, ARMM and CIDG). The latter produced in court Medico-Legal and Autopsy Reports, Anatomical Sketches, Consent for Autopsies, Autopsy Pictures, and SOCO Reports (List of Recovered Cadavers), and together with the Birth and Death Certificates, as well as the personal effects found in the crime scene like IDs and wallets, these pieces of evidence proved the identity as well as the fact of death of the victims found in Sitio Masalay.

Moreover, the totality of the exhibits shows that their deaths were far from a natural occurrence based on the existence of the multiple gunshot wounds (GSWs) and other injuries in their bodies showing that the same were ante-mortem, not self-inflicted and caused by high-powered firearms. In fact, the Death Certificates of the aforenamed victims explicitly state the cause of death as gunshot wounds.

There is no gainsaying therefore, that the 57 victims in these cases were indeed killed in the hilly portion of Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao, on that fateful day.

The Accused Killed Them

The 101[872] already arrested accused in these cases had a different participation in the events leading to November 23, 2009. Based on the volumes of exhibits and testimonies presented during the proceedings, this court has narrowed down the accused to **SIX** (6) classifications. Thus:

Those who had prior knowledge of the murder plot could either had (1) fired at the victims in Sitio Masalay; (2) performed other acts outside of Sitio Masalay; or (3) did not at all perform any overt act.

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[872] Originally 117 including 1 whose cases were dismissed as against him for lack of probable cause, 1 dropped from the Amended Informations by virtue of a Joint Order dated February 13, 2013 and Order dated November 5, 2013, 2 discharged as state witnesses, 8 including Datu Andal Ampatuan, Sr. already died while in detention, and 4 were ordered released on ground of insufficency of evidence.

Those who had *no* prior knowledge of the murder plot could either had (4) fired at the victims in Sitio Masalay; (5) performed other acts outside of Sitio Masalay; and (6) did not at all perform any overt act.

Before discussing each of these classifications, this court will make a factual determination of whether the killing of the 57 victims were preceded by a murder plot. This finding is relevant to resolve the issue of whether or not conspiracy exists.

The court finds that the prosecution has proven beyond reasonable doubt that the killing of the 57 victims were planned prior to November 23, 2009. Both direct and corroborative evidence point toward this conclusion.

Direct evidence exists to prove that on the evening of July 20, 2009, a meeting was conducted at Century Park Hotel, Manila, which was held after the meeting in Camp Aguinaldo. The defense had failed to refute that said meeting took place which was about the persistence of Datu Toto Mangudadatu (Datu Toto) to run as Governor of Maguindanao for the 2010 National and local elections.

Eyewitness Sukarno Badal had testified regarding the agenda and minutes of the meeting that transpired on the aforesaid date. The conversations he recalled before the court depicted that those who actively participated in said meeting wanted to prevent Datu Toto from running as Governor, and even to kill him, so that political power would remain in the hands of the Ampatuans.

Said direct testimony is corroborated by several pieces of evidence. The testimonies of Datu Toto and even Datu Andal "Unsay" Ampatuan, Jr. (Datu Unsay) himself showed that a meeting was conducted at Camp Aguinaldo regarding the Maguindanao elections. Elsie R. Gaba, the Front Desk manager of Century Park Hotel, as well as her billeting records, proved that on July 20, 2009, several Ampatuans booked rooms thereat. Fabian S. Fabian, Supervisor of the Records Section from the Philippine Airlines (PAL), as well as the travel documents on record, depicted that Ampatuans, together with other accused in these cases, were in Manila on even date.

Four days later, on July 24, 2009, in Maguindanao, unrefuted is the fact that Sukarno Badal received M14 rifles to be used to implement the plan to kill the Mangudadatus.

Likewise, the testimony of Badal revealed that a week before November 23, 2009, or on November 16, 2009, the Ampatuans had a meeting in a "purok" at the farm of Datu Andal Ampatuan, Sr. ((Datu

Andal, Sr.) in Brgy. Bagong, Shariff Aguak. Transfer Certificates of Title[873] on record would verify that the latter has properties in the said area.

Badal, who was present at the gathering recalled that in furtherance of the plan to kill the Mangudadatus, the possible locations of the filing of the Certificate of Candidacy were assigned to different persons, the killing will be committed by several men and with the use of firearms, and that the bodies and vehicles would be buried using a backhoe[874] which was subsequently identified with a marking *"Acquired under the administration of Datu Andal S. Ampatuan, Sr., Governor, & Sangguniang Panlalawigan members, Province of Maguindanao."*

On November 19, 2009, another meeting was conducted according to state witness then P/Insp. Rex Ariel Diongon. He detailed that it was discussed that Datu Toto will pass by Malating; will have armed escorts; a Sangguko will be used; Datu Toto might not himself file his COC but regardless of who will file the same, that person shall be killed; and the heads of the checkpoint were to receive a sack of rice and money to buy viands for the conduct of checkpoint operations. Right after this meeting, checkpoints were installed.

The timeline proves beyond reasonable doubt that there were gatherings prior to November 23, 2009. The purpose had been laid out in these meetings: to not just prevent, but kill all the persons transporting the candidacy papers of Datu Toto to Shariff Aguak. The method had also been ascertained: numerous men, firearms, checkpoints, Sanggukos and a backhoe would be used to accomplish the murder objective.

Having now established that a roughly detailed planning preceded the killing of the 57 victims, this court now identifies those accused who had prior knowledge of the murder plot and the consequences that befall them.

The **first** class of accused – those who had prior knowledge of the murder plot and fired at the victims in Sitio Masalay – are clearly guilty as principals by direct participation.

A principal by direct participation is one who takes part in the execution of the crime. Thus, in a prosecution for murder, the person who actually kills the victim is a principal by direct participation.[875]

The following were identified by several witnesses as knowledgeable of the murder plot, and had participated in the actual killing of the victims, namely: Datu Andal "Unsay" Ampatuan, Jr., Datu Anwar Sajid "Datu Ulo" Ampatuan, Datu Anwar "Datu Ipi" Ampatuan, Jr.,

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[873] Exhibits "(8) I-1" to "(8) I 4" with sub-markings.
[874] Exhibits "(5) V-1" to "(5) V-4" with sub-markings.
[875] Commentaries on Criminal Law, Revised Penal Code, Book One, Maximo P. Amurao, (2013).

P/Insp. Saudi Mokamad, PO1 Jonathan Engid, Abedin Alamada a.k.a. Kumander Bedi, Talembo "Tammy" Masukat a.k.a. Talembo Kahar Abdulrakman, Theng P. Sali a.k.a. Abdullah Hamid Abdulkahar, Manny Ampatuan, and Nasser Esmael a.k.a. Nasrudin Esmael.

Prosecution witness, Sukarno Badal had testified that the aforementioned accused had attended the meeting at Century Park Hotel on July 20, 2009, together with other Ampatuan members and supporters during which the plot to kill Datu Toto was first hatched due to his persistence to join the gubernatorial race in Maguindanao. Sukarno Badal had testified having seen Mokamad at a meeting on November 16, 2009 at the house of Datu Andal, Sr. in Bagong, Shariff Aguak. Lakmodin Saliao had likewise testified having seen accused Manny Ampatuan during the meeting held on November 17 and 22, 2009 at the house of Datu Zaldy Ampatuan and at the farm of Datu Andal, Sr. in Brgy. Bagong, Shariff Aguak, respectively. Earlier, on November 21, 2009, another meeting was held in the house of accused Datu Unsay at No. 33, Shariff Aguak, wherein the installation of checkpoints along the road from Isulan going to Shariff Aguak and Cotabato (Midsayap) going to Shariff Aguak was discussed. During the said meeting, Badal had seen accused Datu Unsay, Mokamad, Datu Ulo, Datu Ipi, PO1 Engid, Alamada and Theng Sali. In fact, Mokamad together with Dicay were assigned by Datu Unsay to man the checkpoint in Malating, the place where the passengers of the convoy were to be halted.[876]

Subsequent to the foregoing series of meetings held, and pursuant to their agreement to kill Datu Toto to prevent him from filing his Certificate of Candidacy, Datu Unsay together with his armed men and the aforesaid accused had conducted checkpoint operations in Crossing Saniag in the morning of November 23, 2009. They were actually seen by witnesses Sukarno Badal and Rasul Sangki.[877] After the convoy of Datu Toto led by his wife, Bai Genalyn Mangudadatu and 56 other companions had passed Crossing Saniag, on their way to Shariff Aguak, they were subsequently halted at the Malating checkpoint being manned by members of the 1508th PMG. Even before the convoy could leave, Datu Kanor and his armed men arrived, followed by the group of Datu Unsay, and thereafter, the passengers of the convoy were ordered to alight from their vehicles and lie prostrate on the ground while being divested of their personal belongings employing force and violence upon them. They were subsequently brought to the hilly portion of Sitio Masalay, Brgy. Salman, Ampatuan, Maguindanao, by Datu Kanor and Datu Unsay together with the aforesaid accused as well as their armed cohorts where they (passengers) were mercilessly killed with the use of high-powered firearms.[878]

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[876] TSN, February 14, 2013, p. 68.
[877] TSN, February 14, 2013, pp. 80—81; January 13, 2010, pp. 28-30, 99; January 27, 2010, pp. 67, 80-81; July 27, 2017, pp. 40-42; June 20, 2013, pp. 27-28.
[878] TSN, October 20, 2010, pp. 66-67; February 14, 2013, pp. 86-92; December 11, 2013, pp. 9-11; July 27, 2017, pp. 38-39; June 20, 2013, pp. 30-32; August 23, 2012, p. 88.

Based from the foregoing, it is thus, indubitable that Datu Unsay, Datu Ipi, Datu Ulo, all surnamed Ampatuan, P/Insp. Saudi Mokamad, PO1 Jonathan Engid, Abedin Alamada, Talembo "Tammy" Masukat, Theng P. Sali, Manny Ampatuan and Nasser Esmael are considered principal by direct participation. Their acts were deliberate and obviously in pursuance of their plan to kill Datu Toto or whoever will file his Certificate of Candidacy. Said accused were positively identified and seen by witnesses to have actually participated in the shooting of the 57 innocent victims.

In his Memorandum, accused Datu Unsay asserts that he could not have committed the crimes charged given that he was at the Munisipyo ng Bayan, Datu Unsay Municipality, on that fateful day attending a meeting with local officials from 8 a.m. to 12 p.m. This alibi deserves scant consideration.

The eyewitnesses who are familiar with accused Datu Unsay such as Rasul Sangki, Akmad Abubakar Esmael, Anok Akil, Norodin Mauyag, and Sukarno Badal categorically declared that they saw said accused in Saniag, Malating, and Masalay on November 23, 2009.

At the risk of being repetitive, the court must remind again the accused that not only was he merely sighted, witnesses claimed that he was seen performing overt acts significant to the realization of the crimes charged. Collectively, from the testimonial and documentary evidence on record, Datu Unsay was linked in these crimes on the aforesaid date in the following manner:

Saniag

1. He was seen conducting checkpoint operations and giving commands to his armed men; and
2. He was seen and heard constantly communicating via I-com radio throughout the day with P/Insp. Sukarno Dicay. Specifically, the former uttered orders directing the latter to close the checkpoints and to look for the file of Datu Toto from the waylaid passengers.

Malating

1. He was seen approaching the passengers of the convoy, who were already lying prostrate on the ground at that time. He was particularly observed by a witness as pointing a gun at them, and shouting "dapa" (lie down) to them;
2. He was seen and heard directing his armed men to get the cellphones of the herded victims;
3. Witnesses saw the accused as he took two women from one of the vehicles of the convoy. One witness saw him bringing them inside

another vehicle, while the other saw that the accused grabbed, slapped and shoot a woman between her legs;

4. Rasul Sangki categorically testified that inside the vehicle of the accused, he saw various camera belonging to the media. In that car, the witness heard the accused say: "ama, they are already here."

5. He was heard commanding the closure of the Malating checkpoint via I-com; and thereafter, the accused left towards the direction of Shariff Aguak.

Masalay

1. He was seen directing the passengers of the convoy to alight from their vehicles and then commanding his armed men to fire at them;

2. He was seen shouting "dapa" to the passengers of the convoy herded in front of him;

3. Several witnesses saw him shooting at the victims with high powered weapons. A witness saw him firing at those already dead.

Lest it be forgotten, the Minutes of the Meeting dated November 23, 2009[879] which was submitted to the court to buttress his defense of alibi was merely a photocopy. Hence, the admission thereof was denied by the court in its Order dated December 28, 2018 in light of the accused's failure to submit before it the original or at least a certified true copy thereof. Neither was an explanation offered by the accused to justify the admission of secondary evidence.

In the case of Abay, Jr. v. People,[880] it was held that the Court has consistently ruled that the defense of alibi must be received with suspicion and caution, not only because it is inherently weak and unreliable, but also because it can be easily fabricated. Alibi is a weak defense that becomes even weaker in the face of the positive identification of the accused. An alibi cannot prevail over the positive identification of the petitioners by credible witnesses who have no motive to testify falsely.

On the issue of absence of ballistics report, it maybe well to point out that the findings of expert witnesses such as the Medico-legal Officers who conducted the autopsy on the cadaver of the victims, and had examined the injuries inflicted on them are one in saying that the latter died due to gunshot wounds inflicted by more than 2 assailants using high-powered firearms. This was categorically pointed out by Dr. Ricardo Rodaje, Dr. Dean Cabrera, Dr. Reynaldo Romero, Dr. Felino Brunia, Jr, Dr. Ruperto Sombilon, Jr., Dr. Raymond Cabling, and Dr. Tomas Dimaandal, Jr., when presented on the witness stand.

It may also be worthy to mention that the Receipt/Inventory of Property Seized confiscated at the Ampatuan ricemill (NFA warehouse) in

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[879] Marked as Exhibit "17" and series.

[880] G. R. No. 165896 [September 19, 2008], 587 Phil. 482-495.

Shariff Aguak, on December 5, 2009 which shows among others, 250 boxes of ammunitions of cal 5.56 MM and (3 pcs) M16 rifle/5.56 MM and three (3) black bandolier;[881] the empty shells of 5.56 caliber firearm found among others, in the Toyota Hi-Ace Grandia van[882] owned by Khadafeh Mangudadatu which was used by some of the victims on November 23, 2009 who were shot right then and there when they refused to alight therefrom; and the result of the ballistic examination requested by the Medico-legal Officers[883]on the fragments and slugs recovered from the herein victims[884] reveal that most of the slugs from the victims were 5.56 mm copper jacketed bullets which were fired from a 5.56 firearm[885] with riflings twisting to the right, all bear a common denominator - 5.56 mm which means that this kind of slugs were used by the assailants. It matters not from whose firearms said slugs were fired. In this kind of a crime involving multitude participants, what matters is that they were used by the same assailants who were the armed group or CVOs of the Ampatuans who provided them with firepower.

It must also be borne in mind that the fact that 2 of the prosecution witnesses, Thonti Lawani and Lagudin (Lagiudin) Alfonso had subsequently retracted their testimonies to the effect that they were not present at the highway in Sitio Masalay and they did not see Datu Unsay on November 23, 2009, is of no moment. Even sans their testimonies, the prosecution's evidence will remain unaffected, in light of the overwhelming evidence as above-explained. It must be noted that recantation by a witness is nothing new, or it is a frequent occurrence in criminal proceedings. As a general rule, it is not well regarded by the courts due to its nature as the mere afterthought of the witness.[886]

Lastly, assuming en arguendo that the phone calls between Datu Toto and Bai Genalyn Mangudadatu and the latter's utterances "malapit na si Unsay, sinampal ako" were not substantiated by the prosecution given that only the Globe billing statement was adduced, undisputed is the fact however, that the text and call transcription made by the NBI on the Sony Ericsson P1I cellular phone[887] of victim Atty. Cynthia Oquendo-Ayon which was identified by witness Atty. Gemma Oquendo to show that on November 23, 2009 at at 10:39 a.m., a text message from Atty. Ayon was received by Atty. Arnold Oclarit which says: *"Christian grtng! No: Kidnap me with tatay, dahan mi, pls advise client ampatuan. Tama na, pls, we myt get killed they r firing. Pls send to tom."* (referring to Atty. Tomas Falgui, one of the legal counsel of Ampatuans) constitutes res

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[881] Exhibits "(11) Q to "(11) Q-3".
[882] Exhibit Nona "Q-1"; TSN, December 1, 2010, pp. 126-127
[883] Dr. Ricardo Rodaje, Dr. Reynaldo Romero and Dr. Ruperto Sombilon.
[884] Bai Genalyn Mangudadatu, Gina dela Cruz, Marife Cordova, Marites Cablitas, Bai Eden Mangudadatu, Lailani Balayman, Rosell Morales and Bienvenido Legarta.
[885] It is an armalite type of firearm different from a shotgun and M-14 firearm.
[886] People vs. Domingo, G.R. No. 181475, April 7, 2009; Francisco vs. NLRC, G.R. No. 170087, August 31, 2006.
[887] Exhibit "(6)W-5-X"; "(6)W-6-A".

gestae as such utterance was made during a startling occurrence. Hence, pursuant to Rule 130, Section 42, which provides, thus:

> "Sec. 42. Part of the res gestae. Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the res gestae. x x x"

said text message of Atty. Oquendo-Ayon is admissible to show that Ampatuan was present at the crime site.

The **second** class of accused – those who had prior knowledge of the murder plot and performed other acts outside of Sitio Masalay – are also principals by direct participation.

This class of accused are considered as such notwithstanding their absence at the locus criminis, as their actuations had for their purpose the attainment of their common objective of committing the unlawful act.

In this case, the following were identified by various witnesses as knowledgeable of the murder plot and performed overt acts relevant to these crimes: Datu Zaldy Ampatuan, P/CInsp. Sukarno Adil Dicay, P/Supt. Abusama Mundas Maguid, P/Supt. Bahnarin Kamaong and Datu Anwar Ampatuan, Sr.

Given that the thrust of accused Datu Zaldy's defense – denial and alibi - has not changed, it may not be amiss to reiterate some of the facts as found by this court relative to his bail application. Accused claims that on July 20, 2009, November 16, 17, 21 and 22, 2009, when meetings were held for the purpose of discussing the plot to kill Datu Toto and the manner by which the same shall be implemented, that he was somewhere else. The court however, is not persuaded. As regards the July 20, 2009 meeting held at Century Park Hotel, the defense failed to include in the alibi that it was impossible for the accused to leave the ARMM Manila Liaison Office in Makati City, and head out to the meeting at the Department of National Defense (DND), and Century Park Hotel, which are all in Metro Manila. Based on the testimony of the defense' witness herself, there was no work on that day; the accused arrived in the office after brunch time; left, right after signing the documents only to return between 5 to 6 p.m.; and left around 10 p.m. Obviously, the accused was not hampered from leaving the office and to proceed to other destinations as he may please.

As regards the meeting on November 16, 2009, the evidence appears to show that the accused is in the same locality of Shariff Aguak on said date and during the material time when the alleged meeting transpired. With only a thin margin as regards the exact location when the meeting was supposed to start at 10 a.m. in Shariff Aguak and the defense mentioned that the accused was in his office in Shariff Aguak

from at least 10 to 11 a.m., it cannot be gainsaid that there is no reasonable probability as regards the conclusion that the accused attended the meeting in Brgy. Bagong, Shariff Aguak.

With respect to the alleged meeting on November 17, 2009, the defense claims that the accused did not attend said meeting which started after 8:30 p.m. in Shariff Aguak, for he was then at the Municipal Hall of Datu Hoffer at around 7:30 p.m. up to 10 p.m. Here, the defense again failed to present a picture that limits the body of the accused from locomotion around the municipalities of said places. The defense' witness even stated the tendency of the accused on that day to travel from Shariff Aguak to Datu Hoffer. Hence, it cannot be outrightly concluded that it is impossible for the accused to be in Shariff Aguak at one point in time.

Finally, regarding the supposed meeting on November 22, 2009, which started after 9 p.m., the defense posits that accused was then at home in Juna Subdivision, Matina, Davao City. However, this alibi, presented, appears to the court as still lacking the fundamental requisite that would show the accused's immobility to travel from Davao to Shariff Aguak.

The defense of alibi fails to make the presence of the accused in times and places other than those in the meetings a controversial issue. The proofs shown allude to the locations of the accused, but not to his actual and fixed confinement in a certain place that would have supported his alibi.

With the foregoing, the court is of the opinion that the defense of alibi of Datu Zaldy cannot be given due consideration. Well-settled is the rule that it is not enough to prove that the accused was somewhere else when the crime was committed, but he must also demonstrate by clear and convincing evidence that it was physically impossible for him to have been at the scene of the crime at the time the same was committed.[888]

Moreover, in his Memorandum, herein accused is in effect questioning the credibility of Lakmodin Saliao. According to him, it was impossible for the former to have been accorded trust and confidence, especially on confidential and sensitive matters involving a killing as he was relatively a new employee in 2009, a complete stranger at the time he was hired. It must be pointed out however, that when Lt. Col. Randolph Cabangbang was presented on the witness stand on May 23, 2012, he testified that when he arrived at Camp Panacan Station Hospital, to visit Datu Andal, Sr., he was told by the nurses thereat that he should approach the watcher first before he could enter the room, and whoever comes in the room of Andal, Sr., should first go to the watcher, who introduced himself as Laks (Lakmodin Saliao), who was a trusted aide.

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[888] People vs. Obogne, G. R. No. 199740, 24 March 2014; People vs. Castro, et. al., G.R. No. 187073, March 14, 2012.

He was a cellphone holder of Andal, Sr., every transaction that Andal makes Laks was part of it.[889]This only refutes accused's allegations that Saliao has not been accorded trust and confidence by Datu Andl, Sr. as he was merely a "kasambahay."

Accused Datu Zaldy likewise questions the credibility of witness Sukarno Badal in relation to his testimony regarding the high powered firearms that were supposed to be loaded in a passenger or commercial flight. He claims that P/Insp. Gary Puaso had testified that the protocol observed in loading firearms is opposed to Badal's allegation. On cross-examination however, it turned out that Puaso has no personal knowledge of any incident or procedures or protocol prior to 2017 as to the transport or facilitation of firearms to commercial flight because he only started his duty at PNP-AVS in October 2017 only.[890]

From the foregoing, it is thus, clear that the grounds relied upon by the accused in questioning the credibility of prosecution witnesses is unfounded.

On the issue of whether or not Datu Zaldy had made utterances during the alleged meetings sufficient to make him criminally liable, and whether or not there was an overt act on his part, it cannot be gainsaid that in a meeting at the house of accused Datu Zaldy Ampatuan on November 17, 2009, which was attended by several members of the Ampatuan clan, among others, (except Datu Unsay who was admittedly airborne on his way to the Philippines from the United States at the time), witness Lakmodin Saliao heard the former uttered "*kung yan ang mapag usapan kailangan planuhin mabuti para hindi tyo mabisto*."[891] In a subsequent meeting on November 22, 2009, in Brgy. Bagong, Shariff Aguak, said accused also uttered " kung yan na ang final desisyon, natin na patayin silang lahat ay pupunta ako ng Maynila para hindi tyo mahalata at magtawagan na lang tyo".[892] Previous to this meetings, accused likewise attended the meeting at Centrury Park Hotel on July 20, 2009 wherein accused mentioned "*Todo suporta ako dyan, Ama dapat malinis ang pagkagawa*." "*Dahil kung hindi malinis, madudungisan ang pangalan ko at makukulong tayong lahat.*"[893] On November 16, 2009 at the mansion of Datu Andal, Sr. in Bagong, witness Sukarno Badal said that he heard Zaldy uttered "*Todo Suporta ako diyan, kahit lahat ng baril ko gagamitin nyo. Kailangan malinis ang pagkakatrabaho kasi kapag nagkataon makukulong tayong lahat. Alalahanin natin ang sabi ni Ate Cyn".*[894]

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[889] TSN, May 23, 2012, pp. 83-84.
[890] TSN, February 1, 2018, pp. 6 and 9.
[891] TSN, January 7, 2013, pp. 11-14.
[892] *Id.* p. 18.
[893] TSN, February 14, 2013. P. 30
[894] *Id.* pp. 52-53.

Considering the attendance of the accused and his utterances during the subject meetings, the court finds that based on the evidence presented, there are clear, strong, and convincing pieces of evidence, which tend to exclude all reasonable probability of any other conclusion that the accused was deeply involved in the planning of the crimes. During said meetings, he consistently gave his support to the plans and advised about being cautious so as not to get caught that would put his name to shame, and those attending the meetings, behind bars.

While it is admitted that accused Datu Zaldy was not at the *locus criminis* when the implementation of the plot to kill was finally made, this will not ipso facto exonerate him from criminal liability given that aside from said utterances, he did not only offer to give all his guns, but agreed to be assigned in Metro Manila, as possible place for the filing of Datu Toto's COC. Thus, he was heard saying: "*Kung yan na ang final desisyun natin sa (sic) patayin silang lahat ay pupunta ako sa Maynila para hindi tayo mahalata at magtawagan nalang tayo.*"

In the ordinary context, these words heard from the accused would show his agreement and unity with the plans discussed during the meeting. Beyond agreement, the accused gave moving utterances that elicited emotions, responses, and further actions from the group. Otherwise, he should have done something to prevent his cohorts specifically Datu Unsay and others whose names are mentioned herein from acting in furtherance of their plot to kill. An accepted badge of conspiracy is when the accused, by their collective acts aimed at the same object, one performing one part and another performing another so as to complete it with a view to the attainment of the same objective, indicating closeness of personal association, concerted action and concurrence of sentiments. [895] To exempt himself from criminal lability, a conspirator must have performed an overt act to dissociate or detach himself from the conspiracy to commit the felony and prevent the commission thereof.[896]

Likewise identified by witnesses on several occasions, i.e., prior to, during and after November 23, 2009, is P/CInsp. Sukarno Dicay who at that time was the Deputy Director of Maguindanao Police Provincial Office.

Sukarno Badal pointed to Dicay as one of the police officers who were present at the meeting on November 16, 2009 in Bagong, Shariff Aguak. He was likewise seen at the meeting on November 21, 2009 in the house of Datu Unsay at No. 33, Shariff Aguak.[897] While nothing was heard from him during said meetings, it it obvious that in furtherance of the plan to kill Datu Toto, he performed another act in order to attain their common objective.

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[895] People vs. Llanes, 340 SCRA, 564 [2000]).
[896] People vs. Readores y Desembrada, G.R. No. 206839, July 22, 2015.
[897] TSN, February 20, 2013, pp. 43-44 and 46.

First, Dicay was seen by Norodin Mauyag as one of the armed men he saw in Sitio Malating on November 20 to 23, 2009.[898]Second, at past 9 a.m. on November 23, 2009, then P/Insp. Rex Ariel Diongon saw Datu Kanor and Dicay at their checkpoint. Upon arrival of the 8 vehicles from Esperanza road, Dicay ordered the men of Datu Kanor to scatter.[899] Thereafter, Rasul Sangki testified that he saw Dicay pointing a gun at the people lying prostrate on the ground in Sitio Malating, on November 23, 2009.[900] Upon arrival of Datu Unsay, together with Datu Kanor, the passengers of the Mangudadatu convoy were brought to the hilly portion in Sitio Masalay, Brgy. Salman, Maguindanao, where they were subsuquenlty killed. On the following day, November 24, 2009, Dicay was seen by Anok Akil at the house of Datu Andal, Sr. who told the former and Kerol Blah that a person will conduct an interview and they were to tell them that Dicay and Diongon arrived in Sitio Masalay and Sitio Malating at 11:30 a.m.

In fact, on November 23, 2009, in Crossing Saniag, it was Dicay who called Datu Unsay through an I-com that the Mangudadatu convoy has already passed the Tacurong roundball. He was even the one who was asked by Datu Unsay to close the Malating checkpoint.

After the Mangudadatu convoy was brought to the hilly portion of Sitio Masalay, Brgy. Salman, and while still at the Malating checkpoint, Dicay instructed one of the CVOs of Datu Kanor to burn all the evidence left in Malating, upon instruction of P/Insp. Mukamad.

Subsequently, under the guise of lack of trust but actually a cover-up, Dicay deliberately did not divulge to the members of the 64th Infantry Battalion (IB) when asked about the abduction incident upon their arrival at the Malating checkpoint on that fateful day. When presented on the witness stand, Major Peter Edwin R. Navarro testified, thus:

PROS. REYES:	And What happened next after Col. Nerona instructed you to proceed to the PNP checkpoint in Malating?
A	When we reached the PNP checkpoint, sir, we saw the PNP personnel, CInsp. Dicay, Insp. Diongon and Insp. Macada or Macaraeg.
x x x	
Q	Now, after approaching the checkpoint, what happened next?
A	Our battalion commander, Lt. Col. Nerona, said to CInsp. Dicay that there was an abduction report in Masalay.
Q	And what was the reply of Insp. Dicay?

[898] TSN, September 7, 2011, pp. 66, 70.
[899] TSN, October 27, 2010,pp. 63 and 66.
[900] TSN, January 13, 2010, pp. 51, 98.

A	"Sir, kaninang umaga pa kami dito, walang abduction na nangyari."
COURT	Just quote him. (TSN, November 23, 2011, pp. 46-47)

From the foregoing, it is indubitable that accused Dicay had conspired with his co-accused in order to attain their common goal i.e., to kill Datu Toto or whoever will file his COC on his behalf. The above-quoted reply of Dicay is evidently a cover-up. Thus, he must be made to suffer for all the consequences of his wicked act.

As for P/Supt. Bahnarin Kamaong, allegedly a trusted man of Datu Zaldy Ampatuan, the former was sighted by Sukarno Badal to have attended the meeting on July 20, 2009 at Century Park Hotel where the plot to kill Datu Toto was hatched. While thereat, he was heard by the witness uttering the words "*Pagdating sa punto na yan sabi nya, Datu, ako na ang bahala pati na mga tauhan ko.*"[901] He was likewise seen by said witness in the meeting held on November 16, 2009 at the mansion of Datu Andal, Sr. in Bagong, Shariff Aguak, where he uttered "*sabi nya po, pagdating ng oras na yan, kami na ang bahala pati ang mga tao ko.*"[902]On November 17 and 22, 2009, Kamaong was also sighted by prosecution witness, Lakmodin Saliao, to have attended the meetings held at the house of Datu Zaldy and at the farm of Datu Andal, Sr. in Bagong, respectively. In the latter meeting, Kamaong was seen giving instructions to the police officers to bring out the firearms.[903]

While Kamaong did not actually participate in the shooting of herein victims neither was he actually seen at the crime site on November 23, 2009, it cannot be denied that he was part of the plot to kill Datu Toto. His overt act in directing the police officers to bring out the firearms apparently to be used by the assailants in carrying out their plan speaks for itself. No other conclusion can be had except that he was part of the the conspiratorial act. He thus, must be made to suffer the consequences thereof.

P/Supt. Abusama Maguid, Al Hajj, the Provincial Director of the PNP is likewise part of the conspiratorial act. He was identified by witness Rex Ariel Diongon who went to Malating checkpoint together with Insp. Mukamad right after the passengers of the convoy were halted thereat and brought to the hilly portion of Sitio Masalay. Said witness claimed that Maguid talked to him, Dicay and Macaraeg and told them to say "bomb threat, false alarm." Maguid had likewise instructed Dicay to burn all the evidence in said place which were left by the victims.[904]

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[901] TSN, June 20, 2013, pp. 34-35.
[902] *Id.* pp. 36-37.
[903] TSN, June 27, 2013, pp. 55-58, 60-62, 64.
[904] TSN, June 5, 2013, pp. 100-101.

Moreover, Maguid was identified by witness Esmael Canapia as the person who he met on November 23, 2009 while he was on his way to the hilly portion of Sitio Masalay. When he testified on October 4, 2012,[905] he quoted his Affidavit (Exhibit "(13) E") which said, thus:

> "Par. 5. Sa aking pag-akyat sa bulubunduking bahagi ng Sitio Masalay ay nasalubong ko ang convoy ng mga sasakyan ni Datu Unsay, kasama sina Mohades Ampatuan at si Col. Maguid at pati na rin ang maraming lalaking armadong naka uniporme. Sila ay pababa na sa bundok kasama ang mga iba pang armadong kalalakihan lulan ng mga sasakyan."

His being sighted as one of the companions of Datu Unsay on November 23, 2009 while descending from the mountain or hilly portion of Masalay and his act of directing Dicay to make it appear that the incident of abduction at Malating checkpoint on said date was a "Bomb threat, false alarm" to mislead the would-be investigators clearly show unity of purpose with Datu Unsay.

Lastly, witness Sukarno Badal had testified that accused Datu Anwar Ampatuan, Sr. was present in the meeting at Century Park Hotel on July 20, 2009, when the plot to kill Datu Toto was hatched.[906] Datu Anwar, Sr. was likewise present during the meeting held on November 16, 2009 at the mansion of Datu Andal Sr. in Bagong, Shariff Aguak. In fact on said occasion, he even uttered "*Patayin natin yung mga Mangudadatu, pati yung mga sasakyan nila ililibing na natin yan.* [907] He was also present in the meeting on November 17 and 22, 2009, at the house of Datu Zaldy and in Bagong, Shariff Aguak.[908]

Admittedly, Datu Anwar, Sr. was not at the crime site on November 23, 2009. No witness had identified him as being present thereat on said date. Unfortunately however, this will not ipso facto exonerate him from criminal liability it appearing that at the meeting on November 16, 2009, he uttered the afore-quoted suggestion which to the mind of the court was one of the moving factors which emboldened all the more Datu Unsay and their other cohorts in carrying out their wicked plan. In fact, as pointed out by the prosecution in its Memorandum, said suggestion was actually carried out to the letter when accused Bong Andal was asked to operate the backhoe to dig a hole and bury the lifeless bodies of the victims together with their vehicles.

Moreover, his role in the aiding and facilitating the escape of his brother Datu Unsay with his cohorts immediately after the commission of the crime cannot be underestimated. This signifies oneness and unity with his brothers in committing the crimes charged.

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[905] Pages 17-19.
[906] TSN, February 20, 2013, pp. 34-38.
[907] *Id.* pp. 41-42.
[908] TSN, July 4, 2012, pp. 13-17, 19-20; September 8, 2010, pp. 28-29, 44.

The defense of Datu Anwar being a mere denial, which like alibi, is the weakest defense, will thus, crumble in light of the positive and categorical identification of the witnesses that he indeed attended the meetings to discuss their plot to kill Datu Toto notwithstanding his absence at the crime site. His absence becomes irrelevant since in conspiracy, the act of one is the act of all.[909]

The **third** class of accused – those who had prior knowledge of the murder plot but did not at all perform any overt act.

The following accused fall under this category: Datu Akmad "Tato" Ampatuan and Datu Sajid Islam Ampatuan.

In the meeting held on July 20, 2009, Datu Sajid Islam Ampatuan and Datu Akmad "Tato" Ampatuan were 2 of those who attended the meeting at Century Park Hotel to discuss the plot to kill Datu Toto Mangudadatu.This was categorically stated by witness Sukarno Badal when he testified in court.[910] They were likewise present in the meeting to further discuss the details of the plot on November 17 and 22, 2009 at the house of Datu Zaldy and in Bagong, Shariff Aguak, respectively.[911]

However, no one among the eyewitnesses had testified and pointed to them as being present at the crime site on November 23, 2009. The fact that on November 24, 2009, Datu Sajid was heard by Anok Akil to be discussing with some of his visitors in his house on how to save the backhoe and subsequently giving him P2,000.00 is of no moment. This cannot be considered an overt act indicative of conspiracy with his brothers and cohorts. His presence in the abovementioned meetings without uttering any words of encouragement that served to embolden and influence his brothers to carry out their plan so as to make him liable as a conspirator is wanting.

It must be kept in mind that conspiracy must be established by positive and conclusive evidence. It cannot be based on mere conjectures but must be established as a fact. The same degree of proof required to establish the crime is necessary to support a finding of the presence of conspiracy, that is, it must be shown to exist as clearly and convincingly as the commission of the offense itself. An assumed intimacy is of no legal bearing inasmuch as conspiracy transcends companionship.[912]

It bears stressing that the burden lies not on the accused to prove his innocence but on the prosecution to prove his guilt beyond reasonable doubt. Thus, for failure of the prosecution to discharge its duty, this court has no other option except to exonerate him from the crimes charged.

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[909] People vs. Uyboco, G.R. No. 178039, January 19, 2011.
[910] TSN, February 20, 2013, pp. 34-38.
[911] TSN, September 8, 2010, pp. 28-29, 34-35, June 29, 2011, pp. 29, 32; July 4, 2012, pp. 20-22, September 8, 2010, p. 44.
[912] People vs. Berroya, G.R. No. 122487, (December 12, 1997), 347 PHIL. 410-433.

Insofar as Datu Akmad "Tato" is concerned, while it maybe true that he attended several meetings called for the purpose of discussing how to carry out the plot to kill, the court however, is of the view that this is tantamount to conspiracy. Even assuming that it is, conspiracy alone, without the execution of its purpose, is not a crime punishable by law except in special cases.[913] His mere presence in the meeting will not suffice to declare that he indeed conspired with the other Ampatuans to commit the crimes charged. The fact that he uttered the following at the meeting, thus: "*pakinggan natin si Ama. Okay kami lahat na patayin sila" and "mabuti nga sa mga Mangudadatu na mahilig mag ambisyon na patayin sila lahat,"* does not necessarily mean that he pushed for the commission of the crime which prima facie may suffice to find a strong evidence of guilt. However, his having attended a medical mission for the whole day in collaboration with Smart Network International, Inc. at the Municipal gymnasium near the municipal hall of Mamasapano on November 23, 2009 will show that he did not cling to the agreed plot to kill. There is no clear and convincing evidence that will show that accused had commited an overt act in furtherance of the agreed plan.

In the absence of evidence pointing to the accused as being present at the crime site, the court is convinced that he cannot be made criminally liable under the circumstance even with the utterances he made sans overt acts.

The **fourth** class of accused – those who had *no* prior knowledge of the murder plot but were actual assailants in Sitio Masalay – are likewise guilty as principals by direct participation.

Here, the following were identified by various witnesses as having actually fired at the victims: Tato Tampogao, Mohades Ampatuan, Mohamad T. Datumanong a.k.a. Nicomedes Amad Tolentino, Misuari Ampatuan, Taya Bangkulat, Salik Bangkulat, Thong Guiamano a.k.a. Ibrahim Kamal Tatak, Sonny K. Pindi a.k.a. Joven Salazar Piang a.k.a. Bimbo Salazar Piang, Armando Ambalgan a.k.a. Jamil Bulatukan Kayansang/Bolatokan Omar (testified as Omar Bulatukan Kayansang), Kudza Masukat Uguia a.k.a. Datu Teng Ibrahim/Mustapha Ibrahim, Edres Kasan a.k.a. Edris Gogo Alip (testified as Edris Gugo Kasan),Zacaria P. Akil a.k.a. Quago Akil and Samaon Andatuan.

Esmael Amil Enog testified that Tato Tampogao was among those armed men he brought from the house of Datu Kanor Ampatuan to Malating. Both of them are CVO[914] and he was pointed as among those who were present in the crime site on November 23, 2009.[915]He was also

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[913] People vs. Berroya, G.R. No. 122487, [December 12, 1997], 347 PHIL. 410-433.
[914] TSN, July 28, 2011, p. 55.
[915] TSN, February 20, 2013, pp. 62-64.

seen among the group of Datu Unsay who alighted from one of the vehicles on said date.[916]

Like Tato Tampogao, Mohades Ampatuan, Mohamad Datumanong a.k.a. Nicomedes Amad Tolentino, and Misuari Ampatuan were among those armed men brought by witness Esmail Amil Enog from the house of Datu Kanor Ampatuan to Malating.[917] He saw them on board the truck called "weapon" going to Malating on November 23, 2009.

Witness Sukarno Badal testified that they were with the group of Datu Unsay and were present at the crime site on the aforesaid date. They were among the "many more" who fired shots at those passengers that were brought in front of Datu Unsay.[918]

On the other hand, Salik and Taya Bangkulat were among the armed men witness Haical Mangacop had seen at the checkpoint in Sitio Masalay. They were among the armed men who were present at the crime site on the aforesaid date.[919]

Sonny K. Pindi was one of the armed men who was seen in Crossing Malating, standing at the Highway and likewise at the crime site on November 23, 2009[920] while Thong Guiamano a.k.a. Ibrahim Kamal Tatak was among the group of Datu Kanor with more or less 40 armed CVS who asked the witness Esmael Canapia the way to Boayan, Datu Hoffer.[921]

Witness Esmael Canapia saw Armando Ambalgan as among the group of Datu Unsay whom he saw on the way to the mountain of Masay on November 23, 2009.[922]On the other hand, Kudza Masukat was among the group of Datu Kanor whom he saw in the hilly portion of Masalay on said date wearing a soldier uniform, carrying a firearm with a camera hanging on his neck which apparently was taken from one of the passengers of the convoy.

Edres Kasan, Zacaria Akil a.k.a. Quago Akil and Samaon Andatuan were among the armed men present at the crime site on said date. In fact, Zacaria was among the "marami pang iba" who were present during the time that victims Bai Gigi and Bai Eden and the passengers of first vehicle were brought before Unsay on November 23, 2009.[923]

It must be stressed that the foregoing accused were among the armed men who were seen in the company of either Datu Kanor or Datu

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[916] TSN, August 23, 2012, p. 88.
[917] TSN, July 28, 2011, pp. 55-57.
[918] TSN, February 20, 2013, pp. 62-64, 58-59.
[919] TSN, February 20, 2013, pp. 62-64.
[920] TSN, February 20, 2013, pp. 62-64.
[921] TSN, August 23, 2012, pp. 68-69, 89.
[922] TSN, August 23, 2009, p. 88.
[923] TSN, February 20, 2013, pp. 57, 62-64.

Unsay who abducted and brought the passengers of the convoy to the hilly portion of Masalay, Brgy. Salman, Ampatuan where the latter were subsequently killed after they were divested of their personal belongings at the checkpoint in Sitio Masalay. They were actually seen by witnesses at the crime site. With the multitude of participants who actually shot the 57 victims, it can be reasonably deduced that all of them actually participated in the killing of the victims, they being the CVOs of the Ampatuans who are the latter's armed group.

While there is no evidence that they attended the several meetings conducted prior to November 23, 2009, but having been at the crime site with Datu Kanor and Datu Unsay who were actually in the company of more than a hundred armed men ready to kill upon their prodding, they too must be considered as principal by direct participation.

The **fifth** class of accused – those who had *no* prior knowledge of the murder plot but were still identified or had performed overt acts.

The following accused fall under this category: police officers at the seen at the Malating checkpoint, namely: P/Insp. Michael Joy Macaraeg, PO3 Felix Enate, PO3 Abibudin Abdulgani, PO3 Rasid Anton, PO2 Hamad Nana, PO2 Saudi Pasutan, PO2 Saudiar Ulah, PO1 Esprielito Lejarso, PO1 Narkouk Mascud, PO1 Pia Kamidon, PO1 Esmael Guialal, PO1 Arnulfo Soriano and PO1 Herich Amaba, members of the 1508th PMG, P/SInsp. Abdulgapor Abad, and Bong Andal.

Witness then P/Insp. Rex Ariel Diongon had testified that the aforementioned police officers together with him and Dicay who were members of the 1508th PMG, were assigned in Sitio Malating to man a checkpoint on November 23, 2009.[924] Prior to this, from November November 19 to 22, 2009, said police officers (except for Macaraeg who arrived only in the afternoon on November 22, 2009) have been manning said checkpoint pursuant to the IMPLAN issued by Maguindanao Police Provincial Office.[925]

By 9:00 a.m. of November 23, said police officers were no longer seen at the Malating checkpoint albeit they remained along the highway as they were already replaced by the augmentation from other Municipal Police Stations provided by Dicay. After they were halted and before the convoy could leave, Datu Kanor aimed their guns at the passengers of the vehicles. They were directed to alight therefrom and to lay prostrate on the ground while being divested of their personal belongings. By 10:30 a.m., the convoy of Datu Toto was already with Datu Unsay and brought to the hilly portion of Sitio Masalay. Brgy. Salman, Ampatuan, Maguindanao.

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[924] TSN, September 28, 2017, pp. 8, 113, 134-135, 114-115, 101, 124, 118-119, 132.
[925] Exhibit "(19) J" Rebuttal

The prosecution posits that the aforesaid accused should be made liable for they conspired with the principal accused and had played an indispensable role in the abduction of the Mangudadatu convoy.

On the other hand, members of the 1508th claim that high-powered firearms were likewise pointed at them, hence, they were not able to do anything to prevent the abduction of the victims for fear of their lives.

The court is not convinced. Surely, while the firearms of the men of Datu Kanor were pointed at them, their lives were in danger. Thus, it is understandable that the instinct of self-preservation will set in. However, as police officers, they are not only mandated to maintain peace and order but ensure public safety as well. Hence, as soon as Datu Kanor and his armed men had already left Malating checkpoint, and danger to their lives were no longer present, they were duty bound to immediately report said incident to their higher officials so that appropriate action can be made which could have saved the lives of the victims.

Having failed to do so, the court is of the view that they should be made liable under the law under par. 3 of Article 19 of the Revised Penal Code which penalizes accessories who are public officers who harbors, conceals or assists in the escape of principal, there being no showing that the members of the 1508th PMG had conspired with the principal accused.

It appears that P/SInsp. Abad had no prior knowledge of the plot to kill. No witness had categorically testified that he attended any of the meetings held. However, given that said accused who set up a checkpoint in Crossing Saniag on November 23, 2009,[926] was seen and identified by witness Diongon to be in the company of Insp. Mokamad (declared as principal in these cases) who kept on coming back and forth at Malating checkpoint,[927] well knowing that an abduction incident had already occurred, and yet, he failed to report the same, he should likewise be made liable as an accessory under par. 3 of Article 19, of the Revised Penal Code.

Insofar as Bong Andal is concerned, the court is of the view that he should likewise be made liable as an accessory only for burying the dead bodies of the 57 victims and neglecting to inform the authorities about it, there being no showing that he conspired with the principal accused.

The **sixth** class of accused – those who had *no* prior knowledge of the murder plot were not at all identified in the *locus criminis* – are totally innocent of these crimes.

The following accused fall under this category, viz: SPO2 George Labayan, SPO1 Elizer Rendaje, SPO1 Alimola Guianaton, SPO1 Samad

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[926] TSN, June 5, 2013, pp. 130-131.
[927] TSN, June 5, 2013, pp. 130-131, 99-100.

Maguindra, PO3 Ricky Balanueco, PO3 Gibrael Alano, PO2 Rexson Guiama, PO1 Amir Solaiman, PO1 Badjun Panegas, PO1 Pendatun Dima, PO1 PO1 Ebara Bebot, PO1 Tamano Hadi, PO1 Michael Macarongon (known as Labayan Group), SPO1 Ali Solano, PO3 Felix Daquilos, PO2 Kendatu Rakim, PO1 Abdulraman Batarasa, PO1 Marjul Julkadi, PO1 Datu Jerry Utto, PO1 Mohammad Balading, PO1 Marsman Nilong, PO1 Ysmael Baraquir, PO1 Abdulmanan Saavedra, and PO1 Jimmy Kadtong (known as Solano Group), PO1 Sandy Sabang, Takpan Dilon, Edris Tekay Nanding *a.k.a.* Ibrahim Kakob, Warden Legawan, Jonathan Ampatuan, Jimmy Ampatuan, Rainer Ebus and Mohamad Sangki, Tho Amino, Norman Tatak, Malaguial Tanuri a.k.a. Johari Montok Malaguial, Alimudin Sanguyod a.k.a. Norodin Malang, Mama Habib, Sahid Guiamadel a.k.a. Arnel Abdullah,Datutulon Esmail, Kasim Lingkong a.k.a. Abdulkadir Saludin, Akad B. Macaton a.k.a. Mohamad Salazar Piang, Norhato Kamino a.k.a. Alfeche Banding, Nasser Malaguia a.k.a. Ramon Dadulo, P/Insp. Bahnarin Kamaong and P/Supt. Abdulwahid Pedtucasan, PO1 Ahmad Badal, PO2 Tanny Dalgan, PO1 Anwar Masukat, Samsudin Daud, Maot Bangkulat a.k.a. Benjie Dagendengan, Denga Mentol a.k.a. Ronnie, Fahad Utto a.k.a. Richard Gofel, PO1 Abdullah Baguadatu, PO1 Oscar Donato and PO1 Michael Madsig.

Evidence shows that the members of the Labayan Group and Solano Group were assigned in Sitio Binibiran and Sitio Masalay, respectively.[928] While admittedly, the convoy of Datu Toto had passed their checkpoints, it is unrefuted that they were not aware who were the passengers of the convoy, they having been abducted at Malating checkpoint. It stands to reason therefore, that while they may have heard the burst of gunfires after said convoy had passed, their failure to report the same or respond thereto, should not be taken against them, given that burst of gunfires is considered a normal occurrence in their place, the peace and order situation being one of the major problems therein since time immemorial.

On the other hand, whiel PO1 Sandy Sabang were identified to have been present during one of the meetings of the Ampatuan, there is no showing however, that he was one of the conspirators. No overt act can be attributed to him. Takpan Dilon who was arrested for possessing firearm cannot likewise be made liable it appearing that no one among the prosecution witnesses had identified him as among those who were present at the crime scene. neither was he identified to have conspired with any of the principal accused.

PO1 Ahmad Badal and PO2 Tanny Dalgan may have been identified by witness Sukarno Badal as being present at the crime scene, on November 23, 2009, but this can be explained by the fact that they were the security escorts of said witness. They were not identified to have fired shots at the 57 victims.

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[928] TSN, February 7, 2018, p. 24.

Insofar as Pedtucasan and Kamaong are concerned, admittedly they were identified by prosecution witnesses. However, it cannot be denied that the only act that can be attributed to to the former was being present at the cafeteria or eatery in Labo labo National Highway and nothing more on the aforesaid date. Same thing can be said of Kamaong. Nothing can be attributed to him except that he manned the checkpoint at Ampatuan Municipal Police Station. No overt act in pursuance of the plot to kill Datu Toto can be attributed to him.

Although Warden Legawan was seen by witness Sukarno Badal together with Mokamad, it cannot be denied however, that he categorically declared that he did not notice where Legawan was at the time of the shooting. Neither was he identified to have been seen at the crime site.

While Rainer Ebus was identified to be a security escort of Datu Unsay and Mohamad Sangki was sighted in Crossing Saniag, the fact that no one among the prosecution witnesses had categorically identified them as having conspired or committed overt acts in pursuance of the plan to kill, reason dictates that they be exculpated from criminal liability.

Lastly, while the rest of the accused were identified as allegedly being members of CVOs, for want of evidence clearly pointing to them to have participated in the shooting of the 57 victims nor had they executed acts that can be considered as conspiratorial, the court is of the view that they should likewise be exonerated from the crimes charged.

Well-settled is the rule that conviction must be made on the strength of the prosecution and not on the weakness of the defense. [929]Conviction based merely on speculation and conjecture cannot satisfy the question of evidence required for a pronouncement of guilt. [930]

The court is likewise not convinced that the accused mentioned under this category had conspired with the principal accused. No convincing evidence to this effect was presented in court.

Verily, all the accused who were found to falling under the first and forth categories were the authors of the crimes charged. Thus, it is only proper that they, together with their conspirators, as well as those declared by the court to have acted as accessories to the crime of murder be made liable accordingly.

Insofar as PO1 Abdullah Baguadatu, SPO1 Oscar Donato and PO1 Michael Madsig are concerned, the prosecution did not squarely refute the alibi they invoked. Nonetheless, while the prosecution has the *burden*

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[929] People vs. Galvez, G.R. No. 157221, 30 March 2007.
[930] Arce vs. People, G.R. No. 125857, 20 March 2002.

of proof to establish the guilt of the accused, the *burden of evidence* falls to them to prove their affirmative defense of alibi.[931]

To establish such a defense, it must be proved by nothing less than full, clear, and satisfactory evidence.[932] The two-fold elements of alibi are as follows:[933]

> a)that he was in another place at the time of the commission of the offense, and
>
> b)that he must demonstrate that it would be physically impossible for him to be at the *locus criminis* at the time of the alleged crime

Baguadatu has produced evidence that he was at RD Pawnshop Tulunan Branch, Tulunan, North Cotabato on November 23, 2009. The *Receipt from RD Pawnshop (Exh. "3")* and the testimony of Michael Zaldivar depicted that the accused was collecting ₱5,500 sent by Daisy Mangulamas at 10:02 a.m. on that day. With the unrefuted testimony that North Cotabato was 90 kilometers away from Sitio Malating, and considering the undisputed narration that the bodies were discovered in the uphill portion of Sitio Masalay in the afternoon of November 23, 2009, it would be physically impossible for Baguadatu to be at the *locus criminis* at the time of the alleged crime.

For his part, Donato produced evidence that he was at the Maguindanao Police Provincial Headquarters at Camp Datu Akilan, Ampatuan, Shariff Aguak on November 23, 2009. *Special Order No. 352* issued on November 23, 2009, and the testimony of the witness himself, convincingly showed that the accused was receiving his reassignment order in the morning of that date. With the unrefuted testimony of his police superiors, Diongon and Dicay, that the accused figured in a commotion against members of the 1508th PMG in the evening of November 22, 2009, which led to his immediate transfer to Buldon MPS, he could not have returned to his station in Sitio Malating after his trip to the Provincial Headquarter.

On the other hand, Madsig categorically declared that he was not at the Malating checkpoint on November 23, 2009 as he asked permission form Diongon at about 8 or 9 a.m. that day to be excused from checkpoint duties because he will be going home to bring food to his family. It was only around 1 or 2 p.m. that he left home and proceeded to Sitio Malating.

Considering the totality of the evidence presented by Baguadatu and Donato, vis-à-vis the lack of refutation from the prosecution, the court is convinced, with moral certainty, that both of them were not in Sitio Malating on November 23, 2009. Same thing can likewise be said of

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[931] *Sierra y Caneda v. People,* G.R. No. 182941, July 3, 2009, 609 Phil. 446.
[932] *U.S. v. Olais*, G.R. No. 12700, September 4, 1917, 36 Phil. 828.
[933] *People v. De Vera y Santos,* G.R. No. 112006, July 7, 1997, 341 Phil. 89.

Madsig. While there may have been minor inconsistencies in his testimony, this should not be taken against him in light of the absence of evidence clearly pointing to him to have conspired or actually committed the crimes charged.

The Prayer of Defense Counsel for Attorney's Lien

As a penultimate matter, the court notes without action the prayer of counsel of the accused for attorney's lien equivalent to 10% of the backwages and monetary benefits of the accused from the Philippine National Police.

According to Rule 138, Section 37 of the Rules of Court, an attorney's lien is of two kinds: one is called retaining lien and the other charging lien.[934] The latter is the right which the attorney has upon all judgments for the payment of money, and executions issued in pursuance of said judgments, which he has secured in a litigation of his client.[935] To be enforceable, a charging lien requires as a condition sine qua non a judgment for money secured in the main action by the attorney in favor of his client.

Considering that a charging lien is an equitable right to have the fees and costs due to counsel for services in a suit secured to him out of the judgment or recovery in that particular suit, the attorney's fees can only be determined and enforced in the ***same action where the services were rendered***.[936]

In this case, the counsel of accused seeks to charge his lien from the backwages and monetary benefits from the Philippine National Police. In effect, he is applying his charging lien not pursuant to this judgment, but based on another forum.

Obviously, the prayer of the counsel before this court is misplaced. He should file the appropriate action before the proper tribunal to collect the attorney's fees privy between him and his clients.

In light of the findings of existence of conspiracy between and among the accused herein, specifically those belonging to the first, second and fourth classes of accused, all are considered principal regardless of their participation as the act of one becomes the act of all.

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[934] *Vda. de Caina v. Victoriano*, G.R. No. L-12905, February 26, 1959, 105 Phil. 194.
[935] *Rilloraza v. Eastern Telecommunications Phils., Inc.,* G.R. No. 104600, July 2, 1999, 369 Phil. 1.
[936] *Bacolod Murcia Milling Co., Inc. v. Henares*, G.R. No. L-13505, March 30, 1960, 107 Phil. 560 citing Palanca vs. Pecson, 94 Phil. 419, Fabie vs. Ngo Boo Soo, 84 Phil., 857, and M. E. Grey vs. Insular Lumber Co., 97 Phil., 833.

The Qualifying Circumstances

Per Article 248 of the Revised Penal Code, the following circumstances qualify the killing to murder:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

2. In consideration of a price, reward or promise.

3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.

4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.

5. With evident premeditation.

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

The Informations before this court allege the first, fifth, and sixth enumerated qualifying circumstances. This court finds that all such allegations exist in the killing of the 57 victims.

From the discussion made by the court, treachery is present in the instant case as obviously, the 57 victims who were unarmed were not in a position to defend themselves. While some of them may have been shot in front, however, taking into consideration the number of armed men more than a hundred with high-powered firearms, it is next to impossible that these victims will be able to defend themselves.

Evident premeditation is likewise present in the case at bar. The prosecution was able to prove that from the time the plot to kill Datu Toto was first hatched on July 20, 2009, it was only on November 23, 2009 that the execution thereof was made, after several meetings were held by Datu Unsay and his cohorts to discuss the mode and manner of its execution.

The court however, is not convinced that cruelty attended the killing of the victims. There is cruelty when unnecessary injuries were inflicted by the offender while the victim is alive. Evidence will show however, that the unnecessary shots or "finishing" were made by the offenders when the victims were already dead.

The Aggravating Circumstances

The prosecution stated "conspiring, confederating and mutually helping one another, with evident premeditation, taking advantage of superior strength, treachery, with cruelty, in an uninhabited place and by a band, armed with high powered firearms" in the Informations of these cases. Hence, in relation to Article 14 of the Revised Penal Code, the following are the alleged aggravating circumstances in these cases:

> ARTICLE 14. *Aggravating Circumstances*. — The following are aggravating circumstances:
>
> x x x x
>
> 6. That the crime be committed in the nighttime, or in an uninhabited place, or by a band, whenever such circumstances may facilitate the commission of the offense.
>
> Whenever more than three armed malefactors shall have acted together in the commission of an offense it shall be deemed to have been committed by a band.
>
> x x x x
>
> 8. That the crime be committed with the aid of armed men or persons who insure or afford impunity.
>
> x x x x
>
> 13. That the act be committed with evident premeditation.
>
> x x x x
>
> 15. That advantage be taken of superior strength, or means be employed to weaken the defense.
>
> 16. That the act be committed with treachery (*alevosia*).
>
> There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.
>
> x x x x
>
> 21. That the wrong done in the commission of the crime be deliberately augmented by causing other wrong not necessary for its commission.
>
> x x x x

Considering that the aforementioned were already earlier discussed by the court except for uninhabited place, the court deems it proper to discuss the latter.

People v. Coderes[937] instructs that three (3) elements must be taken into account before the aggravating circumstance of uninhabited place may be considered, to wit:

(a) When it facilitated the commission of the crime; or
(b) When especially sought for by the offender; or
(c) When offender took advantage thereof for the purpose of impunity.

This court appreciates that the aggravating circumstance of uninhabited place exists in this case. The crime site, as depicted in the pictures (i.e. "A-8", "A-9", "Quintuple T-205"), video footage, sketches, and testimonies from those who discovered the crime scene (the relatives as well as the first responders and crime scene operatives), has sparse and scattered cottages at a great distance from each other. It was grassy, with a terrain that is rolling and uncultivated. The houses therein were few and situated wide apart from each other. The surroundings, as described, are indeed isolated.

The location where the crime site was found is uphill with ditches, called by the locals as *bundok ng Masalay.* It is away from the national highway (see the Sketch in "Exh. Quintuple T-223-A") and could be traversed upward through a "narrow rough road mountainous terrain with no electrical post." "The place of mass killing was at the top most portion of the mountain. It is surrounded by shrubs, corn field and few growing trees. (Exh. "Quintuple T-230")." The area was accessed by the responders from the military "after passing a very rough, treacherous and rugged terrain x x x" (Exh. "(11) F-13"). Both the height and the access to site allow the perpetrators to conceal and hide the firing of the victims from plain view. Undoubtedly, the situs that the aggressors traversed facilitated the commission of the crime.

Just a last note on the criminal aspect. Previously under R.A. No. 7659,[938] the imposed for the crime of murder is reclusion perpetua to death. Since the penalty for murder consists of two (2) indivisible penalties, Article 63[939] of the Revised Penal Code must be considered. Thus, in order to impose the proper penalty, especially in cases of indivisible penalties, the court has the dutyto ascertain the presence of any mitigating or aggravating circumstances. Accordingly, in crimes where the imposable penalty is reclusion perpetua to death, the court can impose either reclusion perpetua or death. But with the enactment of R.A.

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[937] *(People v. Coderes, G.R. No. L-32509, [April 27, 1981], 191 PHIL 568-605)*
[938] An Act to Impose Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, and for Other Purposes.
[939] Rules for the application of Indivisible Penalties.

9346,[940]the imposition of death penalty is prohibited. It provides that in lieu of the death penalty, the penalty of reclusion perpetua shall be imposed when the law violated makes use of the nomenclature of the penalties of the RPC. As a result, the death penalty can no longer be imposed. Instead, they have to impose reclusion perpetua.

On the Civil Aspect

Pursuant to Article 100 of the Revised Penal Code (RPC), every person criminally liable for a felony is also civilly liable. In relation thereto, Section 1 of Rule 111 of the Revised Rules of Criminal Procedure states that when a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

In the instant cases, it appears that no reservation was made by the prosecution before it presented evidence, to institute the civil action separately from the criminal action. Neither was a civil action filed prior to the criminal action. This being the case, the civil action is deemed instituted with the criminal action.

Although the criminal and civil actions can be litigated in the same proceedings, the quanta of evidence for the two actions are not the same. In criminal actions, for an accused to be found guilty, there must be proof beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.[941]

On the other hand, in civil cases, the party having the burden of proof must establish his case by preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial.[942]

Despite the singularity of the proceedings of both the criminal case and the civil case, it is possible for there to be an acquittal on the criminal

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[940] An Act Prohibiting the Imposition of Death Penalty in the Philippines.
[941] Section 2, Rule 133, Revised Rules of Court.
[942] Section 1, Rule 133, Revised Rules of Court.

case and yet a finding of civil liability. The respective weights of the evidence in the criminal and civil cases are evaluated independently.[943]

When death occurs due to a crime where the imposable penalty is *reclusion perpetua*, the following damages may be recovered: (1) actual damages which may consist of the actual expenses incurred in relation to the death of the victim, as well as the loss of earning capacity; (2) civil indemnity *ex delicto;* (3) moral damages; (4) exemplary damages; and (5) temperate damages in some cases.

Actual or compensatory damages refer to an adequate compensation only for such pecuniary loss suffered by a person as he has duly proved.[944] In crimes, the damages to be adjudicated may be respectively increased or lessened according to the aggravating or mitigating circumstances.[945]

Jurisprudence dictates that to be entitled to compensatory damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and the best evidence obtainable to the injured party.[946] Receipts should support claims of actual damages.[947]

In case of death, it has been held that the heirs are entitled to the amount that they spent during the wake and funeral of the deceased. However, expenses after the burial are not compensable. Thus, those expenses incurred relating to the 9th day, 40th day and 1st year death anniversaries are not anymore entitled to the award of actual damages.[948]

Loss of earning capacity is a form of actual or compensatory damages under the Civil Code. Under Article 2206 of the Civil Code, the heirs of the victim are entitled to indemnity for loss of earning capacity. Compensation of this nature is awarded not for loss of earnings, but for loss of capacity to earn.

The indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven by competent proof and the best obtainable evidence thereof. Thus, as a rule, documentary evidence should be presented to substantiate the claim for damages for loss of earning capacity. It was ruled that by way of exception, damages for loss of earning capacity may be awarded despite the absence of documentary evidence when: (1) the deceased is self-employed and earning less than the minimum wage under current labor laws, in which case, judicial notice may be taken of the fact that in the deceased's line of work no documentary evidence is available; or (2) the deceased is

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[943] Concurring Opinion of Associate Justice Marvic M.V.F. Leonen, *People v. Wahiman,* G.R. No. 200942, June 16, 2015.
[944] Article 2199, Civil Code of the Philippines.
[945] Article 2204, Civil Code of the Philippines.
[946] *Rodel Crisostomo v. People of the Philippines*, G.R. No. 171526, September 1, 2010.
[947] *People v. Guihama*, 452 Phil. 824, 844 (2003).
[948] *People v. Mangahas,* G.R. No. 118777, July 28, 1999.

employed as a daily wage worker earning less than the minimum wage under current labor laws.[949]

However, in the recent case of *People v. Wahiman,*[950] the Supreme Court awarded lost earnings to the heir of the victim who was neither a self-employed earning less than the minimum wage nor was he employed as a daily wage earner even if there was no documentary proof presented by the prosecution. The Court ruled in said case that the testimony of the victim's wife was not objected to or questioned during cross-examination or on appeal and from said testimony, the existence of factual basis of the award had been satisfactorily established by the prosecution. Hence, the award of the lost earnings. In determining the lost earning capacity, what is important is proof of capacity to earn not merely proof of actual loss of a specified amount of income.[951]

Based on the landmark case of *Villa Rey Transit v. Court of Appeals,*[952] the formula for the computation of the loss of earning capacity of a deceased is:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

To determine the life expectancy, below is the formula used by the Court in the aforesaid jurisprudence:

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

With respect to the necessary living expenses, the High Court in the case of *Negros Navigation Co., Inc. v. The Court of Appeals, et. al.*[953] ruled that only fifty percent (50%) of her gross salary redounds to a person's living expense. Thus, the formula for the net earning capacity is:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses (50%)]

When the evidence on record only shows monthly gross income, annual gross income is derived from multiplying the monthly gross income by twelve (12). When the daily wage is the only information provided during trial, such amount may be multiplied by two hundred sixty (260), or the number of usual workdays in a year,[954] to arrive at annual gross income. This is under the presumption that an average laborer works five (5) days a week and fifty two (52) weeks in a year. This value should change if the laborer's work days are different.[955]

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[949] *People v. Victoriano Villar,* G.R. No. 202708, April 13, 2015.
[950] G.R. No. 200942, June 16, 2015.
[951] Torts and Damages by Timoteo Aquino, 2016, p. 795.
[952] G.R. No. L-25499, February 18, 1970.
[953] G.R. No. 110398, November 7, 1997.
[954] This is under the presumption that an average laborer works five (5) days a week and fifty two (52) weeks in a year. This value should change if the laborer's work days are different. Concurring Opinion of Associate Justice Marvic M.V.F. Leonen, *People v. Wahiman,* G.R. No. 200942, June 16, 2015.
[955] Concurring Opinion of Associate Justice Marvic M.V.F. Leonen, *People v. Wahiman,* G.R. No. 200942, June 16, 2015.

Another kind of damages in murder cases is the civil indemnity *ex delicto.* Civil indemnity *ex delicto* is the indemnity authorized in our criminal law for the offended party, in the amount authorized by the prevailing judicial policy and apart from other proven actual damages, which itself is equivalent to actual or compensatory damages in civil law. This award stems from Article 100 of the RPC which states, "every person criminally liable for a felony is also civilly liable."[956]

It is to be noted that civil indemnity is, technically, not a penalty or a fine; hence, it can be increased by the Court when appropriate.[957] Article 2206 of the Civil Code imposes a minimum amount for civil indemnity which states that the amount of damages for death caused by a crime or quasi-delict shall be at least ₱3,000.00, even though there may have been mitigating circumstances. This is in addition to other liability of the defendant such as the loss of the earning capacity of the deceased and support.

In our jurisdiction, civil indemnity is awarded to the offended party as a kind of monetary restitution or compensation to the victim for the damage or infraction that was done to the latter by the accused, which in a sense only covers the civil aspect. Precisely, it is civil indemnity. Thus, in a crime where a person dies, in addition to the penalty of imprisonment imposed to the offender, the accused is also ordered to pay the victim a sum of money as restitution. The law did not provide for a ceiling. Thus, although the minimum amount for the award cannot be changed, increasing the amount awarded as civil indemnity can be validly modified and increased when the present circumstance warrants it.[958]

Another type of damages are the moral damages, which are also compensatory in nature.

Article 2217 of the Civil Code provides that moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

The Court explained the nature and purpose of this kind of damages in the case of *Del Mundo v. Court of Appeals,*[959] thus:

> Moral damages, upon the other hand, may be awarded to compensate one for manifold injuries such as physical suffering, mental anguish, serious anxiety, besmirched reputation, wounded

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[956] *People v. Jugueta*, G.R. No. 202124, April 5, 2016, citing *People v. Combate,* 653 Phil. 487, 504 (2010), citing *People v. Victor*, 354 Phil. 195, 209 (1998).
[957] *Corpuz v. People of the Philippines*, G.R. No. 180016, April 29, 2014.
[958] *Id.*
[959] G.R. No. 104576, January 20, 1995.

> feelings and social humiliation. These damages must be understood to be in the concept of grants, not punitive or corrective in nature, calculated to compensate the claimant for the injury suffered. Although incapable of exactness and no proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount of indemnity being left to the discretion of the court, it is imperative, nevertheless, that (1) injury must have been suffered by the claimant, and 2) such injury must have sprung from any of the cases expressed in Article 2219[960] and Article 2220[961] of the Civil Code. x x x

The rationale for awarding moral damages was explained in *Lambert v. Heirs of Rey Castillon*: "[T]he award of moral damages is aimed at a restoration, within the limits possible, of the spiritual status quo ante; and therefore, it must be proportionate to the suffering inflicted."[962]

Corollarily, moral damages under Article 2220[963] of the Civil Code also does not fix the amount of damages that can be awarded. It is discretionary upon the court, depending on the mental anguish or the suffering of the private offended party. The amount of moral damages can, in relation to civil indemnity, be adjusted so long as it does not exceed the award of civil indemnity.[964] Further, moral damages are mandatory in cases of murder without need of to allege and prove such damages.[965]

With respect to exemplary damages, the Civil Code provides:

> Article 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.
>
> Article 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

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[960] Article 2219. Moral damages may be recovered in the following and analogous cases:
(1) A criminal offense resulting in physical injuries;
(2) Quasi-delicts causing physical injuries;
(3) Seduction, abduction, rape, or other lascivious acts;
(4) Adultery or concubinage;
(5) Illegal or arbitrary detention or arrest;
(6) Illegal search;
(7) Libel, slander or any other form of defamation;
(8) Malicious prosecution;
(9) Acts mentioned in Article 309;
(10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.
The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.
The spouse, descendants, ascendants, and brother and sisters may bring the action mentioned in No. 9 of this article, in the order named.

[961] Art. 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.

[962] G.R. No. 160709, February 23, 2005.

[963] *Supra* note 6.

[964] *Lito Corpuz v. People of the Philippines, supra.*

[965] *People v. Obligado*, G.R. No. 171735, April 16, 2009.

Also known as punitive or vindictive damages, exemplary or corrective damages are intended to serve as a deterrent to serious wrong doings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct. These terms are generally, but not always, used interchangeably. In common law, there is preference in the use of exemplary damages when the award is to account for injury to feelings and for the sense of indignity and humiliation suffered by a person as a result of an injury that has been maliciously and wantonly inflicted,[966] the theory being that there should be compensation for the hurt caused by the highly reprehensible conduct of the defendant - associated with such circumstances as willfulness, wantonness, malice, gross negligence or recklessness, oppression, insult or fraud or gross fraud[967]- that intensifies the injury. The terms punitive or vindictive damages are often used to refer to those species of damages that may be awarded against a person to punish him for his outrageous conduct. In either case, these damages are intended in good measure to deter the wrongdoer and others like him from similar conduct in the future.[968]

The term aggravating circumstances used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.[969]

Being corrective in nature, exemplary damages, therefore, can be awarded, not only due to the presence of an aggravating circumstance,

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[966] *People v. Jugueta*, G.R. No. 202124, April 5, 2016*, People v. Dalisay,* 620 Phil. 831, 844 (2009), citing *People v. Catubig*, 416 Phil. 102, 119 (2001), citing *American Cent. Corp. v. Stevens Van Lines, Inc.*, 103 Mich App 507, 303 NW2d 234; *Morris v. Duncan*, 126 Ga 467, 54 SE 1045; *Faircloth v. Greiner*, 174 Ga app 845, 332 SE 2d 905; §731, 22 Am Jur 2d, p. 784; *American Surety Co. v. Gold*, 375 F 2d 523, 20 ALR 3d 335; *Erwin v. Michigan*, 188 Ark 658, 67 SW 2d 592.
[967] §762, 22 Am Jur 2d, pp. 817-818.
[968] §733, 22 Am Jur 2d, p. 785; Symposium: Punitive Damages, 56 So Cal LR 1, November 1982.
[969] *People v. Catubig, supra.*

but also where the circumstances of the case show the highly reprehensible or outrageous conduct of the offender. In much the same way as Article 2230 prescribes an instance when exemplary damages may be awarded, Article 2229, the main provision, lays down the very basis of the award.[970]

Lastly, the court may grant temperate damages to the heirs of the victim under Article 2224[971] of the Civil Code where it has been shown that they suffered pecuniary loss but the amount thereof cannot be proved with certainty.[972]

In the case of *People vs. Abrazaldo*,[973] the Supreme Court allows the grant of temperate damages in the amount of ₱25,000.00 if there is no evidence of burial and funeral expenses. This is in lieu of actual damages as it would be unfair for the victim's heirs to get nothing, despite the death of their kin, for the reason alone that they cannot produce any receipts. The High Court also ruled there that temperate and actual damages are mutually exclusive in that both may not be awarded at the same time, hence, no temperate damages may be granted if actual damages have already been granted.

Under the prevailing jurisprudences, the rule is that when actual damages proven by receipts during the trial amount to less than ₱25,000.00, the award of temperate damages for ₱25,000.00 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds ₱25,000.00, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.[974] But pursuant to the latest jurisprudence,[975] temperate damages are now increased to ₱50,000.00.

Previously, under Republic Act (R.A.) No. 7659,[976] the penalty imposed for the crime of murder is *reclusion perpetua* to *death.* Since the penalty for murder consists of two (2) indivisible penalties, Article 63[977]

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[970] *People v. Jugueta, supra.*

[971] Article 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be provided with certainty.

[972] *People v. Sing, et al., 360 SCRA 404, 408 (2001).*

[973] G.R. No. 124392, February 7, 2003.

[974] *People v. Villanueva*, G.R. No. 139177, August 11, 2003.

[975] *People v. Jugueta, supra.*

[976] An Act to Impose Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, and for Other Purposes.

[977] Article 63. *Rules for the application of indivisible penalties*. - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. when in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
2. when there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.
3. when the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

of the RPC must be considered. Thus, in order to impose the proper penalty, especially in cases of indivisible penalties, the court has the duty to ascertain the presence of any mitigating or aggravating circumstances. Accordingly, in crimes where the imposable penalty is *reclusion perpetua* to death, the court can impose either *reclusion perpetua* or death, depending on the mitigating or aggravating circumstances present.[978] But with the enactment of R.A. No. 9346,[979]the imposition of death penalty is now prohibited. It provides that in lieu of the death penalty, the penalty of *reclusion perpetua* shall be imposed when the law violated makes use of the nomenclature of the penalties of the RPC.[980]As a result, the death penalty can no longer be imposed. Instead, they have to impose *reclusion perpetua*.

In the latest jurisprudence of *People v. Gambao et. al.*,[981] the Supreme Court took the opportunity to increase the amounts of indemnity and damages, where the penalty for the crime committed is *death* which, however, cannot be imposed because of the provisions of R.A. No. 9346:

1. ₱100,000.00 as civil indemnity;
2. ₱100,000.00 as moral damages which the victim is assumed to have suffered and thus needs no proof; and
3. ₱100,000.00 as exemplary damages to set an example for the public good.

These amounts shall be the <u>minimum indemnity and damages</u> where death is the penalty warranted by the facts but is not imposable under present law.

Moreover, Article 109 of the Revised Penal Code provides that if there are two or more persons civilly liable for a felony, the courts shall determine the amount for which each must respond. Article 110 of the same Code likewise provides that the principals, accomplices, and accessories, each within their respective class, shall be liable severally *(in solidum)* among themselves for their quotas, and subsidiarily for those of the other persons liable. The subsidiary liability shall be enforced, first against the property of the principals; next, against that of the accomplices; and lastly, against that of the accessories. Whenever the liability *in solidum* or the subsidiary liability has been enforced, the person by whom payment has been made shall have a right of action against the others for the amount of their respective shares.

It is also important to take into consideration the ruling of the Supreme Court in *People v. Montesclaros*[982] as it is instructive on the

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4. when both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

[978]*People v. Jugueta*, *supra.*.

[979]An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[980] Sec. 2, R.A. No. 9346.

[981]G.R. No. 172707, October 1, 2013.

[982]G.R. No. 181084, 16 June 2009, 589 SCRA 320, 345.

apportionment of civil liabilities among all the accused. The entire amount of the civil liabilities should be apportioned among all those who cooperated in the commission of the crime according to the degrees of their liability, respective responsibilities and actual participation. Hence, each principal accused should shoulder a greater share in the total amount of indemnity and damages than those who were adjudged as only accomplices.

With respect to the interest rate on the damages awarded, the Supreme Court ruled in *Gamboa v. People*,[983] that the interest rate on civil indemnity allowed in judgments is pegged at six percent (6%) reckoned from the rendition of judgment until the award shall have been fully paid, in relation to the Bangko Sentral ng Pilipinas Circular No. 799,[984] pegging the rate of interest allowed in judgments back to six percent (6%), as also discussed in the landmark case of *Nacar v. Gallery Frames*.[985]

Lastly, it maybe worthy to mention that in case damages other than actual shall be granted to the offended party without having specified the amount thereof in the complaint or information, the filing fees relative thereto shall constitute a first lien on the judgment. This is pursuant to paragraph 3 of Section 1, Rule 111 of the Rules of Court which provides, thus:

x xx

> When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate, or exemplary damages without specifying the amount thereof in the complaint or information, the filing fees therefor shall constitute a first lien on the judgment awarding such damages.

x x x

This was also reiterated in OCA Circular No. 54-2018 dated March 21, 2018 which directed clerks of court/accountable officers to collect the appropriate legal fees for the total sum claimed, excluding actual damages.

Based on the Third Amended Information dated March 2, 2016, the murders herein were committed with the following aggravating circumstances: evident premeditation, taking advantage of superior strength, treachery, in an uninhabited place, by a band, and armed with high powered firearms. These aggravating circumstances were

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[983]G.R. No. 188052, April 21, 2014.

[984]Subject: **Rate of interest in the absence of stipulation**

The monetary Board, in its Resolution No. 796 dated 16 May 2013, approved the following revisions governing the rate of interest in the absence of stipulation in loan contracts, thereby amending Section 2 of Circular No. 905, Series of 1982:chanroblesvirtuallawlibrary

Section 1. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum.

[985]G.R. No. 189871, August 13, 2013.

exhaustively discussed in the main decision on the criminal liability of the accused, and were duly proved by the prosecution based on the pieces of evidence presented. Thus, it is imperative that exemplary damages should be awarded to all the heirs of the victims.

Regarding the civil indemnity, it is also proper to award the same as the deaths were due to the crimes committed by the accused. The same goes with respect to moral damages.

As regards actual damages including the loss of earning capacity and/or temperate damages, the same shall be discussed individually as it will depend on the evidence presented by each of the heirs of the victims which were admitted by the court in evidence.

1) For victim Bai Genalin Mangudadatu:

Witness Esmael "Toto" Mangudadatu testified that he spent ₱2 million for the burial of his wife. However, he admitted that he was not able to keep the receipts of said expenses because under the Islam culture or practice, they do not keep receipts related to the death of their loved ones. He further testified that he paid for the production of fifty seven (57) Death Certificates amounting to ₱100.00 each which were supported by official receipts from the Local Civil Registrar marked as Exhibits "A-2-PPP" to "A-2-LLLL". He also presented PAL Travel Certifications marked as Exhibits "A-2-L" to "A-2-gg" and an Official Receipt No. E0000058289 from PAL for the Booking Certification Fee amounting to ₱27,328.00 marked as Exhibit "A-2-hh".

As earlier discussed, actual damages in murder cases relate to those expenses incurred in relation to the burial and wake of the victim. Notwithstanding that the witness admitted that he was not able to keep the receipts, it cannot be denied that the death of the victim was established by the prosecution and there were indeed expenses incurred in connection thereto. Hence, the court grants the amount of ₱50,000.00 as temperate damages in lieu of the actual damages which were not supported by receipts.

Based on the testimony of the witness, he did not state anything or presented any document which relates to the claim for loss of earning capacity of the victim. Therefore, the court cannot grant the same considering the absence of evidence to prove the same.

In view of the foregoing, the following are the damages to be awarded to the family of the victim Bai Genalin Mangudadatu:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

2) For victim Napoleon Salaysay:

Witness Ramonita Salaysay testified that she incurred a total amount of ₱115,000.00 for the wake and burial expenses of her deceased husband Napoleon Salaysay. As proof of her claim, she presented an Affidavit of Burial Expenses with the said amount, marked as Exhibit "(5)J-7" and a Contract with No. 2361 from Marbel Subere Funeral Homes dated November 25, 2009 with a total amount of ₱30,000.00.

Considering that the said amount indicated in the Affidavit of Burial Expenses was not fully supported by receipts and the only proof presented was the receipt from the funeral home, the Court will only grant the amount of ₱50,000.00 as temperate damages since the fact of death of said victim was clearly established by the prosecution and there were expenses incurred in relation thereto, in keeping with the recent jurisprudence.

Insofar as the claim for loss of earning capacity, the witness testified that her husband was earning around ₱20,000.00 to ₱25,000.00 as publisher/editor of the Clear View Gazette. The witness likewise presented the ID card of victim Napoleon Salaysay from Gazette Newspaper as publisher/editor marked as Exhibit "(5)J-5" and a copy of the Clearview Gazette Newspaper dated November 9-16, 2009 showing the staff box with the name of the victim as publisher/editor marked as Exhibit "(5)J-6". Considering that the witness was not cross-examined by the defense counsels and the latter did not object to the presentation of the said evidence to prove the claim of the witness, the court is inclined to grant the claim for loss of earning capacity as it was established that at the time of death of the victim, he was gainfully employed and had capacity to earn for a living. Based on the Certificate of Marriage marked as Exhibit "(5)J-2", the victim was born on June 11, 1954; hence, at the time of his death on November 23, 2009, he was already fifty-five (55) years old. Since the compensation provided by the witness was a range of the salary the victim received, the court will get the average to arrive at the monthly allowance of the victim. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-55)

= 2/3 x 25

= 16.6667 years

Income provided = ₱20,000.00 to ₱25,000.00

Average (Monthly Salary) = ₱20,000.00 + ₱25,000.00 / 2

= P45,000.00 / 2

= ₱22,500.00

Gross Annual Income = ₱22,500.00 x 12months

= ₱270,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 16.6667 years x ½ (₱270,000.00)

= 16.6667 years x ₱135,000.00

Loss of Earning Capacity = ₱2,250,004.50

From the foregoing, the following are the damages to be awarded to the heirs of victim Napoleon Salaysay:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱2,250,004.50

3) For victim Victor Nuñez:

Witness Catherine Nuñez testified that she incurred a total amount of ₱100,000.00 as expenses for the burial and wake of her husband victim Victor Nuñez. However, she also confirmed that she did not keep the receipts. This notwithstanding, since the death of the victim was duly established by the prosecution and the court notes that there were expenses incurred in relation thereto, the court is inclined to grant the amount of ₱50,000.00 as temperate damages in lieu of the actual damages which were not proven by receipts.

With regard to the claim for loss of earning capacity, the witness testified that her husband at the time of his death, worked as a reporter for UNTV and was earning ₱385.00 per day. Her claim was evidenced by a Certification dated November 9, 2010, issued by Breakthrough and Milestones Productions International Incorporated signed by Ramona G. Domingo, Chief Finance Officer, certifying that the late Victor Nuñez at the time of his death was a contractual talent of BMPI-UNTV Channel 37, and was receiving a fee of ₱385.00 per day, marked as Exhibit "(4)Z-12", and an ID card of the victim for UNTV 37, for the August 11, 2008 ARMM

Elections marked as Exhibit "(4)Z-13". Although the witness was cross-examined by the defense counsels, the subject of the same was about the corpse of the victim and not as regards with the earning capacity of the latter. Hence, the court believes that with the evidence presented by the prosecution as well as the testimony of the witness, it is only proper to allow the grant of the loss of earning capacity of the victim. Based on his Death Certificate marked as Exhibit "T-50", the victim was twenty-four (24) years old at the time of his death. Hence, applying the formula for the loss of earning capacity, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-24)

= 2/3 x 56

= 37.3333 years

Gross Annual Income = ₱385.00 x 260 working days

= ₱100,100.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 37.3333 years x ½ (₱100,100.00)

= 37.3333 years x ₱50,050.00

Loss of Earning Capacity = ₱1,868,531.67

To summarize, the following are the damages to be awarded to the heirs of victim Victor Nuñez:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱1,868,531.67

4) For victim Joel V. Parcon:

To claim for actual damages in relation to the wake and burial expenses of victim Joel V. Parcon, witness Noemi Parcon executed an Affidavit of Burial Expenses with a total amount of ₱154,500.00, marked as Exhibit "(5)D-10". But she admitted when she testified in court that she was not able to collect the receipts for all expenses. Despite the failure

to present receipts, the court believes that it should grant the amount of ₱50,000.00 as temperate damages since the heirs of the victim suffered pecuniary loss in connection with the death of the victim.

Regarding the claim for loss of earning capacity, the witness testified that the victim at the time of his death was the publisher/editor of Pronterra News and was earning ₱30,000.00 to ₱35,000.00 a month. To prove her claim, she presented the following, among others: a) ID card No. 1010 of the victim for the 2007 Palarong Pambansa marked as Exhibit "(5)D-6"; b) a copy of the Pronterra dated August 9-15, 2006 with the staff box showing that the victim was the publisher/editor marked as Exhibit "(5)D-7"; c) a Purchase Order from the Provincial Government of South Cotabato for Publication of Notice of Delinquency in Pronterra News with the amount of ₱19,800.00 marked as Exhibit "(5)D-8"; d) Billing Statement addressed to the LGU, City of Koronadal, South Cotabato for the amount of ₱14,700.00 issued by Pronterra News Service signed by the victim marked as Exhibit "(5)D-8-B". When these documents were presented, the defense counsels did not object thereto. Further, during cross-examination of the witness, she was only asked as to the SSS membership of the victim and if she received benefits from said agency. Also, during cross, she mentioned that the business was supposed to expand to Kidapawan City but since her husband died, the business had to close. Considering the foregoing, the court is convinced with the evidence presented by the prosecution in connection with the claim for loss of earning capacity of the victim. According to the witness, the victim was forty-nine (49) years old at the time of his death. Based also on her testimony, the provided salary was in a range of ₱30,000.00 to ₱35,000.00, so it is only proper to get the average to arrive at the monthly salary of the victim. Hence:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-49)

= 2/3 x 31

= 20.6667 years

Income provided = ₱30,000.00 to ₱35,000.00

Average (Monthly Salary) = ₱30,000.00 + ₱35,000.00 / 2

= ₱65,000.00 / 2

= ₱32,500.00

Gross Annual Income = ₱32,500.00 x 12months

= ₱390,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 20.6667 years x ½ (₱390,000.00)

= 20.6667 years x ₱195,000.00

Loss of Earning Capacity = ₱4,030,006.50

In summary, the following damages are to be awarded to the family of victim Joel Parcon:

a. Civil Indemnity - ₱ 100,000.00

b. Moral Damages - ₱ 100,000.00

c. Exemplary Damages - ₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱4,030,006.50

5) For victim Santos "Jun" P. Gatchalian:

To prove her claim for actual damages, witness Ma. Cipriana A. Gatchalian presented a handwritten list of Burial Expenses with a total amount of ₱112,650.00 marked as Exhibit "(5)H-8". Likewise, she presented the following receipts:

Description	Date	Amount
Official Receipt No. 0506584 from the Office of the Treasurer, City of Koronadal marked as Exhibit "(5)H-9"	November 25, 2009	₱100.00
Permit to Transfer the Cadaver from the Office of the City Health, City of Koronadal with a handwritten note Transportation Fee (Van) to carry the coffin containing the cadaver of the victim from Marbel Subere Funeral Homes to Davao City, marked as Exhibit "(5)H-9"	November 26, 2009	₱12,000.00

San Antonio De Padua Parish Official Receipt No. 35161 marked as Exhibit "(5)H-9-C"	November 28, 2009	₱700.00
Forest Lake San Pedro, Inc. Official Receipt No. 02535 marked as Exhibit "(5)H-9-d"	November 28, 2009	₱16,000.00
Forest Lake Development, Inc. Official Receipt No. 156936 marked as Exhibit "(5)H-9-e"	November 28, 2009	₱850.00
Handwritten note for the full payment of a Forest Lake lot signed by a certain Col. Noel Bravo marked as Exhibit "(5)H-9-f"	November 28, 2009	₱26,000.00
Forest Lake San Pedro, Inc. Deed of Transfer for a memorial lot executed between Alexis Noel C. Bravo and Anna Victoria A. Gatchalian marked as Exhibit "(5)H-10"	December 2, 2009	---
	TOTAL	**₱55,650.00**

Given that the total amount of the expenses which were duly substantiated with receipts amounted to only ₱55,650.00, lesser than that indicated in the handwritten list of burial expenses, the court is inclined to grant that amount which is supported by receipts as actual damages.

Regarding the claim for loss of earning capacity, witness testified that the victim was a correspondent of Metro Gazette as evidenced by a Certification issued by Metropolitan Gazette dated April 5, 2011 signed by Francis Arvi B. Diansay, certifying that the victim was a correspondent of said newspaper. She also testified that her husband was earning ₱5,000.00 monthly when he was still alive.

Considering that the defense counsels did not conduct their cross-examination on the witness and they did not object to the presentation of the Certification issued by Metro Gazette, the court believes that the evidence presented by the prosecution is sufficient to award the claim for loss of earning capacity.

Based on his Death Certificate marked as Exhibit "T-38", the victim was fifty-two (52) years old at the time of his death. Applying the formula to get the loss of earning capacity, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-52)

= 2/3 x 28

= 18.6667 years

Gross Annual Income = ₱5,000.00 x 12months

= ₱60,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 18.6667 years x ½ (₱60,000.00)

= 18.6667 years x ₱30,000.00

Loss of Earning Capacity = ₱560,001.00

To summarize, the following damages are to be awarded to the family of victim Santos "Jun" Gatchalian:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Actual Damages	-	₱ 55,650.00
e. Loss of Earning Capacity	-	₱560,001.00

6) For victim Jolito Evardo:

Witness Juliet Evardo testified that she spent ₱124,000.00 for the burial and wake expenses in connection with the death of victim Jolito Evardo. To support her claim, she presented a handwritten list of Burial Expenses marked as Exhibit "(4)Y-5". However, she admitted that she did not keep the receipts because at the time of the death of her son, their minds were in trouble.

Since the prosecution failed to present receipts to substantiate the expenses she listed, the Court cannot grant the total amount of ₱124,000.00. Instead, the Court will award temperate damages in the

amount of ₱50,000.00 considering that the death of the victim was established by the prosecution and there were expenses incurred by the family in relation thereto.

With respect to the claim for loss of earning capacity, the witness testified that his son was an editor and assistant cameraman for UNTV when he was still alive and earning ₱382.00 per day. As support, she presented a Certification from Breakthrough and Milestones Productions International Incorporated dated November 9, 2010 signed by Ramona G. Domingo, Chief Finance Officer, certifying that the victim was a contractual talent of BMPI-UNTV Channel 37 and was receiving a fee of ₱382.00 per day until the time of his death, marked as Exhibit "(4)Y-4".

Considering that the witness was not cross-examined by the defense counsels and they did not object to the presentation of the said Certification, the court is inclined to grant the claim for loss of earning capacity of the victim. According to the Death Certificate of the victim marked as Exhibit "T-51", he was twenty-four (24) years old at the time of his death. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-24)

= 2/3 x 56

= 37.3333 years

Gross Annual Income = ₱382.00 x 260 working days

= ₱99,320.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 37.3333 years x ½ (₱99,320.00)

= 37.3333 years x ₱49,660.00

Loss of Earning Capacity = ₱1,853,971.68

In conclusion, the following are the damages to be awarded to the heirs of the family of victim Jolito Evardo:

a. Civil Indemnity - ₱ 100,000.00

b. Moral Damages - ₱ 100,000.00

c. Exemplary Damages - ₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱1,853,971.68

7) For victim Andres Miguel Teodoro:

Witness Gloria Teodoro testified that in relation to the death of her husband, she spent a total amount of ₱95,500.00, as evidenced by an Affidavit of Burial Expenses she executed marked as Exhibit "B-20-g", but she admitted that she did not think of keeping the receipts because of the situation. This notwithstanding, the court will award the amount of ₱50,000.00 as temperate damages in lieu of the actual damages which were not supported by receipts considering that the family suffered a loss and there were expenses incurred relating to the death of the victim.

With respect to the claim for loss of earning capacity, the witness testified that her husband was a journalist connected with the Central Mindanao Inquirer since 1991 and that he was a publisher/editor at the time of his death. The only proof she presented was an ID of a certain Andy M. Teodoro, publisher/editor of the Central Mindanao Inquirer. She also testified that she had no idea regarding the earnings of her husband. Only with this evidence, the court believes that the prosecution failed to establish a sufficient basis to determine the loss of earning capacity of the victim. Thus, the court cannot grant the same.

From the foregoing, the following damages are to be awarded to the heirs of victim Andres Teodoro:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

8) For victim Daryl Vincent Delos Reyes:

Witness Ruth Delos Reyes testified that they incurred ₱168,500.00 as expenses for the burial and wake of her son victim Daryl Vincent Delos Reyes, as evidenced by the Affidavit of Burial Expenses she executed marked as Exhibit "(6)C-3". However, she also mentioned that not all receipts were kept and she failed to present them in court. Since the amount stated in the Affidavit was not duly substantiated with receipts, the court can only grant the amount of ₱50,000.00 as temperate damages in lieu thereof considering that that the death of the victim was established by the prosecution and there were expenses suffered by the heirs in connection thereto.

Insofar as the claim for loss of earning capacity is concerned, the witness testified that her son was an employee of the LGU of Tacurong City. She presented a Certification from the City Human Resource Management Office, City of Tacurong dated August 18, 2010, signed by Nenita G. Albito, City Human Resource Management Officer, certifying that the victim was connected with said LGU as Clerk I and was earning a monthly salary of ₱6,039.00, marked as Exhibit "(6)C-2". It must be noted that the defense counsels did not conduct their cross-examination on the witness and they did not object to the presentation of said Certification. Hence, the court finds the same sufficient as basis to grant the claim for loss of earning capacity of the victim. According to the Birth Certificate provided marked as Exhibit "(6)C-1", the birthdate of the victim is October 25, 1981, so at the time of his death on November 23, 2009, he was already twenty-eight (28) years old. Hence, the computation for the loss of his earning capacity is:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-28)

= 2/3 x 52

= 34.6667 years

Gross Annual Income = ₱6,039.00 x 12months

= ₱72,648.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 34.6667 years x ½ (₱72,648.00)

= 34.6667 years x ₱36,234.00

Loss of Earning Capacity = ₱1,256,113.21

To conclude, the following are the damages to be awarded to the heirs of victim Daryl Vincent Delos Reyes:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱1,256,113.21

9) For victim Anthony Ridao:

Witness Eden Ridao testified that she spent a total amount of ₱211,516.65 for the burial and wake expenses in relation to the death of her husband victim Anthony Ridao. She presented an Affidavit of Burial Expenses marked as Exhibit "(6)H-9", Schedule 1: Details of Expenses for Food, Drinks, etc. marked as Exhibit "(6)H-9-A", Schedule 2: Details of Miscellaneous Expenses Incurred marked as Exhibit "(6)H-9-B", and Other Incidental Expenses Incurred with a total of ₱43,093.70, marked as Exhibit "(6)H-10". She likewise presented the following receipts:

Description	Date	Amount
Marbel Subere Funeral Home OR#: 2467 marked as Exhibit "(6)H-13"	November 30, 2009	₱20,000.00
Receipt for one (1) live pig marked as Exhibit "(6)H-13"	November 28, 2009	₱10,000.00
JR Photo Laboratory Branch-1 Cash Invoice No. 67623 marked as Exhibit "(6)H-14"	December 1, 2009	₱1,816.75
Koronadal Valley Eternal Garden Memorial Park OR#: 7789 marked as Exhibit "(6)H-11"	November 26, 2009	₱20,000.00
Koronadal Valley Eternal Garden Memorial Park OR#: 7796 marked as Exhibit "(6)H-15"	December 2, 2009	₱35,366.65
Fred-Ann's Food Haus & Catering Services OR#: 15287 marked as Exhibit "(6)H-12"	November 29, 2009	₱11,250.00
Koronadal Valley Eternal Garden Memorial Park Cash Invoice No. 2772 for the lapida marked as Exhibit "(6)H-18"	May 15, 2010	₱5,000.00
	TOTAL	**₱103,433.40**

The court only considered those receipts which were directly connected to the wake and burial expenses of the victim. As ruled in the above-mentioned jurisprudences, those expenses incurred in the 9th day, 40th day, and one-year anniversary of the death of the victim should not

be included in the award of actual damages. Based on the receipts presented, only the amount of ₱103,433.40 relates to the actual damages incurred by the heirs of the victim during his wake and burial. Hence, the court shall allow the grant of actual damages in the said amount.

Witness also testified that during the time the victim was kidnapped, he was driving their Tamaraw FX. The PNP Regional 12 found said crashed vehicle with plate no. UTG 234, and she identified said vehicle through a photograph in open court. As proof that she owned said vehicle and to claim damages for its loss, witness presented a Deed of Sale of Motor Vehicle between a certain Clarissa C. Escuadro and Eden Ridao dated April 28, 2008, for a Toyota vehicle with plate no. UTG 234, for an amount of ₱120,000.00, marked as Exhibit "(6)H-22". Likewise, she presented an LTO Official Receipt No. 702242133 dated April 22, 2009 for a utility vehicle with plate no. UTG 234 registered under the name Eden Ridao, marked as Exhibit "(6)H-21", as well as the LTO Certificate of Registration No. 5822865-6 dated April 24, 2008 for a Toyota Tamaraw with plate no. UTG 234 also registered under the name Eden Ridao, marked as Exhibit "(6)H-20".

Based on the foregoing evidence, the court is convinced that the prosecution was able to establish that the vehicle driven by the victim which was a Toyota Tamaraw FX with plate no. UTG 234, was one of those vehicles which were damaged during the massacre and said vehicle was owned by and registered under the name of the witness. Thus, it is only proper to also award to the heirs of the victim the amount of ₱120,000.00 as actual damages for the said vehicle.

With respect to the claim for loss of earning capacity, witness presented the following: a) ID Card of the victim Anthony Ridao from National Statistical Coordination Board marked as Exhibit "(6)H-4"; b) Service Record of the victim dated January 21, 2010 signed by Romeo Nimeno, Chief Administrative Officer, showing his latest position as Statistical Coordination Officer III with annual salary of ₱238,872.00, marked as Exhibit "(6)H-5"; c) Notice of Salary Adjustment dated July 8, 2009 signed by Romulo A. Virola, Secretary General, from the National Statistical Coordination Board, stating among others, that the adjusted basic monthly salary of the victim effective July 1, 2009 is ₱19,906.00, marked as Exhibit "(6)H-6"; and d) Certification of Employment and Compensation of the victim from the National Statistical Coordination Board dated January 21, 2010 signed by Emalyn P. Pineda, Administrative Officer V, Human Resource and International Affairs Division, stating among others that the annual compensation and other benefits/allowance of the victim totals to ₱293,778, marked as Exhibit "(6)H-7". It must be noted that the defense did not conduct a cross-examination on said witness neither did they oppose to the presentation of these evidence. Thus, the court is convinced that the prosecution was able to sufficiently

establish the basis for the claim of the loss of earning capacity of the victim.

According to the Death Certificate of the victim marked as Exhibit "T-26", the victim was forty-two (42) years old at the time of his death. Further, the court will only consider the annual basic salary of the victim which was ₱238,872.00. Hence, applying the formula for the loss of earning capacity of the victim, to wit:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-42)

= 2/3 x 38

= 25.3333 years

Gross Annual Income = ***₱238,872.00***

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 25.3333 years x ½ (₱238,872.00)

= 25.3333 years x ₱119,436.00

Loss of Earning Capacity = ₱3,025,708.02

To summarize, the following damages are to be awarded to the heirs of the victim Anthony Ridao:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Actual Damages (wake)	-	₱ 103,433.40
e. Actual Damages (vehicle)	-	₱ 120,000.00
f. Loss of Earning Capacity	-	₱3,025,708.02

10) For victim Bai Eden Mangudadatu:

Witness Bai Ayesha Andamen testified that her family spent ₱1 million for *kanduli* which was a Moslem tradition of prayers and feeding the people who attended the prayer for one hundred (100) days after the burial of her mother victim Bai Eden Mangudadatu. When asked by the court if she has evidence to prove that she indeed spent said amount in

connection with the death of her mother, witness answered that she did not have receipts because she had not thought about it.

As discussed in the above-mentioned jurisprudence, expenses incurred after the burial of the victim such as the 9th day, 40th day and death anniversary will not be entitled to the award of actual damages. This also includes those expenses incurred during *kanduli*. Therefore, the court cannot grant said amount. However, considering that the death of the victim was established by the prosecution and that there indeed expenses incurred in relation thereto, the court will instead grant the amount of ₱50,000.00 as temperate damages.

Regarding the claim for the loss of earning capacity, the witness testified that at the time of her mother's death, she was the Vice Mayor of Mangudadatu, Maguindanao and was earning ₱20,000.00 per month. She presented a Certification from the Office of the Mayor, Municipality of Mangudadatu dated August 3, 2010, signed by Datu Freddie G. Mangudadatu, certifying that the victim had been elected as Municipal Vice Mayor of Mangudadatu, Maguindanao during the May 1, 2007 election and served as such up to November 23, 2009, marked as Exhibit "ZZZ-11". Further, the witness mentioned that her mother was also engaged in the business of pharmacy and medical supplies and she was the proprietor of Nashden Marketing Pharmaceutical Medical Equipment Supplier. She claimed that out of this business, her mother was earning ₱4 million a year. She presented a photocopy of the Business Permit No. 020-009 valid until December 31, 2009 issued on March 31, 2009 granted to Nashden Marketing Pharmaceutical Medical Equipment Supplier provisionally marked as Exhibit "ZZZ-12". But this evidence was denied admission when it was formally offered as it was inadmissible in view of the objection of the accused' counsel that said document violates the best evidence rule. During cross-examination, the witness was asked if she had any proof to show that it was her late mom who was the proprietor of said business which she answered in the negative. Also, the witness was asked by the court if she had evidence to show the annual income of said business but she answered that the BIR files were submitted to the bank and despite reserving the right to present these documents, the prosecution failed to do so.

Hence, the court can only consider the Certification issued by the Office of the Municipal Mayor of Mangudadatu, Maguindanao that the victim was the Vice-Mayor of said municipality at the time of her death considering that the same was not objected to by the defense counsels and the witness was not cross-examined regarding said document. Based on the Death Certificate of the victim marked as Exhibit "T-27", she was forty-five (45) years old at the time of her death, thus:

> *Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]*

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-45)

= 2/3 x 35

= 23.3333 years

Income provided = ₱20,000.00 x 12months

Gross Annual Income = ***₱240,000.00***

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 23.3333 years x ½ (₱240,000.00)

= 23.3333 years x ₱120,000.00

Loss of Earning Capacity = ₱2,799,996.00

Hence, the following are the damages to be awarded to the family of the heirs of victim Bai Eden Mangudadatu:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱2,799,996.00

11) For victim Eugene Demello:

Witness Fairodz Demello testified in open court that she incurred an expense of ₱200,000.00 for the wake and burial of her husband victim Eugene Demello. However, she also admitted that in Muslim tradition, they do not practice the issuance of receipts; hence, she did not present any receipt to prove her claim. She further testified that she spent another ₱100,000.00 for the *kanduli*. As already ruled by recent jurisprudence, those expenses incurred after the burial and wake of the victim shall not be considered in the grant of damages. Considering that there were no receipts to substantiate the expenses incurred for the death of the victim, the court can only allow the grant of temperate damages in the amount of ₱50,000.00 since the prosecution was able to establish the death of the victim and there were expenses incurred in relation thereto.

As regards the claim for loss of earning capacity, the witness testified that her husband was a driver and was receiving an income of more than ₱1,000.00 per day. However, she did not have any proof of his income. But it is also to be noted that the defense counsel did not conduct their cross-examination upon the witness. Notwithstanding the absence of documentary evidence to prove the loss of earning of the victim, but

based on the testimony of the witness, the court can make a fair and reasonable estimate of the damages for the loss of earning capacity of the victim. The court will consider the amount of ₱1,000.00 as daily compensation of the victim. In his Death Certificate marked as Exhibit "T-11", it was indicated that the age of the victim at the time of his death is thirty-five (35) years old. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-35)

= 2/3 x 45

= 30 years

Gross Annual Income = ₱1,000.00 x 260 working days

*= **₱260,000.00***

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 30 years x ½ (₱260,000.00)

= 30 years x ₱130,000.00

Loss of Earning Capacity = ₱3,900,000.00

In sum, the Court grants the following damages for the death of victim Eugene Demello:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱3,900,000.00

12) For victim Jose "Jhoy" Duhay:

Based on the Judicial Affidavit of witness Zenaida Duhay, she testified that she incurred burial and wake expenses in relation to the death of her husband victim Jose Duhay in the amount of ₱46,600.00, as evidenced by the Affidavit of Burial Expenses she executed, marked as Exhibit "(5)G-8". However, she only presented a receipt from the Office of the Treasurer, Province of Sultan Kudarat No. 1140367 dated December 2, 2009 for cemetery fee amounting to ₱7,000.00, marked as Exhibit "(5)G-10-a". She likewise presented a Certification from Southern Funeral Homes dated January 18, 2010 signed by Leah Collado, stating that said funeral homes had rendered burial and funeral services to the

victim, but there was no amount stated therein. Considering that the death of the victim was sufficiently established by the prosecution and notwithstanding that the only expense supported by receipt amounted to ₱7,000.00, the court is inclined to grant the amount of ₱50,000.00 as temperate damages for the heirs of the victim.

With respect to the claim for loss of earning capacity, the witness testified that her husband was a journalist and a publisher of Filipino Chronicle which was distributed in Isulan, Sultan Kudarat. She further stated that he was earning ₱25,000.00 per month. To prove her claim, she presented a copy of the Filipino Chronicle Newspaper dated September 1-7, 2007, with the staff box showing that the victim was the publisher, marked as Exhibit "(5)G-7". When asked by the court if she has any document to show that her husband was earning said amount when he was still alive, witness answered in the negative. She only had a Certification from Mindanao Goldstar dated May 26, 2011, signed by Mr. Ernesto G. Chu, Publisher/President, marked as Exhibit "(5)G-11, stating that the victim was also a contributor to said newspaper, but there was no salary or commission indicated therein. On cross-examination, the witness was asked if there was no payroll to show that the income of his husband was indeed ₱25,000.00. Witness answered that the she cannot show the payroll because the publishing was their business and she admitted that said amount was merely a rough estimate.

Considering that the victim was the publisher of the Filipino Chronicles and it would be impossible for the witness to provide a Certification from said newspaper to attest that indeed the victim was the publisher, and considering further that a Certification from Mindanao Star Daily was presented to prove that at the time of his death, the victim was gainfully employed and had the capacity to earn, the court is convinced that the prosecution was able to establish the claim for the loss of earning capacity of the victim. Based on the Death Certificate of the victim marked as Exhibit "T-39", he was forty-eight (48) years old at the time of his death. Hence, applying the formula:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-48)

= 2/3 x 32

= 21.3333 years

Gross Annual Income = ₱25,000.00 x 12 months

*= **₱300,000.00***

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 21.3333 years x ½ (₱300,000.00)

= 21.3333 years x ₱150,000.00

Loss of Earning Capacity =₱3,199,995.00

Thus, the following are the damages to be awarded to the family of victim Jose "Jhoy" Duhay:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱3,199,995.00

13) For victim Arturo Betia:

In her Judicial Affidavit, witness Emily Anungon testified that the family spent a total amount of ₱99,000.00 for the wake and burial expenses of the victim. However, only the receipt from Koronadal Valley Eternal Garden Memorial Park with Official Receipt No. 7790 dated November 28, 2009 with the amount of ₱45,252.00, marked as Exhibit "(5)Z-10" was presented by the witness to substantiate the claim. Considering that the amount substantiated by a receipt was lesser than the amount provided in the established jurisprudence, the court is constrained to allow the grant of the amount of ₱50,000.00 as temperate damages for the heirs of the victim in lieu of the actual damages incurred.

To claim for the loss of earning capacity, the witness testified that the victim was a Marketing Manager of Periodico Ini from June 2005 up to the time of his death on November 23, 2009, and was earning around ₱15,000.00 to ₱20,000.00 a month. As proof, she presented the following: a) Certificate of Employment from Periodico Ini dated August 6, 2010, signed by Freddie E. Solinap, Publisher/Editor, marked as Exhibit "(5)Z-7"; b) Certification from Periodico Ini also signed by Mr. Solinap, stating that the victim received a monthly commission of ₱15,000.00 to ₱20,000.00 based on his sales production marked as Exhibit "(5)Z-8"; and c) an ID card of the victim from Periodico Ini marked as Exhibit "(5)Z-11-A". Although the defense counsels noted some discrepancies on the signatures of Mr. Solinap in the Certificates, it must be emphasized, however, that Mr. Freddie Solinap personally identified these Certificates when he testified in open court. Hence, it is convinced that these documents are sufficient basis for the claim of loss of earning capacity of the victim. Since the monthly income provided was in a range, the court will get the average to arrive at the monthly basic salary of the victim.

Based on his Birth Certificate marked as Exhibit "(5)Z-3", the victim was born on October 31, 1956; hence, at the time of his death on November 23, 2009, he was already fifty-three (53) years old. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-53)

= 2/3 x 27

= 18 years

Income provided = ₱10,000.00 to ₱15,000.00

Average = ₱10,000.00 + ₱15,000.00 / 2

= ₱25,000.00 / 2

Commission ***= ₱12,500.00***

Gross Annual Income = ₱12,500.00 x 12months

= ₱150,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 18 years x ½ (₱150,000.00)

= 18 years x ₱75,000.00

Loss of Earning Capacity = ₱1,350,000.00

As summary, the damages to be awarded to the heirs of victim Arturo Betia are the following:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱ 1,350,000.00

14) For victim Lindo Lupogan:

Based on the Judicial Affidavit of witness Arlyn Lupogan, she testified that she incurred expenses in relation to the death of her husband victim Lindo Lupogan amounting to ₱15,500.00. For the funeral services, she paid ₱5,000.00, as evidenced by the Official Receipt No.

6106 from J.D. Rivera Funeral Homes dated December 1, 2009, marked as Exhibit "(5)K-11", and for the cemetery expenses, she paid ₱10,500.00, as evidenced by a Receipt dated November 28, 2009 marked as Exhibit "(5)K-10". However, the latter evidence was denied admission when the it was formally offered as it was inadmissible in view of the specific objection of the accused' counsel that it constituted hearsay evidence. Hence, the only expense supported by receipt was the amount of ₱5,000.00. This notwithstanding, the court grants the amount of ₱50,000.00 as temperate damages for the heirs of the victim since the fact of death of the victim was clearly established by the prosecution and there were expenses incurred in relation thereto.

Insofar as the claim for loss of earning capacity is concerned, the witness testified that her husband was a former correspondent of two newspapers – Mindanao Daily Gazette and Metropolitan Gazette, and from his works, he was earning ₱20,000.00 a month. As proof, she presented the following: a) a copy of Metropolitan Gazette dated August 17, 2009, showing the staff box with the name of the victim, marked as Exhibit "(5)K-7"; b) ID card issued by Rizal Memorial College Broadcasting Corporation, DXRA, Davao City, identifying the victim as "Reporter", marked as Exhibit "(5)K-8"; c) ID card from Sentinel identifying the victim as "Correspondent" (Press) marked as Exhibit "(5)K-9". It is to be noted that the witness was not cross-examined by the defense counsels with respect to the income of the victim when he was still alive. Notwithstanding the absence of a certification from the employer of the victim, considering that the defense counsels did not object nor cross-examine the witness regarding his former work pursuant to the above-discussed jurisprudence, the court is inclined to grant the claim for the loss of earning capacity of the victim. On his Death Certificate marked as Exhibit "T-53", victim was forty-five (45) years old at the time of his death. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-45)

= 2/3 x 35

= 23.3333 years

Gross Annual Income = ₱20,000.00 x 12 months

*= **₱240,000.00***

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 23.3333 years x ½ (₱240,000.00)

= 23.3333 years x ₱120,000.00

Loss of Earning Capacity = ₱2,799,996.00

From the foregoing discussion, the following are the damages to be awarded to the family of victim Lindo Lupogan:

a. Civil Indemnity - ₱ 100,000.00

b. Moral Damages - ₱ 100,000.00

c. Exemplary Damages - ₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱2,799,996.00

15) For victim Mercy Palabrica:

To claim for actual damages, witness Lerma Palabrica testified that they incurred burial and wake expenses in the amount of ₱112,000.00 in relation to the death of her daughter victim Mercy Palabrica. However, the only receipts she presented to prove her claim are the following:

Description	Date	Amount
Charito L. Collado Funeral Parlor OR#: 0100 for the funeral services rendered to the late Mercy Pabrica marked as Exhibit "(6)E-4"	December 10, 2009	₱35,000.00
Receipt for one live pig marked as Exhibit "(6)E-6"	November 24, 2009	₱6,000.00
Receipt for one live pig marked as Exhibit "(6)E-5"	November 28, 2009	₱13,000.00
	TOTAL	**₱54,000.00**

Considering that the expenses supported by receipts totaled to ₱54,000.00, the court can only grant such amount pursuant to established jurisprudence. Hence, the actual damages which the court can allow to the heirs of the victim is ₱54,000.00.

Insofar as the claim for the loss of earning capacity is concerned, witness testified that the victim was working at the Licensing Office, Office of the City Mayor and was earning ₱7,307 a month. The only evidence presented by the witness was a photocopy of the Service Record of the victim dated February 11, 2010, signed by Nenita G. Albito, City, marked

as Exhibit "(6)E-3". However, said document was denied admission when it was formally offered as it was objected to by the defense for being a hearsay evidence. Having denied the only document supporting the claim of the witness, the court is of the opinion that the prosecution failed to sufficiently establish the basis for the loss of earning capacity of the victim. Thus, the court cannot grant the same.

As a summary, the damages to be awarded to the heirs of the victim Mercy Palabrica are the following:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Actual Damages	-	₱ 54,000.00

16) For victim Ronie Laru-an Perante:

Witness Meryl Perante testified that she incurred burial and wake expenses in connection with the death of her husband victim Ronie Perante, in the amount of ₱112,206.00, as evidenced by the Affidavit of Burial Expenses she executed marked as Exhibit "(4)S-9". She however, admitted that she had no evidence to prove said expenses because she lost the receipts for she never thought that she would be needing the same. This notwithstanding, and considering that the death of the victim was sufficiently established by the prosecution and there were indeed expenses incurred by the family in relation thereto, the court rules to grant temperate damages in the amount of ₱50,000.00 instead of the actual damages alleged.

As regards the claim for loss of earning capacity, the witness testified that the victim at the time of his death was a correspondent of Mindanao Gold Star Daily and was earning a salary of not less than ₱10,000.00. She presented an ID card of the victim from the Mindanao Gold Star Daily marked as Exhibit "(4)R-10" (but as per TSN the marking is Exhibit "(4)S-10", p. 82, TSN, October 6, 2011). On cross examination, witness was asked regarding receipts showing the income of her husband while working as a correspondent of Mindanao Gold Star Daily. Witness answered that there was none as he was a freelance.

Considering that the witness only provided the ID card of the victim and no other evidence was presented to support the claim for earning capacity of the victim, and considering further that the defense conducted their cross-examination on the witness and inquired on additional evidence to prove her claim, the court is convinced that the prosecution failed to establish sufficient basis for the claim for the loss of earning capacity of the victim. Hence, it cannot grant the same.

The following are the damages to be awarded to the heirs of victim Ronnie Perante:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00

17) For victim Rosell Morales:

Witness Mary Grace Morales testified that she incurred expenses in relation to the wake of her husband victim Rosell Morales amounting to ₱76,463.00. But the only receipt she presented was an Invoice from Dadiangas Crown Bookstore dated August 25, 2010, with an amount of ₱25.00. She admitted that she failed to keep the receipts. This notwithstanding, considering that the prosecution had established the fact of death of the victim and there were expenses incurred by the heirs with respect to his burial and wake, the court is inclined to award the amount of ₱50,000.00 as temperate damages.

Insofar as the claim for loss of earnings is concerned, the witness testified that her husband was a news correspondent and circulation manager of The News Focus and from his works, he was receiving a commission of ₱5,000 a week. As proof, she presented the following documents: a) copy of The News Focus Newspaper dated October 5-12, 2009 showing the staff box with the name of the victim as Circulation/Correspondent marked as Exhibit "(4)R-14"; b) Certification from Samahan ng mga Mamamahayag at Broadcaster's Inc. (SMBI) dated September 4, 2011, signed by Mr. Andres P. Cruz, SMBI Board Chairman, certifying that the victim was a correspondent of the News Focus, marked as Exhibit "(4)R-15"; c) Media ID cards of the victim marked as Exhibits "(4)R-15-a and b; d) Certification from Radio Philippines Network, Inc. dated August 12, 2010, signed by James D. Catalan, Station Manager, certifying that the victim was a volunteer reporter of RPN-DXDX Radio Station, General Santos City and a circulation manager and correspondent of The News Focus, marked as Exhibit "(4)R-15-c"; e) a copy of The News Focus Newspaper dated September 1-9, 2009, showing his article, marked as Exhibit "(4)R-16"; and f) a copy of The News Focus Newspaper dated August 24-31, 2009, showing his article, marked as Exhibit "(4)R-17".

On cross-examination, witness was not questioned about the previous employment of the victim, as well as his salary, and the presentation of the documents were not objected to by the defense counsels.

In view thereof, the court is convinced that the prosecution was able to sufficiently establish the basis for the loss of earning capacity of the victim. Based on his Death Certificate marked as Exhibit "T-17", victim was already thirty-four (34) years old at the time of his death on November 23, 2009. However, on the Marriage Certificate presented marked as Exhibit "(4)R-3", the birthdate of the victim is July 16, 1976, making him thirty-three (33) years old at the time of his death. Accordingly, a Joint Affidavit of Two Disinterested Persons marked as Exhibit "(4)r-8" was also submitted to correct the error on the age of the victim at his Death Certificate, stating among others that the true and correct age of the victim at the time of his death is thirty-three (33) years old. Hence, the court will consider his true age of thirty-three (33) years old in the computation. Further, the court will also take into consideration that the salary of the victim when he was still alive is ₱5,000.00 a week. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-33)

= 2/3 x 47

= 31.3333 years

Income provided = ₱5,000.00 a week

*= ₱5,000.00 * 4 weeks*

= ₱20,000.00

Gross Annual Income = ₱20,000.00 x 12months

= ₱240,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 31.3333 years x ½ (₱240,000.00)

= 31.3333 years x ₱120,000.00

Loss of Earning Capacity = ₱3,759,996.00

To summarize, the heirs of the victim Rosell Morales are awarded the following damages:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱3,759,996.00

18) For victim Welhelm Palabrica:

Insofar as the claim for actual damages is concerned, the prosecution through witness Gemma Palabrica testified that she incurred expenses totaling to ₱204,000.00, as evidenced by the Affidavit of Burial Expenses she executed which was marked as Exhibit "(6)F-24". Likewise, she presented several receipts to support said Affidavit, *viz:*

Description	Date	Amount
Swana Mercantile Cash Invoice No. 61266 marked as Exhibit "6F-4"	December 5, 2009	₱40.00
M-M Marble & construction supply Inc. Cash Invoice No. 16316 marked as Exhibit "6F-4"	December 3, 2009	₱50.00
Receipt from the tomb maker marked as Exhibit "6F-4"	December 4, 2009	₱2,000.00
Tacurong City Ahka Hardware Corp. Cash Invoice No. 1363 marked as Exhibit "6F-5"	December 6, 2009	₱210.00
EGT Electrical & Lighting Supply Cash Invoice No. 14510 marked as Exhibit "6F-6"	December 4, 2009	₱450.00
Swana Mercantile OR #: 001-069884 marked as Exhibit "6F-7"	December 3, 2009	₱2,642.45
Tacurong City Ahka Hardware Corp. Cash Invoice No. 1230 marked as Exhibit "6F-8"	November 26, 2009	₱2,392.00
Copebee Mktg. marked as Exhibit "6F-8"	November 26, 2009	₱500.00

Tacurong City Ahka Hardware Corp. Cash Invoice No. 1272 marked as Exhibit "6F-8"	November 28, 2009	₱1,470.00
Lee Commercial Cash Invoice No. 4127 marked as "6F-8"	November 29, 2009	₱1,596.00
EGT Electrical & Lighting Supply Cash Invoice No. 14348 marked as Exhibit "6F-9"	November 26, 2009	₱328.00
Swana Mercantile OR#: 001-044922 marked as Exhibit "6F-9"	November 27, 2009	₱1,923.00
Swana Mercantile OR#: 001-000069 marked as Exhibit "6F-9"	December 2, 2009	₱72.25
Swana Mercantile OR#: 001-000070 marked as Exhibit "6F-9"	December 2, 2009	₱7.90
Swana Mercantile OR#: 001-045516 marked as Exhibit "6F-9"	December 3, 2009	₱1,169.50
EGT Electrical & Lighting Supply Cash Invoice No. 14325 marked as Exhibit "6F-10"	November 25, 2009	₱555.00
Swana Mercantile OR#: 001-541 marked as Exhibit "6F-10"	November 25, 2009	₱2,932.90
Swana Mercantile Cash Invoice No. marked as Exhibit "6F-10"	December 4, 2009	₱685.00
Swana Mercantile OR#: 001-027811 marked as Exhibit "6F-11"	November 29, 2009	₱16.00
Tacurong City Ahka Hardware Corporation	November 30, 2009	₱628.00

marked as Exhibit "6F-11"		
Handwritten Receipt for a dozen of mourning pin marked as Exhibit "6F-11"	Undated	₱60.00
M-M Marble & Construction Supply Cash Invoice No. 16252 marked as Exhibit "6F-12"	November 29, 2009	₱5,678.00
Handwritten Receipt for four (4) bags of cement and umbrella nails marked as Exhibit "6F-12"	November 29, 2009	₱895.00
Charito L. Collado Funeral Parlor OR#: 0127 marked as Exhibit "6F-17"	January 23, 2010	₱35,000.00
Handwritten Receipt for various items marked as Exhibit "6F-19"	November 25, 2009	₱526.00
Handwritten Receipt for various items marked as Exhibit "6F-20"	November 27, 2009	₱490.00
Handwritten Receipt for various items marked as Exhibit "6F-21"	November 26, 2009	₱3,505.20
Handwritten Receipt for various items marked as Exhibit "6F-22"	December 3, 2009	₱2,174.00
	TOTAL	**P67,996.20**

Based on the foregoing, it shows that the actual expenses substantiated by receipts totaled to ₱67,996.20 which is more than the standard amount provided by established jurisprudence for temperate damages. Considering that the prosecution was able to prove the actual expenses, the court resolves to grant the aforesaid amount to the family of the victim.

Regarding the claim for loss of earning capacity, the witness presented a Certification from the City Human Resource Management Office of the City of Tacurong dated October 11, 2011, signed by Nenota

G. Albito, City Human Resource Management Officer, marked as Exhibit "(6)F-25", certifying that the victim Welhelm S. Palabrica was connected with the LGU as Driver I under a Job Contract of the City Mayor until his time of death on November 23, 2009 and that he was receiving a monthly salary of ₱6,039.00. This Certification was not opposed to by the defense counsels and the witness was not cross-examined with respect to this Certification. Thus, the court finds the same with merit and substantial to be used as basis in computing the loss of earning capacity of the victim. Based on the Death Certificate marked as Exhibit "T-3", victim Welhelm Palabrica was forty-six (46) years old at the time of his death, hence:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-46)

= 2/3 x 34

= 22.6667 years

Gross Annual Income = ₱6,039.00 x 12months

= ₱72,468.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 22.6667 years x ½ (₱72,468.00)

= 22.6667 years x ₱36,234.00

Loss of Earning Capacity = ₱821,305.21

To conclude, the heirs of victim Welhelm Palabrica are to be awarded with the following damages:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Actual Damages	-	₱ 67,996.20
e. Loss of Earning Capacity	-	₱821,305.21

19) For victim Rubello Bataluna:

Witness Phoebe Bataluna presented in court an Affidavit of Burial Expenses she executed with a total amount of ₱111,853.00 representing the expenses incurred in the interment of his father Rubello Bataluna. As additional support to this Affidavit, she also presented a receipt from KCC

Mall at General Santos City in the amount of ₱5,500.00. Since the death of the victim was established by the prosecution and there were expenses incurred by the family in relation thereto, the court resolves to award instead the amount of ₱50,000.00 as temperate damages considering that the amount stated in the Affidavit was not duly substantiated with receipts. Thus, the awarding of the standard amount for temperate damages is only proper.

With respect to the claim for loss of earning capacity, the witness claimed that her father was earning ₱54,000.00 per year, depending on the number of advertisements he would get for the newspaper and presented a Statement of Account from Mindanao Gold Star Daily marked as Exhibit "4Q-a" showing a total of ₱8,569.20 for June and July 2009 advertisements. However, during the cross-examination of the witness, said Statement of Account was questioned by the defense counsels and the witness confirmed that the same was not signed by any officer of the Mindanao Gold Star Daily. Aside from this document, no other evidence was presented by the prosecution to establish the basis for the claim for loss of earning capacity of the victim. Hence, the court cannot grant the same.

In view thereof, the following damages are the to be awarded to the family of the victim of Rubell Bataluna:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

20) For victim Francisco Subang:

Witness Ma. Luisa Subang testified that she spent ₱56,353.00 for the wake and burial of her husband victim Francisco Subang as evidenced by an Affidavit of Burial Expenses she executed marked as Exhibit "(4)V-8". To support the same, witness also presented several receipts, *viz:*

Description	**Date**	**Amount**
E.B.Alegario Store Cash Invoice No. 4068 marked as Exhibit "4V-9"	November 27, 2009	₱4,800.00
VRP Store Cash Invoice No. 1776 marked as Exhibit "4V-9-a"	December 3, 2009	₱4,710.00

Elpie Lechon House Receipt No. 0093 marked as Exhibit "4V-9-b"	December 23, 2009	₱12,000.00
Art Color Advertising OR #: 0541 marked as Exhibit "4V-9-c"	December 2, 2010	₱9,600.00
	TOTAL	**₱31,110.00**

Considering that the expenses supported by receipts only amounted to ₱31,110.00 and since the same was lesser than the amount for temperate damages and considering further that the death of victim Francisco Subang was established by the prosecution and expenses were indeed incurred in connection thereto, the court believes that it is only proper to award the amount of ₱50,000.00 as temperate damages.

Regarding the claim for loss of earning capacity, the witness claimed that his husband was earning ₱432,000.00 annually and in support thereof, she presented the following: 1) Certification from Radio Philippines Network, Inc. dated August 12, 2010 signed by James D. Catalan, Station Manager, certifying that the victim was a Talent Announcer/Reporter of RPN-DXDX Radio Station, General Santos and that he was also a publisher of SOCSKSARGEN Today marked as Exhibit "4V-11"; 2) Certificate of Creditable Tax Withheld at Source BIR Form No. 2307 with total amount paid of ₱150.00 marked as Exhibit "4V-13"; and 3) a letterhead from SMBI-Samahan ng mga Mamamahayag at Brodkaster, Incorporated Socsargen with the name of victim Francisco "Ian" Subang as President/CEO marked as Exhibit "4V-15".

However, during the cross-examination, witness was questioned about the Certificate of Creditable Tax Withheld at Source and she confirmed that the name of the victim did not appear in the said Certificate as well as the alleged amount of ₱432,000.00 as annual salary of the victim. She also confirmed that the only amount withheld was ₱150.00. Further, the defense asked the witness about the Certification issued by James Catalan that the latter did not have any relation with Socksargen Today to which the witness answered in the negative and confirmed that Mr. Catalan was only related to the broadcasting network RPN-DXDX. Witness was also questioned about the authenticity of the letterhead.

Considering the evidence presented as well as the cross-examination conducted by the defense, the court cannot give credence to these documents as sufficient basis to grant the claim for the loss of earning capacity of the victim.

Hence, the following damages are to be awarded to the family of victim Francisco Subang:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

21) For victim Raida Sapalon Abdul:

Witness Toy Pamensang claimed that he spent a total of ₱332,200.00 in relation to the death of his wife Raida Sapalon Abdul, as evidenced by the list of Itemized Burial, *kanduli* and other miscellaneous expenses spent he executed, marked as Exhibit "(4)G-9". However, this list was not substantiated by receipts or other documents. Hence, the court may only allow the grant of temperate damages in the amount of ₱50,000.00 in lieu of the actual expenses incurred by the family of the victim considering that the same were not supported by receipts.

Witness also claimed for the loss of earning capacity of the victim and to support his claim, he presented the following: 1) Certification from the Office of the Treasurer of the Municipality of Buluan dated September 2, 2011, signed by Mutalib K. Bedtikan, OIC Municipal Treasurer, marked as Exhibit "(4)G-10", certifying that the victim was a Cash Clerk in the said office with a monthly compensation of ₱6,438.60 and annual income of ₱90,438.60 including PERA and ADCOM; and 2) Service Record signed by Farida W. Saligan, HRMA, marked as Exhibit "(4)G-10-a", showing that the annual salary of the victim at the time of her death is ₱77,580.00. With the evidence presented by the prosecution and considering that the defense counsels did not object to the presentation of these evidence and no cross-examination was conducted by the defense counsels with respect to these documents, the court gives credence to these evidence and finds the same sufficient as basis for the claim of the loss of earning capacity of the victim.

As indicated in the Death Certificate of the victim marked as Exhibit "T-16", the latter was forty-one (41) years old at the time of her death. The court will consider the annual salary of ₱77,580.00 as indicated in the above-mentioned Service Record of the victim, applying the formula, *viz*:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-41)

= 2/3 x 39

= 26 years

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 26 years x ½ (P77,580.00)

= 26 years x P38,790.00

Loss of Earning Capacity = P1,008,540.00

Hence, the heirs of the victim Raida Sapalon Pamensang are to be awarded the following damages:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱1,008,540.00

22) For victim Rahima Palawan:

To claim for actual damages, the prosecution through witness Mohamad Palawan presented an Itemized Burial, *Kanduli* and other miscellaneous Expenses spent for the death of victim Rahima Palawan with a total amount of ₱193,000.00, marked as Exhibit "(4)N-10". However, during his cross-examination, witness confirmed that the expenses listed in the Affidavit were not supported by receipts. This notwithstanding, and considering that the death of victim Rahima Palawan was established by the prosecution, the court will allow the grant of temperate damages in the amount of ₱50,000.00.

In his Judicial Affidavit, the witness claimed that the victim was earning not less than ₱5,500.00 from selling goods, but he also admitted that he had no proof of said income as the victim did not keep any receipts. No other evidence was presented to prove the claim for the loss of earning capacity of the victim. Thus, the court has no basis to grant the said damages to the heirs of the victim.

To summarize, the following are the damages to be awarded to the heirs of victim Rahima Palawan:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00

23) For victim Noel Decena:

To claim for actual damages, the prosecution through witness Femalyn Magaway presented an Itemized List of Expenses spent during the death of Noel Decena with a total amount of ₱54,000.00 marked as Exhibit "(4)X-5". Likewise, she presented a receipt from Vincent Grace Funeral Home dated December 1, 2009 with a total amount of ₱4,000.00 marked as Exhibit "(4)X-6".

Since the death of the victim was established by the prosecution and there were expenses incurred by the family in relation thereto, the court resolves to award instead the amount of ₱50,000.00 as temperate damages considering that the amount stated in the list was not duly substantiated with receipts. Thus, the awarding of the standard amount for temperate damages is only proper.

Insofar as the claim for loss of earning capacity is concerned, the prosecution presented the following: 1) Certificate of Employment dated August 6, 2010 signed by Freddie E. Solinap, certifying that the victim was employed as a Circulation Manager of Rapido until the time of his death marked as Exhibit "(4)X-7"; 2) Certificate of Compensation dated October 28, 2010 signed by Freddie E. Solinap, certifying that the victim during his employment with Rapido was receiving the amount of ₱4,000.00 monthly allowance and incentives of thirty percent (30%) in every transaction of commercial advertisement, marked as Exhibit "(4)X-7"; and 3) a copy of Rapido newspaper for November 22-28, 2009 with staff box indicating that Noel Decena was the Circulation Manager marked as Exhibit "(4)X-8".

Based on the foregoing evidence, the court is convinced that the prosecution was able to establish the claim for the loss of earning capacity of the victim. Per his Birth Certificate marked as Exhibit "(4)X-2", the victim was born on July 3, 1984, making him twenty-five (25) years old at the time of his death on November 23, 2009. Further, the Court will only consider his basic monthly allowance of P4,000.00 in computing the loss of earning capacity. Hence:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-25)

= 2/3 x 55

= 36.6667 years

Gross Annual Income = ₱4,000.00 x 12months

= ₱48,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 36.6667 years x ½ (₱48,000.00)

= 36.6667 years x ₱24,000.00

Loss of Earning Capacity = ₱880,000.80

To conclude, the following damages are to be awarded to the heirs of the victim Noel Decena:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱880,000.80

24) For victim Fernando Razon:

Witness Estrella Razon testified that she spent a total of ₱155,300.00 for the wake and burial of her husband as evidenced by an Affidavit of Burial Expense she executed. She also presented receipts in support of said Affidavit which the court considered, to wit:

Description	Date	Amount
Marbel Southway Marketing Cash Invoice No. 32817 marked as Exhibit "(6) G-8"	November 27, 2009	₱330.00
Lucman General Merchandise Cash Invoice No. 6682 marked as Exhibit "(6)G-8-a"	November 27, 2009	₱190.00
Shahani's RTW Cash Invoice No. 16168 marked as Exhibit "(6)G-8-b"	November 27, 2009	₱175.00
Santa Royal Bakeshoppe & Fastfood Cash Invoice No. 27738 marked as Exhibit "(6)G-8-c"	November 27, 2009	₱180.00

Receipt for the wreath marked as Exhibit "(6)G-8-d"	November 27, 2009	₱400.00
Marbel Maunlad Gen. Merchandise Cash Invoice No. 28848 marked as Exhibit "(6)G-8-e"	November 30, 2009	₱2,769.00
June Ferr Garment & Embroidery OR#: 2010 marked as Exhibit "(6)G-8-f"	November 30, 2009	₱1,520.00
Supreme Hardware Depot, Inc. Cash Invoice No. 62303 marked as Exhibit "(6)G-8-g"	November 30, 2009	₱534.95
KCC Shopping Center Cash Invoice No. 465132 marked as Exhibit "(6)G-8-h"	November 30, 2009	₱2,084.75
Koronadal valley Eternal Garden Memorial Park Cash Invoice No. 2279 marked as Exhibit "(6)G-8-i"	November 28, 2009	₱10,000.00
Marbel Gasul Center Cash Invoice No. 185400 marked as Exhibit "(6)G-8-j"	November 30, 2009	₱684.00
Bj's Fresh Manok & Livestock Dealer Cash Invoice No. 25487 marked as Exhibit "(6)G-8-k"	December 1, 2009	₱306.00
Customer Order Slip No. 14191 marked as Exhibit "(6)G-8-l"	December 1, 2009	₱741.00
Marbel Farmers Bread Cash Invoice No. 163953 marked as Exhibit "(6)G-8-m"	November 30, 2009	₱155.00
Ace Centerpoint Cash Invoice No. 102166 marked as Exhibit "(6)G-8-o"	November 27, 2009	₱2,665.70

Marbel Fit Mart, Inc. Cash Invoice No. 100210 marked as Exhibit "(6)G-8-p"	December 1, 2009	₱3,223.70
Ace Centerpoint Cash Invoice No. 102323 marked as Exhibit "(6)G-8-q"	December 1, 2009	₱561.30
Gabriella's Hardware Sales Invoice No. 6853 marked as Exhibit "(6)G-8-r"	December 1, 2009	₱95.00
Diocese of Marbel St. Anthony Parish OR#: 7698 marked as Exhibit "(6)G-8-s"	December 1, 2009	₱300.00
Koronadal valley Eternal Garden Memorial Park OR#: 7795 marked as Exhibit "(6)G-8-t"	December 1, 2009	₱33,800.00
KCC Shopping Center OR#: 0840000184963 marked as Exhibit "(6)G-8-u"	December 1, 2009	₱1,705.00
KCC Shopping Center OR#: not clear marked as Exhibit "(6)G-8-v"	December 3, 2009	₱349.50
	TOTAL	**₱62,769.90**

Out of the alleged total amount of ₱155,300.00 burial and wake expenses incurred by the family of the victim, only ₱62,769.90 was supported by receipts. Thus, the court rules to grant the latter amount as actual damages incurred by the family of the victim.

With respect to the claim for loss of earning capacity, the prosecution presented a Certification from Periodico Ini-South Cotabato signed by Freddie E. Solinap certifying that the victim was the former advertising manager of said publication until the time of his death and he was receiving a package of fifty percent (50%) commission depending on personal sales of advertisement and other related media promotion transaction, a monthly commission from ₱10,000.00 to ₱15,000.00 based on his sales production, marked as Exhibit "(6)G-9", and a copy of Periodico Weekly News for March 9-15, 2009 showing the staff box with the name of the victim as advertising manager, marked as Exhibit "(6)G-10". This Certification was identified by the witness Freddie Solinap when

he testified in court. Further, the defense counsels waived their cross-examination on witness Estrella Razon.

Based on the foregoing evidence, the court is convinced that the prosecution was able to establish the basis for the claim of the loss of earning capacity of the victim. Considering that the commission/salary he received was stated in a range, the court is of the opinion that it would be best to get the average of his salary like the same principle used for victims Rey Merisco and Bienvenido Legarta Jr. According to his Death Certificate marked as Exhibit "T-6", the victim was (forty-four) 44 years old at the time of his death. Applying the formula, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-44)

= 2/3 x 36

= 24 years

Income provided = ₱10,000.00 to ₱15,000.00

Average = ₱10,000.00 + ₱15,000.00 / 2

= ₱25,000.00 / 2

= ₱12,500.00

Gross Annual Income = ₱12,500.00 x 12months

= ₱150,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 24 years x ½ (₱150,000.00)

= 24 years x ₱75,000.00

Loss of Earning Capacity = ₱1,800,000.00

To summarize, the following are the damages to be awarded to the family of victim Fernando Razon:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Actual Damages	-	₱ 62,769.90
e. Loss of Earning Capacity	-	₱1,800,000.00

25) For victim Eleanor Dalmacio:

Witness Pacita Dalmacio testified that she spent more or less ₱50,000.00 for the wake and burial of her daughter victim Eleanor Dalmacio, however, only the amount of ₱30,000.00 for the coffin has receipt. She presented the Contract No. 2373 from Marbel Subere Funeral Home amounting to ₱30,000.00 dated November 25, 2009, marked as Exhibit "(5)O-7". Likewise, she presented terminal fees, NSO certificates and receipts for the medical expenses for the children of the victim.

As earlier discussed, only the expenses incurred for the burial and wake of the victim which are duly substantiated with receipts shall be considered in the claim for the actual damages. However, temperate damages may be awarded in case the actual damages will not be backed up by receipts. The rule is that when actual damages proven by receipts during the trial amount to less than ₱25,000.00, the award of temperate damages for ₱25,000.00 is justified in lieu of actual damages of a lesser amount. Further, in the most recent jurisprudence, the amount for temperate damages is increased to ₱50,000.00.

In this case, only the expense for the coffin amounting to P30,000.00 was supported by a receipt, but considering that the death of the victim was established by the prosecution and expenses other than the coffin were incurred in relation thereto, the court awards the amount of ₱50,000.00 as temperate damages.

Insofar as the claim for loss of earning capacity is concerned, the witness testified that her daughter was an Associate Editor of Soccsksargen Today and columnist of News Focus. She estimated that her daughter was earning ₱5,000.00 monthly as Associate Editor because she was working on a commission basis depending on the advertising contracts she gets for the newspaper. She also presented copies of the Soccsksargen Today May 7-13, 2009 issue with name of Leah Dalmacio appearing inside staff box marked as Exhibit "(5)O-10", the August 27 to September 13, 2007 issue of News Focus, witness identified that picture appearing on right side of first page of News Focus as Leah Dalmacio marked as Exhibit "(5)O-11", and the September 21-28, 2009 issue of News Focus with name of Leah Dalmacio appearing inside staff box marked as Exhibit "(5)O-11-d. Likewise, she presented a sample advertising contract from Socsargen Today marked as Exhibit "(5)O-12". When witness was asked why she was not able to get certificate of employment of the victim from the said publications, witness answered that publishers Francisco Subang of Socsksargen Today and Marites Cablitas of News Focus were among those who were massacred together with the victim.

Considering the documents presented by the prosecution and the fact that there could be no certificate of employment and compensation which can be issued since the publishers of the aforesaid publications were also victims of the massacre and considering further that there was no cross-examination conducted on the witness when she was presented in court, the court is inclined to grant the claim for loss of earning capacity. Per the Death of Certificate of the victim, she was thirty-eight (38) years old at the time of her death and applying the formula, thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-38)

= 2/3 x 42

= 28 years

Gross Annual Income = ₱5,000.00 x 12months

= ₱60,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 28 years x ½ (₱60,000.00)

= 28 years x ₱30,000.00

Loss of Earning Capacity = ₱840,000.00

Hence, the following damages are to be awarded to the family of Eleanor Dalmacio:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱840,000.00

26) For victim Cynthia A. Oquendo:

Regarding the claim for actual damages, witness Dennis Ayon testified that he cannot tell the exact amount of funeral expenses since it was his mother-in-law Nenita J. Oquendo who kept the receipts in connection with the funeral services extended to his wife and father-in-law who were both victims of the massacre. Hence, the discussion with respect to the actual damages insofar as victim Cynthia Oquendo is

concerned will be discussed altogether with the actual damages being claimed for victim Catalino Oquendo.

As regards the claim for loss of earning capacity, witness testified that her wife was a practicing lawyer at the time of her death. He presented the following documents to prove that the victim was engaged in the legal practice when she was still alive, *viz:* a) Integrated Bar of the Philippines ID Card of the victim with Roll of Attorneys No. 45548, marked as Exhibit "(5)R-6"; b) Certification from DOLE Philippines, Inc. dated August 3, 2010, signed by Corazon L. Madanguit, Accounting Manager, certifying that DOLE Philippines, Inc. had made several payments to the victim for legal services for various dates starting September 17, 2008 to November 20, 2009, amounting to a total of ₱200,600.00, marked as Exhibit "(5)R-7"; c) an Estimated Income Earned by Atty. Cynthia J. Oquedo-Ayon for the year 2009 dated August 3, 2010, with a total amount of ₱1,302,750.00, prepared and signed by Engr. Dennis Q. Ayon, marked as Exhibit "(5)R-8"; and d) two (2) booklets of Official Receipts of the Oquendo Law Office marked as Exhibits "(5)R-9" and "(5)R-10".

Based on the foregoing evidence, the court is convinced that the prosecution had sufficiently established the basis for the grant of the loss of earning capacity of the victim despite the fact that the defense counsels cross-examined the witness regarding the victim's income. As earlier discussed, in claiming the loss of earning capacity of the victim, what is necessary to prove is the capacity of the victim to earn and not the actual loss of the amount of income he could have earned.

From Booklet marked as Exhibit "(5)R-9", the <u>DATED</u> receipts which are considered by the court are as follows:

Description	**Date**	**Amount**
Payment from Ginalyn Carifa for appearance fees OR Receipt No. 0020	November 7, 2008	₱26,000.00
Payment from Elena Mucho et. al. for attorney's fees OR Receipt No. 0021	September 18, 2008	₱21,000.00
Payment from Nacorda, Berdigen & Sabejon (CC No. 07-5823-5825) OR Receipt No. 0022	November 22, 2008	₱26,000.00
Payment from Conchita Fernandez for attorney's fees OR Receipt No. 0023	November 21, 2008	₱21,000.00

Payment from Dolores Dacia, et. al. for attorney's fees OR Receipt No. 0024	December 12, 2008	₱26,000.00
Payment from Editha Jimena for SPA OR Receipt No. 0025	January 12, 2009	₱2,000.00
Payment from Feliza Nicolasura (Howard Hubbard Memorial) for legal fees OR Receipt No. 0026	July 2009	₱17,000.00
Payment from Lani A. Gingoyon for Notarial fee of the Deed of Absolute Sale OR Receipt No. 0027	February 5, 2009	₱1,000.00
Payment from Bonifacio Viajedor, et. al. for legal fees OR Receipt No. 0028	January 29, 2009	₱26,000.00
Payment from Catherine Malompong for legal fees OR Receipt No. 0030	January 30, 2009	₱2,000.00
Payment from PP v. Franje (libel case) OR Receipt No. 0031	February 19, 2009	₱23,000.00
Payment from PP v. Franje (libel case) OR Receipt No. 0032	February 19, 2009	₱26,000.00
Payment from Lilibeth Franje for legal fees OR Receipt No. 0034	March 4, 2009	₱26,000.00
Payment from Eva Cabahug OR Receipt No. 0035	March 10, 2009	₱7,000.00
Payment from Legal Department, DOLE Philippines, Inc. OR Receipt No. 0036	March 11, 2009	₱25,500.00
Payment from Lilibeth Franje for legal fees in CC No. 2315-07 libel OR Receipt No. 0037	March 17, 2009	₱26,000.00
Payment from Lilibeth Franje for legal fees in	April 8, 2009	₱26,000.00

CC No. 2315-07 libel OR Receipt No. 0038		
Payment from Arcadio Solon for attorney's fees OR Receipt No. 0040	May 7, 2009	₱26,000.00
Payment from Maluyong Central Elementary School for notarization of Resolution OR Receipt No. 0041	May 20, 2009	₱100.00
Payment from Lilibeth Franje for legal fees in CC No. 2315-07 libel OR Receipt No. 0042	May 29, 2009	₱26,000.00
Payment from Howard Hubbard Memorial Hospital for notarization OR Receipt No. 0043	June 8, 2009	₱150.00
Payment from William Lee for appearance fee in PP v. Lee OR Receipt No. 0044	June 17, 2009	₱1,500.00
Payment from Arcadio Solon for attorney's fees OR Receipt No. 0045	June 22, 2009	₱26,000.00
Payment from HR Department Howard Hubbard Memorial Hospital for legal fees OR Receipt No. 0046	July 10, 2009	₱17,000.00
Payment from Legal Department, DOLE Philippines, Inc. for legal fees OR Receipt No. 0047	July 11, 2009	₱10,000.00 (but in the form of payment it was written that it was in check amounting to ₱8,500.00 corresponding to the one written in the Certification issued by DOLE Philippines, Inc. ₱150.00)
Payment from Howard Hubbard Memorial Hospital for sun cellot	July 6, 2009	

contract OR Receipt No. 0048		
Payment from Howard Hubbard Memorial Hospital for Physician's Contract OR Receipt No. 0049	July 22, 2009	₱500.00
Payment from Wilma Calva for Affidavit of Two Disinterested Persons OR Receipt No. 0050	July 23, 2009	₱200.00
	TOTAL	**₱435,100.00**

From this booklet marked as Exhibit "(5)R-9", the court notes that there were two (2) receipts which were also included in the Certification issued by DOLE Philippines, Inc., one amounting to ₱25,500.00 (OR No. 0036) and the other receipt amounting to ₱10,000, where ₱8,500.00 was part of the payment made by DOLE Philippines, Inc. (OR No. 0047). From the total of ₱435,100.00, the amounts of ₱25,500.00 and ₱8,500.00 will be deducted; hence, leaving a total amount of **₱401,100.00**.

The Court also notes that from this booklet, there were receipts which were <u>undated</u> and the original receipts were attached together with the duplicates, to wit:

Description	**Amount**
Payment from Elena Mudco, et. al. for attorney's fees OR Receipt No. 0001	₱20,000.00
Payment from Shirley Don-an, et. al. for attorney's fees OR Receipt No. 0002	₱20,000.00
Payment from Cerviaco Bagarinao, et. al. for attorney's fees OR Receipt No. 0003	₱20,000.00
Payment from Jonito Toledo and Apolinario Boiler Jr. for attorney's fees OR Receipt No. 0004	₱20,000.00
Payment from Eric Calooy and Tristan Papa for attorney's fees OR Receipt No. 0005	₱20,000.00
Payment from DOLE Philippines, Inc. Legal Dept. for legal fees OR Receipt No. 0006	₱10,000.00
Payment from Dennis Licayan and Perlito A. Ongue for attorney's fees OR Receipt No. 0007	₱20,000.00
Payment from Loreto Baybayan and Serafin Labrador for attorney's fees OR Receipt No. 0008	₱20,000.00
Payment from Ginalyn Sarifa and Johnny Nacorda OR Receipt No. 0009	₱20,000.00

Payment from unnamed (CC No. 07-5824 / CC No. 07-5825) for attorney's fees OR Receipt No. 0010	₱20,000.00
Payment from Raul Usande and Dolores Dacia for attorney's fees OR Receipt No. 0011	₱20,000.00
Payment from Bonifacio Viajedor and Genara Apollo for attorney's fees OR Receipt No. 0012	₱20,000.00
Payment from Milagros Mendoza and Ginalyn Oliveros OR Receipt No. 0013	₱20,000.00
Payment from Julieta Miana and Renecel Dela Cruz for attorney's fees OR Receipt No. 0014	₱20,000.00
Payment from Teresita Magtoto and Erlinda Daca for attorney's fees OR Receipt No. 0015	₱20,000.00
Payment from Renecel Dela Cruz and Caares Buaron for appearance fees OR Receipt No. 0001	₱23,000.00
Payment from Janito Toledo Boiser and Eric Caloon for legal fees OR Receipt No. 0017	₱23,000.00
Payment from DOLE Philippines, Inc. for legal fees OR Receipt No. 0018	₱10,000.00
Payment from Tristan Papa, Perlito Engue and Dennis Licayan for legal fees OR Receipt No. 0019	₱25,000.00
TOTAL	**₱371,000.00**

Hence, the court cannot include these receipts in the computation for the loss of earning capacity of the victim as it cannot be determined whether these payments were received before or after the death of the victim.

Moreover, from Booklet marked as Exhibit "(5)R-10", the receipts which are considered by the court are as follows:

Description	Date	Amount
Payment from Leriaco Bagarino, et. al. OR Receipt No. 0051	December 18, 2008	₱26,000.00
Payment from Edgar R. Arboleda for Deed of Conditional Sale of Real Property OR Receipt No. 0052	June 22, 2009	₱7,000.00
Payment from Happy Living Realty Dev't. Corp. for notarials OR Receipt No. 0055	September 1, 2009	₱300.00
Payment from Lilibeth Franjie libel case no.	October 14, 2009	₱26,000.00

2313-07 to 2317 for legal fees OR Receipt No. 0056		
Payment from Lilibeth Franjie for appearance fee OR Receipt No. 0057	October 28, 2009	₱26,000.00
Payment from Sarangani Resources Corp. for legal fees OR Receipt No. 0058	November 20, 2009	₱15,000.00
	TOTAL	**₱100,300.00**

From this booklet, the court did not take into consideration the OR No. 0060 dated December 8, 2009 which was the payment from Johny Nacorda, et. al., amounting to ₱17,850.00 for appearance fee as this payment was made after the death of the victim.

Thus, the total income derived from the victim's law office from September 2008 up to her death on November 2009 which were duly supported by receipts amounts to a total of **₱501,400**.

In addition, the court also considers the Certification issued by DOLE Philippines, Inc. which provided the income received by the victim for her legal services from September 2008 to November 2009, amounting to **₱200,600.00**. Hence, the total income from September 2008 to November 2009 of victim Cynthia Oquendo amounts to a total of **₱702,000.00.**

Based on the Death Certificate of the victim, she was thirty-five (35) years old at the time of her death. Thus, applying the formula, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-35)

= 2/3 x 45

= 30 years

Income provided = ₱702,000.00 for 14 months (September 2008 to November 2009)

Average = ₱702,000.00 / 14

*= **₱50,142.86***

Gross Annual Income = ₱50,142.86 x 12months

= ₱601,714.32

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 30 years x ½ (₱601,714.32)

= 30 years x ₱300,857.16

Loss of Earning Capacity = ₱9,025,714.80

In conclusion, the following damages are to be awarded to the heirs of victim Cynthia Oquendo:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
a. Actual Damages - ₱ 872,595.00 (also for victim Catalino Oquendo)
d. Loss of Earning Capacity - ₱9,025,714.80

27) For victim Marife Montaño:

Based on the Judicial Affidavit of witness Maura Montaño, she claimed that she incurred ₱22,750.00 for the burial of her daughter victim Marife Montaño. The following receipts were presented by the witness to support said amount:

Description	Date	Amount
Sarangani Merchandising Cash Invoice No. 153058 marked as Exhibit "(5)N-8"	November 30, 2009	₱4,500.00
Fugoso Store Cash Invoice No. 2109 marked as Exhibit "(5)N-9"	December 3, 2009	₱8,250.00
Elpie Lechon House Cash Receipt No. 0100 marked as Exhibit "(5)-9-a"	December 4, 2009	₱10,000.00
	TOTAL	**₱22,750.00**

Considering that the expenses supported by receipts only amounted to ₱22,750.00 and since the same was lesser than the amount for temperate damages as held in established jurisprudence and considering further that the death of victim Marife Montaño was established by the prosecution and expenses were indeed incurred in connection thereto,

the court believes that it is only proper to award the amount of ₱50,000.00 as temperate damages in lieu of the actual damages.

Regarding the claim for loss of earning capacity, the witness claimed that the victim was the publisher of Saksi Mindanaoan News at the time she was killed and she was earning around ₱83,727.00 per month. To substantiate her claim, she presented a copy of the victim's ID card from Saksi Mindanaoan News with her picture and signature and stated therein that she was the publisher, marked as Exhibit "(5)N-11". Further, she presented the following receipts, to wit:

Description	Date	Amount
Saksi Mindanao news OR#: 0001 received from Hon. Roy Chongbian for advertising rates marked as Exhibit "(5)N-12"	November 3, 2009	₱9,072.00
Saksi Mindanao news OR#: 0002 received from Mayor George Sambaga for advertising rates marked as Exhibit "(5)N-12-a"	November 5, 2009	₱1,260.00
Saksi Mindanao news OR#: 0003 received from Gibo Teodoro for advertising rates marked as Exhibit "(5)N-12-b"	November 6, 2009	₱2,520.00
Saksi Mindanao news OR#: 0004 received from Kalimudan Festival for advertising rates marked as Exhibit "(5)N-12-c"	November 6, 2009	₱5,040.00
Saksi Mindanao news OR#: 0005 received from Manny Villar for advertising rates marked as Exhibit "(5)N-12-d"	November 5, 2009	₱1,260.00
Saksi Mindanao news OR#: 0006 received from Gov. Priscilla Chongbian for	November 9, 2009	₱11,592.00

advertising rates marked as Exhibit "(5)N-12-e"		
Saksi Mindanao news OR#: 0007 received from Steve Solon/Vice Governor for advertising rates marked as Exhibit "(5)N-12-f"	November 12, 2009	₱1,260.00
Saksi Mindanao news OR#: 0008 received from IPD for advertising rates marked as Exhibit "(5)N-12-g"	November 11, 2009	₱5,040.00
Saksi Mindanao news OR#: 0009 received from Kalimudan Festival for advertising rates marked as Exhibit "(5)N-12-h"	November 12, 2009	₱11,592.00
Saksi Mindanao news OR#: 0010 received from Roy Chongbian for advertising rates marked as Exhibit "(5)N-12-i"	November 16, 2009	₱1,260.00
Saksi Mindanao news OR#: 0011 received from Datu Kadil/Mayor for advertising rates marked as Exhibit "(5)N-12-j"	November 17, 2009	₱1,260.00
Saksi Mindanao news OR#: 0012 received from Brgy. Kgd. Josephine Matubato for advertising rates marked as Exhibit "(5)N-12-k"	November 16, 2009	₱630.00
Saksi Mindanao news OR#: 0013 received from BM Napoleon Alaba for advertising rates marked as Exhibit "(5)N-12-l"	November 19, 2009	₱630.00

Saksi Mindanao news OR#: 0014 received from Hon. Mayor Corazon Lerafilo for advertising rates marked as Exhibit "(5)N-12-m"	November 18, 2009	₱2,520.00
Saksi Mindanao news OR#: 0015 received from BM Art Lawa for advertising rates marked as Exhibit "(5)N-12-n"	November 20, 2009	₱1,260.00
Saksi Mindanao news OR#: 0016 received from Hon. Vice Mayor Benjamin Guilley for advertising rates marked as Exhibit "(5)N-12-o"	November 20, 2009	₱1,260.00
Saksi Mindanao news OR#: 0017 received from BM Nene Santos for advertising rates marked as Exhibit "(5)N-12-p"	November 20, 2009	₱1,260.00
Saksi Mindanao news OR#: 0018 received from Fredo Basino for advertising rates marked as Exhibit "(5)N-12-q"	November 18, 2009	₱7,434.00
Saksi Mindanao news OR#: 0019 received from Atty. Perla Cartajano for advertising rates marked as Exhibit "(5)N-12-r"	November 20, 2009	₱1,260.00
Saksi Mindanao news OR#: 0020 received from Roy Chongbian for advertising rates marked as Exhibit "(5)N-12-s"	November 19, 2009	₱1,260.00
Saksi Mindanao news OR#: 0021 received from PIO for	November 19, 2009	₱1,260.00

advertising rates marked as Exhibit "(5)N-12-t"		
Saksi Mindanao news OR#: 0022 received from Kalimudan Festival for advertising rates marked as Exhibit "(5)N-12-u"	November 18, 2009	₱5,040.00
Saksi Mindanao news OR#: 0023 received from Datu Kadil Masahod for advertising rates marked as Exhibit "(5)N-12-v"	November 18, 2009	₱2,520.00
Saksi Mindanao news OR#: 0024 received from Hon. Labualas Mamansual for advertising rates marked as Exhibit "(5)N-12-w	November 18, 2009	₱1,260.00
Saksi Mindanao news OR#: 0025 received from PIO for advertising rates marked as Exhibit "(5)N-12-x"	November 19, 2009	₱1,260.00
Saksi Mindanao news OR#: 0026 received from Mayor Pedro Acharon Jr. for advertising rates marked as Exhibit "(5)N-12-y"	November 20, 2009	₱1,638.00
Saksi Mindanao news OR#: 0027 received from Gov. Datu Zaldy Ampatuan for advertising rates marked as Exhibit "(5)N-12-z"	November 21, 2009	₱2,079.00
	TOTAL	**₱83,727.00**

The witness was cross-examined by the defense counsels regarding these receipts. She confirmed that she did not know what the receipts

were all about. During cross, the defense counsels manifested that there was disparity as to the signatures written in the receipts.

Considering the foregoing, the court cannot give credence to these receipts as basis for the claim of loss of earning capacity. The prosecution failed to sufficiently establish the basis for said claim. Hence, the same cannot be granted by the court.

Thus, the following damages are to be awarded to the family of Marife Montaño:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

28) For victim Jephon Cadagdagon:

To claim for actual damages, the prosecution through witness Remia Cadagdagon presented an Itemized Burial, Funeral and other miscellaneous expenses spent for the death of Jephon C. Cadagdagon with a total amount of ₱110,179.00, marked as Exhibit "(4)T-5". Likewise, she presented the following receipts to support her claim:

Description	Date	Amount
MIZ Variety Store Cash Invoice No. 845 marked as Exhibit "(4)T-6"	November 26, 2009	₱16,674.00
Abraham's Lechon Receipt marked as Exhibit "(4)T-7"	November 29, 2009	₱49,000.00
Solo Flight Store Cash Invoice No. 1328 marked as Exhibit "(4)T-8"	November 29, 2009	₱6,505.00
Marbel Subere Funeral Home Contract No. 2355 marked as Exhibit "(4)T-9"	November 25, 2009	₱48,000.00
Forest Lake General Santos, Inc. OR#: 1849 marked as Exhibit "(4)T-10"	November 26, 2009	₱11,000.00
	TOTAL	**₱131,179.00**

Based on the foregoing evidence, it shows that the actual expenses substantiated by receipts amounted to ₱131,179.00 which is more than the standard amount provided by established jurisprudence for temperate damages. Considering that the prosecution was able to prove the actual expenses, the court resolves to grant the aforesaid amount to the family of the victim.

Regarding the claim for loss of earning capacity, the witness testified that her son victim Jephon Cadagdagon was a photographer and driver for Saksi Mindanaoan News at the time he was killed. She also claimed that the victim had a trucking business and earned an average of ₱111,210.40 per month or ₱1,000,893.60 for nine (9) months of trucking services he rendered as a contractor of DOLE Philippines, Inc. To substantiate the same, she presented the following: 1) LTO receipts showing her son's ownership of the vehicles relating to his business marked as Exhibits "(4)T-17 to 20"; 2) Business Permit No. 000101-0 dated January 12, 2009 granted to the victim Jephon C. Cadagdagon for Go Forth Trucking; 3) Certification from DOLE Stanfilco-A Division of DOLE Philippines, Inc., certifying that the victim (Go Forth Trucking) was one of their contractors doing field operations since March 2009 up to August 24, 2011, marked as Exhibit "(4)T-21"; and 4) Supplier Payment Inquiry for Go Forth Trucking from March 5, 2009 to November 12, 2009 with a total amount of ₱1,000,893.60 marked as Exhibits "(4)T-22" to "(4)T-22-b". But as to the salary of his son as photographer and driver for Saksi Maguindanaoan News, she confirmed that she had no idea as to the same. During her cross-examination, the witness was asked about the Certification issued by DOLE as well as the incidental expenses incurred by the victim in relation to his business. She confirmed that her son had four (4) drivers employed for the trucking business but she does not know their monthly salaries. She also stated that the office of the business was only in their house.

Considering the evidence presented by the prosecution notwithstanding the cross-examination conducted by the defense and based on established jurisprudence, the court is of the opinion that the documents presented were sufficient basis to support the claim for the loss of earning capacity of the victim Jephone Cadagdagon. The court will consider the income of ₱1,000,893.60 for nine (9) months as sufficient basis for the computation of the loss of earning capacity. Since the income provided was only for nine (9) months, it is best to get the average to arrive at the monthly gross income. Based on the Death Certificate of the victim marked as Exhibit "T-22", he was twenty-eight (28) years old at the time of his death. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-28)

= 2/3 x 52

= 34.6667 years

Income provided = ₱1,000,893.60 for 9 months

Average = ₱1,000,893.60 / 9

= ***₱111,210.40***

Gross Annual Income = ₱111,210.40 x 12months

= ₱1,334,524.80

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 34.6667 years x ½ (₱1,334,524.80)

= 34.6667 years x ₱667,262.40

Loss of Earning Capacity = ₱23,131,785.44

To conclude, the following are the damages to be awarded to the family of Jephone Cadagdagon:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Actual Damages	-	₱ 131,179.00
e. Loss of Earning Capacity	-	₱23,131,785.44

29) & 30) For victims Eduardo and Cecil Lechonsito:

Witness Stephanie Cecil Lechonsito testified that she spent ₱110,000.00 each for the funeral services of her parents victims Eduardo and Cecil Lechonsito as evidenced by the following receipts: 1) Charito L. Collado Funeral Parlor Official Receipt No. 0149 dated December 3, 2009 for funeral services of late Cecil Lechonsito with a total amount of ₱110,000.00, marked as Exhibit "(9)R-2"; and 2)Charito L. Collado Funeral Parlor Official Receipt No. 0149 dated December 3, 2009 for funeral services of late Eduardo Lechonsito with a total amount of ₱110,000.00, marked as Exhibit "(9)S-6. Considering that the expenses incurred as alleged by the witness were duly supported by receipts, the court is inclined to award the amount of ₱110,000.00 for each victim as actual damages.

Insofar as the claim for loss of earning capacity for victim Eduardo Lechonsito is concerned, the witness presented the following: 1) Appointment Paper of Eduardo Lechonsito dated March 10, 2008 as permanent employee of the Office of the City Mayor as Licensing Officer III, SG-18/1 with annual salary of ₱209,100.00, marked as Exhibit "(9)S-4"; and 2) Notice of Salary Adjustment from the Office of the City Mayor Tacurong dated August 28, 2008, with the information that the adjusted monthly basic salary of the victim effective July 1, 2008 is ₱19,168.00 marked as Exhibit "(9)S-5". Although the witness was cross-examined by the defense counsels, the court gives credence to the evidence presented by the prosecution as sufficient basis to support the claim for the loss of earning capacity of the victim. As per his Death Certificate marked as Exhibit "T-5", victim Eduardo Lechonsito was fifty-three (53) years old at the time of his death and applying this to the formula, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-53)

= 2/3 x 27

= 18 years

Gross Annual Income = ₱19,168.00 x 12months

= ₱230,016.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 18 years x ½ (₱230,016.00)

= 18 years x ₱115,008.00

Loss of Earning Capacity = ₱2,070,144.00

With regards to the claim for loss of earning capacity for victim Cecil Lechonsito, the witness presented a Certified True Copy of the OFW Membership Verification Sheet of the victim with the information that the latter was a servant at Sheikh Suhaim Bin Suhaim Hamad Al Thani at Qatar with a contract duration of twenty four (24) months and monthly salary of US$400.00 and departure date on October 22, 2007. On cross-examination, witness was asked if she had personal knowledge about the details written on the said Verification Sheet which she answered in the negative. This notwithstanding, the court believes that the prosecution was able to establish with this evidence the capacity of the victim at the time of her death to earn. It is to be noted that the claim for loss of earning capacity is not for the loss of actual salary earned but for the loss of the victim's earning capacity. Based on the Death Certificate of victim

Cecil Lechonsito marked as Exhibit "T-49", she was fifty-two (52) years old at the time of her death, hence:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-52)

= 2/3 x 28

= 18.6667 years

Income provided = US$400 monthly

As of November 2009, the average US$ conversion to Philippine Peso is ***₱47.0324*** *based on the Bangko Sentral ng Pilipinas Pesos to US Dollar Rate (1948-2018):*[986]

*Monthly Salary in Pesos after conversion = US$400 * ₱47.0324*

= ₱18,812.96

Gross Annual Income = ₱18,812.96 x 12months

= ₱225,755.52

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 18.6667 years x ½ (₱225,755.52)

= 18.6667 years x₱P112,877.76

Loss of Earning Capacity = ₱2,107,055.28

In summary, the following are the damages to be awarded to the heirs of victims Eduardo and Cecil Lechonsito:

a. Civil Indemnity	-	₱ 100,000.00 for each victim
b. Moral Damages	-	₱ 100,000.00 for each victim
c. Exemplary Damages	-	₱ 100,000.00 for each victim
d. Actual Damages	-	₱ 110,000.00 for each victim
e. Loss of Earning Capacity	-	₱2,070,144.00 for Eduardo
		₱2,107,055.28 for Cecil

31) For victim Catalino Oquendo Jr.:

[986] www.bsp.gov.ph/statistics/excel/pesodollar.xls visited on September 18, 2018 and revisited on April 17, 2019.

With respect to the claim for actual damages, witness Nenita Oquendo testified that her family incurred expenses for the burial and wake of victims Catalino Oquendo Jr. and Cynthia Oquendo in the amount of ₱780,995.00. Witness presented several receipts but the court only considered the following:

Description	Date	Amount
BFE Food Products Cash Invoice No. 954 marked as Exhibit "(4)O-5"	November 24, 2009	₱4,500.00
BFE Food Products Cash Invoice No. 35951 marked as Exhibit "(4)O-6"	November 24, 2009	₱6,040.00
BFE Food Products Cash Invoice No. 35955 marked as Exhibit "(4)O-7"	November 25, 2009	₱30,000.00
BFE Food Products Cash Invoice No. 35953 marked as Exhibit "(4)O-8"	November 25, 2009	₱22,500.00
AJ Trio Mart Cash Invoice No. 0199 marked as Exhibit "(4)O-9"	November 24, 2009	₱14,485.00
Order Slip marked as Exhibit "(4)O-10"	November 23, 2009	₱3,200.00
Funeraria Collado Contract No. 1887 marked as Exhibit "(4)O-12"	November 25, 2009	₱177,800.00
Order Slip marked as Exhibit "(4)O-13"	November 27, 2009	₱65,000.00
BFE Food Products Cash Invoice No. 57535 marked as Exhibit "(4)O-14"	November 30, 2009	₱190,000.00
Vincar Motor Works Official Receipt No. 1007 marked as Exhibit "(4)O-15"	November 27, 2009	₱50,000.00
Sadok Refreshment Cash Invoice No. 33708 marked as Exhibit "(4)O-16"	November 29, 2009	₱17,535.00

Sadok Refreshment Cash Invoice No. 0221 marked as Exhibit "(4)O-17"	November 29, 2009	₱28,000.00
Funeraria Collado Contract No. 1184 marked as Exhibit "(4)O-18"	November 25, 2009	₱177,800.00
AJ Trio Mart Cash Invoice No. 0203 marked as Exhibit "(4)O-19"	November 28, 2009	₱16,300.00
Sadok Refreshment Cash Invoice No. 29048 marked as Exhibit "(4)O-20"	November 27, 2009	₱69,435.00
	TOTAL	**₱872,595.00**

The court did not consider the Receipt from BFE Food Products dated January 2, 2010 amounting to ₱47,500.00, as it was admitted by the witness that the said expense relates to the catering during the forty (40) days of the victims. As earlier discussed, expenses incurred after the burial and wake which corresponds for the 9th day, 40 days, or death anniversaries, are no longer included in the claim for actual damages.

Considering that the prosecution was able to support the expenses which were directly related to the wake and burial of the above-named victims, the court will allow the grant of actual damages amounting to ₱872,595.00.

Insofar as the claim for loss of earning capacity of victim Catalino Oquendo is concerned, the witness testified that the victim was a farmer and legal researcher of victim Cynthia Oquendo. From the *copras*, the victim was earning ₱65,000.00 for every three (3) months. However, she could not present proof as to this amount as they only list it whenever the *copras* are weighed. She also testified that their land was being rented by DOLE Philippines where they receive ₱200,000.00 yearly. As proof, she presented a Certification from DOLE dated August 3, 2010, signed by Elizabeth A. Garcia, Land Adm. Superintendent, Legal & Adm. Services Dept., certifying that Lot No./s 2406-D, Csd-11-025881-D, 65, Gss-211 & 106, Gss-390 located at Polo & Kiniles, Polomok, South Cotabato, were entered by spouses Mr. Catalino Oquendo and Mrs. Nenita Oquendo into lease contract with DOLE Philippines, Inc. for a term of twenty (25) years from July 1, 2006 to June 30, 2031 and was receiving an annual income of ₱203,959.68 for the year 2010, marked as Exhibit "(4)O-4".

Considering that the Certification issued by DOLE Philippines, Inc. indicates that the lease contract was entered by the spouses Catalino and

Nenita Oquendo, it only means that despite the death of the victim Catalino, the lease contract with DOLE Philippines, Inc. which has a term until June 30, 2031 is still subsisting. In fact, as stated in the said Certification, for the year 2010, or a year after the death of the victim, the lessor had earned the amount of ₱203,959.68. With respect to the supposed income of the victim for the *copras* and his work as legal researcher, the prosecution failed to present any evidence to support the same. In view of the foregoing, the court is inclined to deny the grant of the claim for the loss of earning capacity of the victim.

Thus, the following are the damages to be awarded to the heirs of victim Catalino Oquendo:

b. Civil Indemnity	-	₱100,000.00
c. Moral Damages	-	₱100,000.00
d. Exemplary Damages	-	₱100,000.00
e. Actual Damages	-	₱872,595.00 (also for victim Cynthia Oquendo)

32) For victim Rasul Daud:

To claim for actual damages, witness Halima T. Daud presented an Itemized Burial and other Miscellaneous Expenses spent during the death of the victim with a total of ₱441,045.00 marked as Exhibit "(4)E-11". However, no single receipt was presented to substantiate these expenses. Thus, the court is inclined to award temperate damages in the amount of ₱50,000.00 in lieu of the actual damages incurred by the family which were not proven during trial.

With respect to the claim for loss of earning capacity, the witness presented the following: 1) Service Record of Rasul Daud from Regional Legislative Assembly Autonomous Region in Muslim Mindanao Cotabato City dated August 4, 2010 signed by Haritah A. Biruar, Chief Administrative Officer, with the information that the victim was employed as an Executive Assistant-I until November 21, 2009, with annual salary of ₱205,764.00; 2) Contract of Employment dated January 2, 2008 between Hon. Paisalin P. Tago, CPA and Rasul Daud, engaging the services of the latter as Executive Assitant-I (District) with monthly compensation of ₱10,836.00, marked as Exhibit "(4)E-6"; 3) Contract of Service dated January 5, 2009 between Hon. Rejie Sahali-Generale and Rasul Daud, engaging the services of the latter as Executive Assitant-I (District) Assy. Mangudadatu with monthly compensation of ₱15,181.00, marked as Exhibit "(4)E-7"; 4) Office Payroll indicating Rasul Daud as Executive Asst. I with monthly salary of ₱17,147.00, marked as Exhibit "(4)E-8"; and 5) ID Cards of the victim from Regional Legislative Assembly

showing that he was holding the position of Executive Assistant I collectively marked as Exhibit "(4)E-9.

Although the witness was cross-examined by the defense counsels regarding the previous employment of the victim, they did not question the Certifications or Contract of Service presented in court; thus, the court is of the opinion that the evidence presented by the prosecution were sufficient to support the claim for loss of earning capacity of the victim. Based on the Certificate of Death of the victim marked as Exhibit "T-13", the latter was twenty-six (26) years old at the time of his death. The court will consider the annual salary of ₱205,764.00 indicated in the Service Record since it is the most recent. Applying the formula for the computation of the loss of earning capacity, to wit:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-26)

= 2/3 x 54

= 36 years

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 36 years x ½ (₱205,764.00)

= 36 years x ₱102,882.00

Loss of Earning Capacity = ₱3,703,752.00

In summary, the following damages are to be awarded to the family of victim Rasul Daud:

a. Civil Indmenity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱3,703,752.00

33) For victim Abdillah Ayada:

Witness Bailaga Ayada presented an Affidavit of Burial and other expenses in relation to the death of her husband Abdillah Ayada with a total amount of ₱631,045.00 marked as Exhibit "(4)D-9". However, she confirmed during her cross-examination that these expenses were not supported by any receipts because in their culture, they do not get receipts. Based on the earlier discussed jurisprudence, to claim for actual damages, the same should be substantiated by receipts. Further, it was

earlier discussed that expenses incurred for the death anniversary, 40th or 9th day are not included in the award for actual damages. Thus, the court cannot grant the award of the amount alleged by the witness as the same was not proven by receipts. However, the court can grant temperate damages of ₱50,000.00 in lieu of the actual damages considering that the fact of death of the victim was established by the prosecution and expenses were incurred in relation thereto.

As regards the claim for loss of earning capacity, the witness presented a Certification from the Office of the Manager of Venus Transport Service Cooperative signed by Kanando A. Makalay, Operator Manager, certifying that the victim was employed by the company as driver until his death on November 23, 2009 with a compensation of ₱30,000.00 per month, marked as Exhibit "(4)D-25". The said Certification was not opposed by the defense counsels but the witness was cross-examined by them. She confirmed during cross-examination that her husband was a driver but aside from that, they have other source of income coming from the farm.

Considering the foregoing, the court gives credence to the Certification presented by the prosecution as the same is sufficient basis for the claim of the loss of earning capacity of the victim. Based on the Death Certificate of the victim, he was thirty-six (36) years old at the time of his death, hence:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-36)

= 2/3 x 44

= 29.3333 years

Gross Annual Income = ₱30,000.00 x 12months

= ₱360,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 29.3333 years x ½ (₱360,000.00)

= 29.3333 years x ₱180,000.00

Loss of Earning Capacity = ₱5,279,994.00

In summary, the following damages are to be awarded to the family of victim Abdillah Ayada:

a. Civil Indmenity - ₱ 100,000.00

b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱5,279,994.00

34) For victim Marites Cablitas:

In support of his claim for actual damages in connection with the death of his wife Marites Cablitas, witness Elliver Cablitas presented an Affidavit of Burial Expenses with a total amount of ₱62,610.00, marked as Exhibit "(4)U-10". But the only proof he submitted to substantiate said expenses was the Certification from Forest Lake indicating that the lot price was ₱16,353.00 and the Interment Fee was ₱9,500.00, marked as Exhibit "(4)U-9". The receipt from Nilo A. Allen Memorial Home with the amount ₱20,000.00 for the Mortuary Services marked as Exhibit "(4)U-8" was denied admission by the court for being a mere photocopy. Hence, the court can only award temperate damages amounting to ₱50,000.00 in lieu of the expenses alleged by the heir of the victim.

Regarding the claim for loss of earning capacity of the victim, witness testified that the victim was a publisher and journalist of News Focus newspaper and a radio announcer and account executive of RPN-DXDX at the time of her death. As proof, witness presented the following: a) ID Cards of the victim from RPN-DXDX with designation as Announcer/Account Executive and the News Focus with designation of the victim as publisher both marked as Exhibit "(4)U-11"; b) copy of the News Focus newspaper dated November 16-22, 2009, showing the staff box with the name of the victim as publisher marked as Exhibit "(4)U-12"; c) Certificate of Business Name Registration dated December 20, 2006 issued by DTI to the victim certifying that The News Focus Publication is a business name registered to said office marked as Exhibit "(4)U-13"; d) a copy of the Business Proposal from The News Focus Publication dated October 10, 2009 signed by the victim marked as Exhibit "(4)U-14"; and e) two (2) booklets of Official Receipts of The Mindanao News Focus marked as Exhibits "(4)U-15" to "(4)u-15-ZZ".

Although the witness was cross-examined by the defense regarding the salary of the victim he provided, the court is of the opinion that the prosecution was able to establish the basis for the claim for the loss of earning capacity of the victim. It was clearly proven that at the time of her death, the victim was gainfully employed and were it not for her untimely death, she could have earned more. In view thereof, the court will consider the salary provided by the witness that the victim was earning between ₱10,000.00 to ₱15,000.00 a month. The court will get the average of the salary range to arrive at the estimated monthly salary of the victim when she was alive. Based on her Death Certificate, the

victim was thirty-eight (38) years old at the time of her death. Thus, applying the formula, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-38)

= 2/3 x 42

= 28 years

Income provided = ₱10,000.00 to ₱15,000.00

Average = ₱10,000.00 + ₱15,000.00 / 2

= ₱25,000.00 / 2

= ₱12,500.00

Gross Annual Income = ₱12,500.00 x 12months

= ₱150,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 28 years x ½ (₱150,000.00)

= 28 years x ₱75,000.00

Loss of Earning Capacity = ₱2,100,000.00

In summary, the Court awards the following damages to the heirs of victim Marites Cablitas:

a.	Civil Indemnity	-	₱ 100,000.00
b.	Moral Damages	-	₱ 100,000.00
c.	Exemplary Damages	-	₱ 100,000.00
d.	Temperate Damages	-	₱ 50,000.00
e.	Loss of Earning Capacity	-	₱2,100,000.00

35) For victim Mc Delbert Arriola:

Based on the submitted evidence by the prosecution insofar as victim Mc Delbert Arriola is concerned, there was no evidence showing the burial and funeral expenses incurred by the heirs of said victim. This notwithstanding, and considering that the death of the victim was established by the prosecution, the court rules to grant temperate damages in the amount of ₱50,000.00.

With respect to the claim for loss of earning capacity, the prosecution presented a Certification from UNTV signed by Ramona G. Domingo, Chief Finance Officer, Breakthrough and Milestones Productions Intl. Inc., certifying that the victim was a contractual talent of BMPI-UNTV Channel 37 until the time of his death and was receiving a contracted fee of ₱382.00 per day, marked as Exhibit "(5)L-4". Based on the Certificate of Death marked as Exhibit "T-37", victim was twenty (20) years old at the time of his death. Thus, the computation for the loss of earning capacity for the victim is as follows:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-20)

= 2/3 x 60

= 40 years

Gross Annual Income = ₱382.00 x 260 working days

= ₱99,320.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 40 years x ½ (₱99,320.00)

= 40 years x ₱49,660.00

Loss of Earning Capacity = ₱1,986,400.00

To summarize, the Court awards the following damages to the heirs of victim Mc Delbert Arriola:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of earning capacity	-	₱1,986,400.00

36) For victim Ernesto Maravilla, Jr.:

In order to claim for actual damages, witness Ivy Maravilla executed an Affidavit of Burial Expenses with a total amount of ₱259,000.00, marked as Exhibit "(6)D-9". However, the same was not supported by receipts. Thus, the court is constrained to award temperate damages amounting to ₱50,000.00 in lieu of the actual expenses which were not substantiated.

Insofar as the claim for loss of earning capacity is concerned, witness presented a Certificate of Employment from Bombo Radyo Philippines signed by Fe L. Tabang-Genit, HRD Head, certifying that victim Ernesto Maravilla, Jr. was an employee of said station until the time of his death, handled the position of Chief of Reporter of DXMC – Bombo Radyo Marbel and was earning ₱111,043.51, including COLA and 13th month pay, marked as Exhibit "(6)B-11". The defense counsels did not object to this Certification and did not cross examine the witness.

As ruled earlier, the court will only consider the basic salary of the victim. Based on the same Certification, the victim was earning a basic salary of ₱101,657.64. Per the Death Certificate marked as Exhibit "T-52", victim was forty-nine (49) years old at the time of his death. Thus, applying the formula for the computation of his loss of earning capacity, to wit:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-49)

= 2/3 x 31

= 20.6667 years

Gross Annual Income = ₱101,657.64 x 12months

= ₱1,219,891.68

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 20.6667 years x ½ (₱1,219,891.68)

= 20.6667 years x ₱609,945.84

Loss of Earning Capacity = ₱12,605,567.69

In conclusion, the following are the damages to be awarded to the heirs of victim Ernesto S. Maravilla, Jr.:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱12,605,567.69

37) For victim Benjie Adolfo:

To substantiate the claim for actual damages, the prosecution presented a Summary of Expenses with total amount of ₱124,646.79, marked as Exhibit "(5)Y-9". However, the said Summary was not supported by receipts. Hence, the court cannot grant the total amount as the actual damages incurred by the victim's heirs. In lieu thereof, the court awards temperate damages in the amount of ₱50,000.00 considering that the death of victim Benjie Adolfo was established and there were indeed burial and funeral expenses incurred by the family.

Further, the court cannot grant the claim for loss of earning capacity as there was no evidence or proof presented by the prosecution to establish the basis to determine the same.

Thus, the court awards the following damages for the heirs of victim Benjie Adolfo:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00

38) For victim Norton "Sedick" Edza:

In order to prove the claim for actual damages, witness Asmin Edza presented an Itemized Burial, *Kanduli* and other miscellaneous Expenses spent for the death of victim Norton Edza with a total amount of ₱555,700.00, marked as Exhibit "(4)M-8". But the same was not duly supported by receipts or other documents. Thus, the court cannot grant the amount claimed. Instead, the award of temperate damages in the amount of ₱50,000.00 is proper considering that the death of said victim was established by the prosecution.

As regards the claim for loss of earning capacity, the prosecution presented a Certification from Venus Transport Service Cooperative dated September 7, 2011, signed by Kanando A. Makalay, Operator Manager, certifying that the victim was employed with the company as driver until the time of his death with a monthly compensation of ₱30,000.00, marked as Exhibit "(4)M-15". The defense did not object to the presentation of this Certification and the witness was not cross-examined with respect to this Certification. Hence, the court believes that there is sufficient basis from which the loss of earning capacity of the victim can be based. As indicated in the Death Certificate of the victim marked as Exhibit "T-23", the latter was thirty-three (33) years old at the time of his death, applying the formula, *viz*:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-33)

= 2/3 x 47

= 31.3333 years

Gross Annual Income = ₱30,000.00 x 12months

= ₱360,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 31.3333 years x ½ (₱360,000.00)

= 31.3333 years x ₱180,000.00

Loss of Earning Capacity = ₱5,639,994.00

In summary, the following are the damages to be awarded to the heirs of victim Norton Edza:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity - ₱5,639,994.00

39) For victim Henry H. Araneta:

As support for her claim for actual damages for the death of victim Henry Araneta, witness Caren Araneta submitted to this court an Itemized Burial, Funeral and Other Miscellaneous Expenses with a total amount of ₱200,000.00, marked as Exhibit "(5)Q-6". Likewise, the witness presented the following:

Description	Date	Amount
Certification from Divine Heritage Memorial Park signed by Rosemarie D. Lansang, Proprietor, certifying the purchase of a lawn lot and interment services for the victim	May 7, 2010	₱58,000.00

marked as Exhibit "(5)Q-7"		
Certification from St. Peter Chapels signed by George Japson, Chapel Manager, certifying that St. Peter Chapels Koronadal City has rendered memorial services to the victim marked as Exhibit "(5)Q-8"	May 17, 2010	₱22,000.00
	TOTAL	**₱80,000.00**

Based on the evidence presented, the court rules to award the actual expenses incurred by the heirs of the victim amounting to ₱80,000.00 since the same was duly substantiated by the Certifications submitted by the prosecution.

Insofar as the claim for loss of earning capacity is concerned, the prosecution presented a Certification dated January 15, 2009 from Manila Broadcasting Company signed by Nandy T. Vitalicio, certifying that the victim was a duly accredited news correspondent of DZRH News Center. However, said Certification did not indicate the salary or commission of the victim during the time he was employed at said news agency. Further, the witness claims that the victim was a publisher/editor of Balita Bubuwit but she failed to substantiate the same as she did not present any evidence to prove the same.

Considering that the prosecution failed to present evidence from which the court can estimate the basis of the claim for loss of earning capacity, the court rules to deny the grant of the same.

Thus, the following damages are granted to the victim Henry Araneta:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Actual Damages - ₱ 80,000.00

40) For victim Rey Merisco:

In claiming for actual damages, the prosecution through its witness Mary Jean Merisco presented a handwritten list of Burial Expenses with

total amount of ₱63,500.00, marked as Exhibit "(5)C-7". Likewise, she presented several receipts in support thereof:

Description	Date	Amount
Campus Art Invoice No. 8573 marked as Exhibit "(5)C-6-a	December 1, 2009	₱450.00
Marbel Pinoy's Balbakwa Invoice No. 57860 marked as Exhibit "(5)C-6-c"	December 1, 2009	₱163.00
Receipt from Fernie Ice Retailer marked as Exhibit "(5)C-6-b"	November 29, 2009	₱150.00
De Jesus Caltex Super Service station 1 Invoice No. 255637 marked as Exhibit "5C-6-f"	December 1, 2009	₱100.00
De Jesus Caltex Super Service station 1 Invoice No. 255636 marked as Exhibit "5C-6-g"	December 1, 2009	₱100.00
Marbel United Radio & General Merchandise Invoice No. 185802 marked as Exhibit "5C-6-h"	December 9, 2009	₱22.50
NSO Marriage Certificate (2 copies) marked as Exhibit "5C-6-I"	November 29, 2011	₱280.00
NSO death Certificate marked as Exhibit "5C-6-J"	January 21, 2010	₱140.00
Official Receipt from Province of South Cotabato SC No. 1342420 marked as Exhibit "5C-6-K"	December 3, 2009	₱65.00
Official Receipt from Province of South Cotabato CK No. 0506599 marked as Exhibit "5C-6-L"	November 26, 2009	₱100.00
Ace Centerpoint OR No. 001-000172845	November 28, 2009	₱685.05

marked as Exhibit "5C-6-M"		
Narciso allen Memorial Home Receipt No. 7545 marked as Exhibit "5C-6-N"	December 3, 2009	₱9,500.00
Ace Centerpoint OR No. 009-00297213 marked as Exhibit "5C-6-0"	November 27, 2009	₱3,199.00
Marbel United Radio & General Merchandise Invoice No. 185247 marked as Exhibit "5C-6-0"	November 28, 2009	₱90.00
	TOTAL	**₱15,044.55**

Considering that the actual expenses supported by receipts amounted to ₱15,044.55 which is lesser than the amount provided for by jurisprudence, the court rules to grant the amount of ₱50,000.00 as temperate damages in lieu of the actual expenses incurred by the family of the victim.

Regarding the claim for loss of earning capacity, the witness presented a Certificate of Employment dated October 1, 2010 signed by Freddie E. Solinap marked as Exhibit "(5)C-4", certifying that the victim was employed as Editor of Periodico Ini-South Cotabato up to the time of his death on November 23, 2009, and a Certification from Periodico Ini-South Cotabato signed also by Mr. Solinap marked as Exhibit "(5)C-5", certifying that the victim received a commission of ₱10,000.00 to ₱15,000.00 based on his sales production and a monthly allowance of ₱5,000.00. These certifications were also identified by Mr. Merisco when he testified in court on November 8, 2012.

Based on the foregoing, the court is satisfied with the evidence presented by the prosecution to allow the awarding of the loss of earning capacity. Per his Death Certificate marked as Exhibit "T-30", the victim was thirty-four (34) years old at the time of his death. With respect to the commission/salary he received, since he did not have a fixed salary and what was provided was a range of salary he received, the court is of the opinion that it would be best to get the average, adding the monthly allowance of ₱5,000.00. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-34)

= 2/3 x 46

= 30.6667 years

Income provided = ₱10,000.00 to ₱15,000.00, plus ₱5,000.00 monthly Allowance

Average = ₱10,000.00 + ₱15,000.00 / 2

= ₱25,000.00 / 2

= ₱12,500.00 + ₱5,000.00

Commission ***= ₱17,500.00***

Gross Annual Income = ₱17,500.00 x 12months

= ₱210,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 30.6667 years x ½ (₱210,000.00)

= 30.6667 years x ₱105,000.00

Loss of Earning Capacity = ₱3,220,003.50

In summary, the court awards the following damages to the heirs of victim Rey Merisco:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱3,220,003.50

41) For victim Bienvenido Legarta Jr.:

To support her claim for actual damages, witness Glenna Legarta presented a handwritten list of Burial Expenses with a total amount of ₱80,500.00, marked as Exhibit "(5)E-10". However, the same was not supported by receipts. Thus, the court deems it proper to instead award the amount of ₱50,000.00 as temperate damages in lieu of the actual expenses incurred by the family of the victim which were not duly substantiated.

As regards the claim for loss of earning capacity, the witness presented a Certificate of Employment dated October 1, 2010 signed by Freddie E. Solinap marked as Exhibit "(5)E-6", certifying that the victim was employed as a cCorrespondent of Periodico Ini-South Cotabato up to the time of his death on November 23, 2009, a Certification from Rapido

dated October 1, 2010 signed by Freddie E. Solinap marked as Exhibit "(5)E-7", certifying that the victim was employed as Associate Publisher of said news agency until November 23, 2009, and a Certification from Periodico Ini-South Cotabato signed also by Mr. Solinap marked as Exhibit "(5)E-9", certifying that the victim received a monthly commission of ₱10,000.00 to ₱15,000.00 based on his sales production. These certifications were also identified by Mr. Merisco when he testified in court on November 8, 2012.

Considering that the prosecution was able to establish that the victim was indeed employed at the time of his death, the court moves to grant the claim for loss of earning capacity. Based on the Marriage Certificate presented marked as Exhibit "(5)E-2", the victim was born on September 26, 1971. Thus, he was already thirty-eight (38) years old at the time of his death on November 23, 2009. Following the same principle as that in the case of victim Rey Merisco, the court will consider the average of the salary range testified by the witnesses. Hence:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-38)

= 2/3 x 42

= 28 years

Income provided = ₱10,000.00 to ₱15,000.00

Average = ₱10,000.00 + ₱15,000.00 / 2

= ₱25,000.00 / 2

= ₱12,500.00

Gross Annual Income = ₱12,500.00 x 12months

= ₱150,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 28 years x ½ (₱150,000.00)

= 28 years x ₱75,000.00

Loss of Earning Capacity = ₱2,100,000.00

In conclusion, the following are the damages to be awarded to the heirs of victim Bienvenido M. Legarta, Jr.:

a. Civil Indemnity - ₱ 100,000.00

b. Moral Damages - ₱ 100,000.00

c. Exemplary Damages - ₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱2,100,000.00

42) For victim Daniel Tiamzon:

Witness Editha Tiamzon testified that she incurred a total burial expenses of more or less ₱100,000.00. To substantiate her claim she presented the following documents:

Description	Date	Amount
PAL Air waybill No. 079-6053459-6 of Human remains of Daniel Tiamzon from General Santos City to Manila marked as Exhibit "5I-6"	December 4, 2009	₱4,802.40
PAL Electronic Ticket Passenger Itinerary Receipt from General Santos City to Manila flight No. PR/454 on December 4, 2009 marked as Exhibit "5I-7"	December 4, 2009	₱5,495.00
LMCCI-Makati, Inc. OR No. 0011139 for Funeral Services marked as Exhibit "5I-8"	December 2, 2009	₱45,000.00
Certification from LMCCI-Makati, Inc. marked as Exhibit "5I-9"	July 17, 2012	₱91,000.00

Upon perusal of these documents, it shows that the payment for the funeral services amounting to ₱45,000.00 was also included in the Certification issued by LMCCI-Makati, Inc. with a total amount of ₱91,000.00. Considering that the prosecution was able to prove the actual expenses incurred by the family in relation to the death of victim Daniel D. Tiamzon, the court resolves to award the amount of ₱101,297.40 as actual damages.

Insofar as the claim for loss of earning capacity is concerned, the prosecution presented a Certification from Breakthrough and Milestones Productions International Incorporated dated November 9, 2010 signed by Ramona G. Domingo, Chief Finance Officer, certifying that the victim was a contractual talent of BMPI-UNTV Channel 37 at the time of his death and that he was receiving a fee of ₱382.00 per day. Although the witness was cross-examined, the said Certification was not objected to by the defense counsels. In fact, during the cross-examination of the witness, she was consistent that the commission/salary of her husband was ₱382.00 per day as evidenced by the said Certification. Hence, the court allows the award of the loss of earning capacity of the victim. Based on the Death Certificate marked as Exhibit "T-34", the victim was fifty-four (54) years old at the time of his death. Applying the formula for the computation of the loss of earning capacity, thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-52)

= 2/3 x 28

= 18.6667 years

Gross Annual Income = ₱382.00 x 260 working days

= ₱99,320.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 18.6667 years x ½ (₱99,320.00)

= 18.6667 years x ₱49,660.00

Loss of Earning Capacity = ₱926,988.32

Hence, the following are the damages to be awarded to the heirs of victim Daniel Tiamzon:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Actual Damages	-	₱101,297.40
e. Loss of Earning Capacity	-	₱926,988.32

***43) For victim Romeo Cabillo*:**

During the presentation of witness Corazon Cabillo, she claimed to have incurred a total of ₱133,000.00 for burial expenses, as evidenced by the Affidavit of Burial Expenses she executed marked as Exhibit "(6)A-6". This Affidavit, however, was not duly supported by any receipts or documents. Hence, the court cannot allow the grant of ₱133,000.00, but instead thereof, an award of ₱50,000.00 as temperate damages is deemed proper considering that the death of the victim was established by the prosecution and in relation thereto, there were expenses incurred by the family of the deceased.

Regarding the claim for loss of earning capacity, one of the purposes for the presentation of the witness was to prove that the victim was earning a monthly average commission of ₱25,000.00 as correspondent of Midland Review and a monthly average of ₱10,000.00 as emcee during political parties. To support her claim, the only document presented was a copy of the Midland Review showing the staff box with a certain Jimmy "Pal-ak" Cabillo as one of the correspondents. This notwithstanding, the court finds the evidence presented not substantial to grant the claim for loss of earning capacity.

In summary, the court awards the following damages to the heirs of victim Romeo Cabillo:

f. Civil Indemnity	-	₱100,000.00
g. Moral Damages	-	₱100,000.00
h. Exemplary Damages	-	₱100,000.00
i. Temperate Damages	-	₱ 50,000.00

44) For victim Gina Dela Cruz:

In her Judicial Affidavit, witness Nancy Dela Cruz stated that she incurred a total of ₱25,000.00 for the wake and burial of her daughter victim Gina Dela Cruz. However, the witness admitted that she had no receipts or other documents to support her claim. Considering that the death of the victim was established by the prosecution and there were expenses incurred in connection thereto, the court rules to grant the award of ₱50,000.00 as temperate damages pursuant to established jurisprudence.

With respect to the claim for loss of earning capacity, the witness claimed that the victim at the time of her death was a correspondent of Saksi Mindanaoan News and was earning an average of ₱5,000.00 per month, as evidenced by a Certification from Radio Philippines Network, Inc. dated August 12, 2010, signed by James D. Catalan, Station Manager and a copy of the Saksi Mindanaoan News showing the staff box with the name of the victim as correspondent. Considering the evidence presented and the fact that there were no cross-examinations conducted by the

defense counsels, the court is convinced to grant the claim for loss of earning capacity.

Based on the Death Certificate marked as Exhibit "T-43", victim was already forty-one (41) years old at the time of her death. Applying the established formula, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-41)

= 2/3 x 39

= 26 years

Gross Annual Income = ₱5,000.00 x 12months

= ₱60,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 26 years x ½ (₱60,000.00)

= 26 years x ₱30,000.00

Loss of Earning Capacity = ₱780,000.00

Hence, the following are the damages awarded to the heirs of the victim Gina Dela Cruz:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱780,000.00

45) For victim Rowena D. Ante:

In order to claim for actual damages, the prosecution through witness Thong Ante presented an Itemized Approximate Burial and Other Miscellaneous Expenses spent during the death of Rowena Ante with a total amount of ₱158,000.00 marked as Exhibit "(4)I-8". However, there were no receipts or other documents to support this list. Thus, the court is constrained to award temperate damages in the amount of ₱50,000.00 considering that the death of Rowena Ante was established by the

prosecution and expenses were incurred by the family in connection thereto.

Regarding the claim for loss of earning capacity, witness presented a photocopy of the victim's Service Record provisionally marked as Exhibit "(4)I-9". But the same was denied admission as evidence by the prosecution for victim Rowena Ante. Aside from this document, no other proof was offered by the prosecution to establish the fact that the victim was an employee of the Municipality of Buluan. Considering that the prosecution was not able to establish the basis of the loss of earning capacity of the victim, the court denies to grant the same. Therefore, the following are the damages to be awarded to the heirs of victim Rowena Ante:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00

46) For victim Suraida Bernan:

To claim for actual damages, witness Paisal Bernan presented an Itemized Burial and Other Miscellaneous Expenses spent during the death of victim Suraida G. Bernan amounting to ₱213,000.00 marked as Exhibit "(4) H-6". However, the same was not duly supported by receipts. This notwithstanding, the court grants the awarding of temperate damages in the amount of ₱50,000.00 based on jurisprudence.

As regards the loss of earning capacity, the court takes note of the submission of a Service Record from the Municipality of Buluan signed by a certain Farida W. Saligan marked as Exhibit "(4) H-5". In the said Service Record, at the time of the death of victim Suraida Bernan, she was License Inspector II and earning an annual salary of ₱88,824.00. Based on the Certification issued by the Office of the Municipal Civil Registrar, victim was born on August 19, 1972; thus, at the time of her death she was already thirty-seven (37) years old. Applying the formula to determine the loss of earning capacity, *viz:*

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-37)

= 2/3 x 43

= 28.6667 years

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 28.6667 years x ½ (₱88,824.00)
= 28.6667 years x ₱44,412.00

Loss of Earning Capacity = ₱1,273,145.48

In conclusion, for victim Suraida Bernan, her heirs are entitled to the following damages:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity - ₱1,273,145.48

47) For victim John Caniban:

With respect to actual damages, witness Teresita Caniban presented the following receipts together with the Affidavit of Burial Expenses amounting to ₱125,000.00 marked as Exhibit "(5) M-8":

Description	Date	Amount
Charito L. Collado Funeral Parlor Receipt No. 0118 for the funeral services rendered to the late John Caniban marked as Exhibit "(5) M-10"	January 4, 2010	₱25,000.00
Receipt from Atty. Agustin Sardido for the Notarial Fee marked as Exhibit "(5) M-11"	September 21, 2010	₱250.00
Receipt (with stamp at the back of Atty. Agustin Sardido) for SPA marked as Exhibit "(5) M-12"	November 15, 2013	₱300.00
Letter of Teresita Caniban to the Municipality of Isulan requesting for the construction of a tomb in the Public Cemetery marked as Exhibit "(5) M-13"	November 26, 2009	₱20.00/₱50.00

NSO Official Receipt for Birth Certificate of John Caniban marked as Exhibit "(5) M-14"	July 7, 2011	₱140.00
NSO Official Receipt for Death Certificate of John Caniban marked as Exhibit "(5) M-14-A"	July 8, 2011	₱140.00
	TOTAL	**₱25,900.00**

Considering that the receipts presented amounted to ₱25,900.00 which is lesser than amount provided by recent jurisprudence, the award of temperate damages amounting to ₱50,000.00 is proper.

As regards the loss of earning capacity, the court denied admission of the Certification issued by Freddie Solinap since the same was a photocopy. At the time Freddie Solinap testified in court on November 8, 2012, he did not identify said Certification. Further, when Teresita Caniban testified on November 20, 2013, the defense counsels objected to the presentation of said Certification for being a mere photocopy. Also based on her Judicial Affidavit, her knowledge about the salary of her son was based on the said Certification. Hence, the court cannot grant the awarding of the loss of earning capacity as it has no basis to determine the same based on the evidence presented by the prosecution.

As summary, the following are the damages awarded to the heirs of John Caniban:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00

d. Temperate Damages - ₱ 50,000.00

48) For victim Hannibal Cachuela:

For actual damages, the only documents presented by witness Ricardo Cachuela were the NSO Official Receipts for the Birth Certificates of Ricardo J. Cachuela and Hannibal D. Cachuela amounting to ₱140.00 each. No receipts or documents were offered to prove the burial and funeral expenses incurred for the death of Hannibal Cachuela. This notwithstanding, the court resolves to award temperate damages of ₱50,000.00 in lieu of the actual damages incurred due to the death of the victim.

Insofar as the loss of earning capacity is concerned, witness Ricardo Cachuela testified that his brother was earning an estimated amount of ₱30,000.00 per month at the time he was killed. His claim was supported by two (2) Certifications, one issued by Leo L. Jasareno, President & Chairman of the Board, Manila Star where it was stated that the victim was a reporter of said publication and that he was receiving a salary of forty percent (40%) commission basis on advertisements for publication in Region 12 and the other issued by Mario B. Basilio, Publisher-Editor, Punto Daily News, certifying that the victim was a freelance correspondent and was receiving as compensation, on a commission basis, fifty percent (50%) on advertisements he transact with the newspaper. The court believes that the ₱30,000.00 estimated salary testified to by the witness is acceptable as basis of the award and considering that the defense counsels at the time the witness was presented did not object thereto, the award of the lost earnings is only proper. At the time of his death, victim was fifty-one (51) years old based on the Certificates of Birth and Death. Thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-51)

= 2/3 x 29

= 19.3333 years

Gross Annual Income = ₱30,000 x 12months

= ₱360,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 19.3333 years x ½ (₱360,000.00)

= 19.3333 years x ₱180,000.00

Loss of Earning Capacity = ₱3,479,994.00

In summary, the court awards the following damages to the heirs of victim Hannibal Cachuela:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱3,479,994.00

49) For victim Wahida Ali Kalim:

To claim for actual damages, witness Benjie Kalim executed a document denominated as Miscellaneous and Other Expenses for the Death of Wahida Kalim amounting to ₱103,500.00 marked as Exhibit "(4) C-4". However, there were no receipts or other documents to prove the expenses incurred by the family in relation to the death of the victim as enumerated in said document. Considering that the death of victim Wahida Ali Kalim was proved, regardless of the fact that there was no evidence to prove the expenses, the court rules to award temperate damages in lieu of the actual damages in the amount of ₱50,000.00.

Insofar as the loss of earning capacity is concerned, the court cannot grant the same as the victim's work or livelihood does not fall within the exceptions provided by jurisprudence and considering further that the defense counsels conducted their cross-examinations on the witness, questioning if there was any proof of tax payments with respect to the victim's business which was answered in the negative.

Hence, the following are the damages awarded to the heirs of the victim Wahida Ali Kalim:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00

50) For victim Bai Farinah Hassan Mangudadatu:

As proof for the actual damages, witness Fahad D. Hassan presented an Itemized Burial and Other Miscellaneous Expenses during the *Kanduli* and Death of Bai Farinah Mangudadatu with a total amount of ₱325,500.00 marked as Exhibit "(3)Y-5", but the same was not supported by receipts. Considering that the death of the victim was proved and in relation thereto there were expenses incurred by the family, the court still grants temperate damages in the amount of ₱50,000.00.

As regards the loss of earning capacity, the court rules to also grant the same considering that a Certification was issued and signed by Farida W. Saligan, HRMA of the Municipality of Buluan, certifying that the victim was employed as a Revenue Collection Clerk I at the time of her death, with annual compensation of ₱71,844.00, marked as Exhibit "(3)Y-8". Likewise, a Service Record marked as Exhibit "(3)Y-11" was submitted to the court showing the annual salary and position of the victim. Based on the Birth Certificate of the victim marked as Exhibit "(3)Y-10", she was born on April 18, 1987, thus making her twenty-two (22) years old at the time of her death in November 2009. However, on her Death Certificate

marked as Exhibit "T-21", at the time of her death she was already twenty-four (24) years old. Further, based on the Certificate of Marriage marked as Exhibit "(3)Y-2", her date of birth is April 8, 1985, the same date as recorded in her Service Record. Hence, the court considers that the date of birth of the victim is the latter date and that she was twenty-four (24) years old at the time of her death:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-24)

= 2/3 x 56

= 37.3333 years

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 37.3333 years x ½ (₱71,844.00)

= 37.3333 years x ₱35,922.00

Loss of Earning Capacity = ₱1,341,086.80

The following are the damages to be awarded to the heirs of victim Bai Farinah Hassan Mangudadatu:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱1,341,086.80

51) For victim Meriam Calimbol Pandal:

With respect to the actual damages, witness Salama Musa presented an Itemized List of Burial and Other Miscellaneous Expenses spent during the death of Meriam Calimbol Pandal with a total amount of ₱170,764.00, marked as Exhibit "(4) F-7". However, the same was not supported by receipts. In lieu thereof, temperate damages may be awarded in the amount of ₱50,000.00.

As regards the loss of earning capacity, the prosecution submitted a Certification dated August 3, 2010 signed by Esmael G. Mangudadatu, certifying that the victim was an employee of EGM Fishpen at the time of her death with a monthly salary of ₱12,955.58. This Certification was

subject of the stipulation of the parties during the time that the witness was presented. In cross examination, though the witness cannot recall when her mother exactly started working for said company, she confirmed that since she grew up she already knew her mother was already working with EGM Company. The court believes that the prosecution was able to establish the basis for the determination of the loss of earning capacity for victim Meriam Calimbol Pandal. Based on the Death Certificate marked as Exhibit "T-40", victim was forty-two (42) years old at the time of her death. Thus, applying the formula:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-42)

= 2/3 x 38

= 25.3333 years

Gross Annual Income = ₱12,955.58 x 12months

= ₱155,466.96

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 25.3333 years x ½ (₱155,466.96)

= 25.3333 years x ₱77,733.48

Loss of Earning Capacity = ₱1,969,245.57

The court grants the following damages for the death of victim Meriam Calimbol Pandal:

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Temperate Damages	-	₱ 50,000.00
e. Loss of Earning Capacity	-	₱1,969,245.57

52) For victim Concepcion Jayme Brizuela:

To support the claim for actual damages, the prosecution through witness Cielo Brizuela presented an Itemized Burial and Other Miscellaneous Expenses spent in connection with the death of the victim with a total amount of ₱411,630.00, marked as Exhibit "(5)P-4". Also, the witness offered an Affidavit of Burial Expenses with the total amount of ₱160,500.00, marked as Exhibit "(5)P-12". But the only proof which supported these documents was a single receipt from Fantonial Funeral

Homes No. 130 dated February 2, 2010, representing the payment for funeral services for the victim in the amount of ₱35,000.00, marked as Exhibit "(5)P-4-c". Considering that the death of the victim was established but the only amount of burial and funeral expenses proved was below the amount provided in the jurisprudence, the court rules to award the amount of ₱50,000.00 as temperate damages.

As proof of the loss of earning capacity of the victim, who was a lawyer-broadcaster, the prosecution presented the following documents:

a. Certification from the Office of the Governor, Amas, Kidapawan City dated February 14, 2014 marked as Exhibit "(5)P-6", certifying that Gov. Emmylou "Lala" J. Taliño-Mendoza engaged the services of the victim as retainer lawyer until the time of her death with a retainer's fee of ₱15,000 per month;

b. Certification from the Polytechnic Foundation of Cotabato & Asia, Inc. / Andolana Broadcasting Network 90.3 Mhz Charm Radio/TV dated February 13, 2014, signed by Gregorio A. Andolana, President/CEO, certifying that the victim was a broadcast/journalist-commentator of the station up to the time of her death with average monthly commission of ₱30,000.00; and

c. An Acknowledgment Receipt dated March 15, 2009 showing the payment amounting to a total of ₱58,575.00 (with handwritten +5,000 – March 15, 2007) as partial payment of attorney's/acceptance fee signed by the victim marked as Exhibit "(5)P-8".

Based on the foregoing, it is crystal clear that the victim was an active practicing lawyer for different offices and organizations, as well as a broadcast/journalist when she was still alive. From these works, it is beyond cavil that the victim had several sources of income. With the documents presented by the prosecution, the court is of the opinion that the same had established the average monthly earning capacity of the victim. Summing up the above incomes/commissions, victim is considered to have been earning an average monthly compensation of ₱103,575.00 when she was still alive. From the Death Certificate marked as Exhibit "T-29", victim was already fifty-five (55) years old. Hence, the computation for the loss of her earning capacity is:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-55)

= 2/3 x 25

= 16.6667 years

Gross Annual Income = ₱103,575 x 12months

= ₱1,242,900.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 16.6667 years x ½ (₱1,242,900.00)

= 16.6667 years x ₱621,450.00

Loss of Earning Capacity = ₱10,357,520.72

As summary, the damages to be awarded to the heirs of victim Concepcion Jayme Brizuela are the following:

a. Civil Indemnity - ₱ 100,000.00

b. Moral Damages - ₱ 100,000.00

c. Exemplary Damages - ₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00

e. Loss of Earning Capacity - ₱10,357,520.00

53) For victim Alejandro P. Reblando, Sr.:

To substantiate the claim for actual damages, witness Alejandro Reblando, Jr. presented and identified numerous receipts which according to him relates to the expenses incurred in connection with the death of his father. Likewise, the prosecution submitted a two-page handwritten itemized list and computation of all the expenses with a total amount of ₱244,672.92, marked as Exhibits "(5)B-8" & "(5)B-8-A".

After thorough examination of the receipts, the court notes that there were receipts which were dated months even after the interment of the victim. The court can only consider those receipts which were directly related to the expenses incurred for the burial and funeral expenses until the date of interment on December 6, 2009. To reiterate the ruling in one jurisprudence, expenses incurred during the 9 days, 40 days and death anniversaries are not included in the award of actual damages. Hence, the following are the receipts considered by the court in determining the amount of actual damages:

Description	Date	Amount
St. Peter Chapels Contract No. 000459 for the services	November 25, 2009	₱108,000.00

rendered to the late Alejandro M. Reblando marked as Exhibit "(5)B-5"		
Gateway Star Invoice No. 098189 payment for diesel marked as Exhibit "(5)B-9-A"	November 24, 2009	₱1,430.00
Gateway Star Invoice No. 100032 payment for diesel marked as Exhibit "(5)B-9-B"	November 28, 2009	₱220.00
B-LY Petron Service Station Invoice No. 201489 payment for diesel marked as Exhibit "(5)B-9-C"	November 27, 2009	₱1,614.00
Jenro Shell Station Invoice No. 81595 marked as Exhibit "(5)B-9-D"	November 28, 2009	₱500.00
Makar Shell Station Invoice No. 31320 marked as Exhibit "(5)B-9-E"	December 2, 2009	₱1,180.99
DMT Shell Station Invoice No. 179246 marked as Exhibit "(5)B-9-F"	December 4, 2009	₱50.00
Delivery Receipt addressed to Reblando marked as Exhibit "(5)B-9-I"	November 25, 2009	₱824.00
Delivery Receipt addressed to Reblando marked as Exhibit "(5)B-9-J"	November 26, 2009	₱969.00
Delivery Receipt marked as Exhibit "(5)B-9-K"	November 26, 2009	₱627.00
Delivery Receipt marked as Exhibit "(5)B-9-L"	November 28, 2009	₱394.00
Delivery Receipt marked as Exhibit "(5)B-9-M"	November 28, 2009	₱2,004.00
Delivery Receipt addressed to Reblando marked as Exhibit "(5)B-9-N"	November 30, 2009	₱40.00
Celino Marketing Invoice No. 26751 sold to Reblando marked as Exhibit "(5)B-9-O"	November 28, 2009	₱4,459.00
Celino Marketing Invoice No. 26752 sold to Reblando marked as Exhibit "(5)B-9-P"	November 28, 2009	₱70.00

Celino Marketing Invoice No. 26756 sold to Reblando marked as Exhibit "B-9-Q"	November 28, 2009	₱185.00
Celino Marketing Invoice No. 26757 sold to Reblando marked as Exhibit "B-9-R"	November 28, 2009	₱185.00
Celino Marketing Invoice No. 26769 sold to Reblando marked as Exhibit "B-9-S"	November 30, 2009	₱400.00
Dadiangas Standard Hardware & Auto Supply Cash Invoice No. 50078 sold to Reblando marked as Exhibit "(5)B-9-T"	December 3, 2009	₱140.00
GSC Supreme Hardware Depot Inc. Cash Invoice No. 87009 sold to Reblando marked as Exhibit "(5)B-9-U"	November 28, 2009	₱1,611.00
GSC Supreme Hardware Depot Inc. Cash Invoice No. 92028 sold to Reblando marked as Exhibit "(5)B-9-V"	November 28, 2009	₱1,053.50
SLRFI Ice Plant Division Delivery Receipt No. 0871 marked as Exhibit "(5)B-9-W"	December 4, 2009	₱135.00
Fit Mart Gensan Cash Invoice No. 226783 marked as Exhibit "(5)B-9-X"	November 27, 2009	₱574.55
KC Bel Fishing Supply Cash Invoice No. 2233 marked as Exhibit "(5)B-9-Z"	December 2, 2009	₱290.00
Receipt (with handwritten note Inday Ricky Flower) marked as Exhibit "(5)B-9-AA"	November 27, 2009	₱700.00
2C Purified Water-Aquaso (semi torn receipt) marked as Exhibit "(5)B-9-BB"	December 2	₱100.00
Receipt as payment for groceries marked as Exhibit "(5)B-9-CC"	November 28, 2009	₱160.00
Receipt No. 32865 with stamp Espejo Photography & Video Coverage marked as Exhibit "(5)B-9-DD"	December 5, 2009	₱1,700.00

Drixee Pops Mart Receipt No. 4530 marked as Exhibit "(5)b-9-EE"	November 25, 2009	₱200.00
Mandarin Tea Garden-Franchisee Official Receipt No. 4089 marked as Exhibit "(5)B-9-GG"	November 26, 2009	₱238.00
KCC Mall of Gensan OR #:2030000159949 marked as Exhibit "(5)B-9-RR"	November 25, 2009	₱1,900.00
KCC Mall of Gensan Supermarket OR #: 0360000113817 marked as Exhibit "(5)B-9-SS"	November 25, 2009	₱510.70
KCC Mall of Gensan Supermarket OR #: 0510000091023 marked as Exhibit "(5)B-9-TT"	November 27, 2009	₱105.00
KCC Malll of Gensan Cash Invoice No. 268573 sold to Myrna Reblando marked as Exhibit "(5)B-9-UU"	November 29, 2009	₱2,700.00
KCC Mall of Gensan Supermarket OR #: 0330000109726 marked as Exhibit "(5)B-9-VV"	December 4, 2009	₱4,002.00
Gaisano Dadiangas, Inc. Cash Invoice No. 108701 marked as Exhibit "(5)B-9-EEE"	November 28, 2009	₱209.00
Gaisano Dadiangas, Inc. Cash Invoice No. 108373 sold to Myrna Reblando marked as Exhibit "(5)B-9-FFF"	November 28, 2009	₱820.00
Gaisano Dadiangas, Inc. Official Receipt No. 00-202231 marked as Exhibit "(5)B-9-GGG"	December 4, 2009	₱498.95
Variety Store OR #: 001-125366 marked as Exhibit "(5)B-9-III"	December 2, 2009	₱39.50
Gensan Perfect Image Photo Lab OR #: 00-028950 marked as Exhibit "(5)B-9-OOO"	November 26, 2009	₱260.00

Citihardware Gensan, Inc. OR No. 00-012446 marked as Exhibit "(5)B-9-PPP"	November 27, 2009	₱258.00
Jollibee National Highway General Santos City OR #: 226852 marked as Exhibit "(5)B-9-RRR"	November 26, 2009	₱484.00
Jollibee KCC Mall J. Catolico Road General Santos City OR #: 388058 marked as Exhibit "(5)B-9-SSS"	November 27, 2009	₱296.00
Jollibee National Highway General Santos City OR #: 277836 marked as Exhibit "(5)B-9-TTT"	November 28, 2009	₱148.00
Jollibee KCC Mall J. Catolico Road General Santos City OR #: 388058 marked as Exhibit "(5)B-9-UUU"	November 28, 2009	₱284.90
NSO Official Receipt for Birth Certificate of Alejandro Reblando marked as Exhibit "(5)B-9-OOOO"	April 4, 2009	₱140.00
NSO Official Receipt for Birth Certificate of Alejandro Reblando marked as Exhibit "(5)B-9-PPPP"	April 4, 2009	₱140.00
NSO Official Receipt for Birth Certificate of Julia Mae Reblando marked as Exhibit "(5)B-9-QQQQ"	August 16, 2010	₱140.00
NSO Official Receipt for Birth Certificate of Maria Priscilla P. Reblando marked as Exhibit "(5)B-9-RRRR"	August 16, 2010	₱140.00
NSO Official Receipt for Birth Certificate of James Ryan P. Reblando marked as Exhibit "(5)B-9-SSSS"	August 16, 2010	₱140.00
Gaisano Dadiangas, Inc. OR No. 00-006454 marked as Exhibit "(5)B-9-BBB"	November 26, 2009	₱653.40
Gaisano Dadiangas, Inc. OR No. 00-243227 marked as Exhibit "(5)B-9-CCC"	November 26, 2009	₱2,389.65
Lisa's Meats Gaisano Mall OR #:001-028902 marked as Exhibit "(5)B-9-DDD"	November 28, 2009	₱244.20

TOTAL ₱146,557.34

Since the expenses duly supported by receipts has a total amount of ₱146,557.34 which is more than the amount for temperate damages, the court grants the actual expenses incurred by the heirs of the victim as the same were proved and substantiated.

With respect to loss of earning capacity, the witness testified that his father was a journalist for Manila Bulletin, as evidenced by the Probationary Appointment dated May 1, 2009 issued by Manila Bulletin Publishing Corporation signed by Proceso D. Almando, VP-Administration Department, marked as Exhibit "(5)B-7". He claims that his father was earning ₱24,930.21 monthly based on the Certification issued by Manila Bulletin marked as Exhibit "(5)B-6". It is to be noted that both the Appointment as well as the Certification were neither objected to by the defense nor was the witness cross-examined by them. However, upon checking said Certification, it shows the computation of the amount payable to the victim for the whole period of his probation from May 1, 2009 to November 23, 2009, which includes pro-rate 13th month pay, year-end gratuity pay, and even tax refund. Based on jurisprudence, it is only the gross salary which should be considered in determining the loss of earning capacity. In this case, the said Certification shows that both the 13th month pay and year-end were based on the amount ₱10,883.00 which may be inferred as the gross basic salary of the victim. Thus, said amount shall be used in the computation for the loss of earning capacity. Based on his Death Certificate marked as Exhibit "T-56", the victim was fifty four (54) years old at the time of his death, thus:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-54)

= 2/3 x 26

= 17.3333 years

Gross Annual Income = ₱10,883.00 x 12months

= ₱130,596.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 17.3333 years x ½ (₱130,596.00)

= 17.3333 years x ₱65,298.00

Loss of Earning Capacity = ₱1,131,829.82

From the foregoing discussion, the court awards the following damages to the heirs of victim Alejandro Reblando, Sr., *viz:*

a. Civil Indemnity	-	₱ 100,000.00
b. Moral Damages	-	₱ 100,000.00
c. Exemplary Damages	-	₱ 100,000.00
d. Loss of Earning Capacity	-	₱1,131,829.82
e. Actual Damages	-	₱ 146,557.34

54) For victim Reynaldo Momay:

Witness testified through her Judicial Affidavit, that her husband was presumed dead since he is nowhere to be found for years since he joined the Mangudadatu convoy. Based on the Complaint-Affidavit of the victim's daughter, Ma. Reynafe Momay-Castillo, only a partial upper denture was found at the site of the massacre which allegedly belonged to the victim. This was confirmed by Patricio Abellar or "Manong Pat", a missionary who made the denture and allegedly placed special marks on it – "ang dulo ng ring naka closed" to identify the same as belonging to the victim, and Marivic Cordero, the victim's long-time live-in partner, who examined the denture and affirmed that it belonged to the victim as she regularly washed and soaked it in water at night. It turned out however, that the special marking which "Manong Pat" had placed on the denture was not specifically made for Momay alone but for his other patients as well to show that "ginagawa kong palatandaan yon para makilala ko na sa akin talaga yun"; palatandaan din na ako ang gumawa."

However, it was also narrated by the victim's daughter that Dr. Jose Pablo Baraybar, Peruvian forensic who led the Commission on Human Rights team, and his team returned to the crime scene two (2) weeks after the incident to empty the mass graves and they did not find any more bodies. She confirmed that up to the time she executed the Complaint, his father's remains is nowhere to be found.

From the foregoing and based on the discussion on the criminal aspect, the court is convinced that the prosecution was not able to sufficiently establish the death of victim Reynaldo Momay. Hence, the court cannot grant any damages to his heirs.

55) For victim Mamotabai Mangudadatu:

Witness Bainot Mangudadatu Mangakop presented an Affidavit of Burial and other Expenses in relation to the expenses incurred by their family in relation to the death of her sister Mamotabai Mangudadatu, with a total amount of ₱623,100.00, marked as Exhibit "(4)A-6". This Affidavit, however, was not validated by receipts or other documents. Hence, the

court may only allow the awarding of temperate damages amounting to ₱50,000.00 since the death of the victim was clearly established by the prosecution.

Further, the court cannot grant the claim for the loss of earning capacity of the victim considering that the prosecution failed to present any proof or evidence which may be sufficient basis in determining the earning capacity of the victim. Thus, the court can only award the necessary damages in relation to the death of victim Mamotabai Mangudadatu, *viz:*

b. Civil Indemnity	-	₱100,000.00
c. Moral Damages	-	₱100,000.00
d. Exemplary Damages	-	₱100,000.00
e. Temperate Damages	-	₱ 50,000.00

56) &57) For victims Lailani Balayman and Pinky Balayman:

In support of her claim for actual damages for the death of her daughter Lailani Balayman, witness Takungan Balayman presented an Affidavit of Burial and Other Expenses with a total amount of ₱751,045.00, marked as Exhibit "(4)J-5". Unfortunately, the same was not substantiated with receipts. As for her daughter Pinky Balayman, the witness did not present any document to prove the expenses actually incurred by the family in connection with the death of the victim. This notwithstanding, the court may still award temperate damages for both victims since their deaths were duly established by the prosecution. Hence, the award of temperate damages in the amount of ₱50,000.00 for each victim.

Regarding the claim for loss of earning capacity, the witness submitted a Certificate of Employment and Compensation only with respect to victim Lailani Balayman which was marked as Exhibit "(4)J-7". This Certification was not objected to and the witness was not cross-examined by the defense. Thus, the court may consider this Certification in determining the loss of earning capacity of the victim considering that it provides sufficient basis for the computation of the same. Insofar as victim Pinky Balayman is concerned, the court cannot grant the award for loss of earning capacity since there was no evidence showing proof of her capacity to earn.

Based on the Death Certificate marked as Exhibit "T-54", victim Lailani Balayman was twenty-five (25) years old at the time of her death. Applying the formula for the computation of loss of earning capacity:

Net Earning Capacity = Life Expectancy x [Gross Annual Income less Necessary Living Expenses]

Life Expectancy = 2/3 x (80 – age of the deceased at time of death)

= 2/3 x (80-25)

= 2/3 x 55

= 36.6667 years

Gross Annual Income = ₱9,000.00 x 12months

= ₱108,000.00

Loss of Earning Capacity = Life Expectancy x ½ annual gross income

= 36.6667 years x ½ (₱108,000.00)

= 36.6667 years x ₱54,000.00

Loss of Earning Capacity = ₱1,980,001.8

In summary, the following are the damages awarded to the heirs of victims Lailani and Pinky Balayman:

b. Civil Indemnity	-	₱ 100,000.00 each
c. Moral Damages	-	₱ 100,000.00 each
d. Exemplary Damages	-	₱ 100,000.00 each
e. Temperate Damages	-	₱ 50,000.00 each
f. Loss of Earning Capacity	-	₱1,980,001.80 only for victim Lailani Balayman

58) For victim Faridah Sabdullah:

Based on the testimony of witness Lumangal B. Sabdula, he incurred expenses for the funeral, wake and *kanduli* for his wife victim Faridah Sabdullah in the amount of ₱404,900.00. He also testified that the victim, when she was still alive, was managing their farm land in Colombio, Sultan Kudarat and earned an annual income of ₱250,000.00. In the course of his testimony, the witness presented a Certification to prove that indeed the victim was working at their farm. However, perusing the documents which were formally offered and submitted by the prosecution, it shows that the latter failed to include any documentary evidence insofar as said victim is concerned.

In view of the foregoing, with respect to the actual damages, the court cannot grant the amount of ₱404,900.00 as the same was not supported by receipts. But since the death of the victim was clearly

established by the prosecution and there were expenses incurred in relation thereto, the court will allow the grant of temperate damages amounting to ₱50,000.00.

However, insofar as the claim for loss of earning capacity is concerned, with only the bare assertions of the witness despite the Certification he identified during his testimony, but for failure of the prosecution to formally submit the same, the court cannot grant the claim for loss of earning capacity as the prosecution failed to establish sufficient basis for the same.

Hence, the following are the damages to be awarded to the heirs of victim Faridah Sabdullah:

a. Civil Indemnity	-	₱100,000.00
b. Moral Damages	-	₱100,000.00
c. Exemplary Damages	-	₱100,000.00
d. Temperate Damages	-	₱ 50,000.00

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows, viz:

In Criminal Case Nos. Q-09-162148 to 72; Q-09-162216 to 31; Q-10-162652 to 66 and Q-10-163766 (or 57 counts of Murder)

1. The prosecution having established the guilt beyond reasonable doubt of the following accused who are found to have acted as principal namely: DATU ANDAL "Unsay" AMPATUAN, JR., Datu Anwar Sajid "Datu Ulo" Ampatuan, Datu Anwar "Datu Ipi" Ampatuan, Jr., P/Insp. Saudi Mokamad, PO1 Jonathan Engid, Abedin Alamada a.k.a. Kumander Bedi, Talembo "Tammy" Masukat a.k.a. Talembo Kahar Abdulrakman, Theng P. Sali a.k.a. Abdullah Hamid Abdulkahar, Manny Ampatuan, Nasser Esmael a.k.a. Nasrudin Esmael, Datu Zaldy Ampatuan, P/CInsp. Sukarno Dicay, P/Supt. Abusama Mundas Maguid, P/Supt. Bahnarin Kamaong, Datu Anwar Ampatuan, Sr., Tato Tampogao, Mohades Ampatuan, Mohamad T. Datumanong a.k.a. Nicomedes Amad Tolentino, Misuari Ampatuan, Taya Bangkulat, Salik Bangkulat, Thong Guiamano a.k.a. Ibrahim Kamal Tatak, Sonny K. Pindi a.k.a. Joven Salazar Piang a.k.a. Bimbo Salazar Piang, Armando Ambalgan a.k.a. Jamil Bulatukan Kayansang/Bolatokan Omar (testified as Omar Bulatukan Kayansang), Kudza Masukat Uguia a.k.a. Datu Teng Ibrahim/Mustapha Ibrahim, Edres Kasan a.k.a. Edres Gogo Alip, (testified as Edris Gugo Kasan), Zacaria P. Akil a.k.a. Quago Akil and Samaon Andatuan, they are hereby **CONVICTED** and sentenced to suffer the penalty of imprisonment of ***Reclusion Perpetua without Parole pursuant to R.A. 9346;***

2. Likewise, the prosecution having established the guilt beyond reasonable doubt of the following accused who are found to have acted

as **accessories,** namely: P/Insp. Michael Joy Macaraeg, PO3 Felix Eñate, PO3 Abibudin Abdulgani, PO3 Rasid Anton, PO2 Hamad Nana, PO2 Saudi Pasutan, PO2 Saudiar Ulah, PO1 Esprilieto Lejarso, PO1 Narkuok Mascud, PO1 Pia Kamidon, PO1 Esmael Guialal, PO1 Arnulfo Soriano, PO1 Herich Amaba (membersof the 1508th PMG), P/SInsp. Abdulgapor Abad and Bong Andal, they are hereby **CONVICTED** and sentenced to suffer the indeterminate penalty of imprisonment of 6 years of Prision correccional as minimum to 10 years and 8 months of Prision Mayor as maximum;

3. On ground of reasonable doubt, the following accused are hereby **ACQUITTED**, namely: SPO1 Elizer Rendaje, SPO1 Alimola Guianaton, SPO1 Samad Maguindra, PO3 Ricky Balanueco, PO3 Gibrael Alano, PO2 Rexson Guiama, PO1 Amir Solaiman, PO1 Badjun Panegas, PO1 Pendatun Dima, PO1 Ebara Bebot, PO1 Tamano Hadi, PO1 Michael Macarongon (known as Labayan group), SPO1 Ali Solano, PO3 Felix Daquilos, PO2 Kendatu Rakim, PO1 Abdulraman Batarasa, PO1 Marjul Julkadi, PO1 Datu Jerry Utto, PO1 Mohammad Balading, PO1 Marsman Nilong, PO1 Ysmael Baraquir, PO1 Abdulmanan Saavedra and PO1 Jimmy Kadtong (known as Solano group), PO1 Sandy Sabang, Takpan Dilon, Edris Tekay Nanding *a.k.a.* Ibrahim Kakob, PO1 Warden Legawan, Jonathan Ampatuan, Jimmy Ampatuan, Rainer Ebus, Mohamad Sangki, Tho Amino, Norman Tatak, Malaguial Tanuri a.k.a. Johari Montok Malaguial, Alimudin Sanguyod a.k.a. Norodin Malang, Mama Habib, Sahid Guiamadel a.ka.a. Arnel Abdullah, Datutulon Esmail, Kasim Lingkong a.k.a. Abdulkadir Saludin, Akad Macaton a.k.a. Mohamad Salazar Piang, Norhato Kamino a.k.a. Alfeche Banding, Nasser Malaguia a.k.a. Ramon Dadulo, P/Insp. Bahnarin Kamaong and P/Supt. Abdulwahid Pedtucasan, PO1 Ahmad Camsa Badal, PO2 Tanny Dalgan, PO1 Anwar Masukat, Samsudin Daud, Maot Bangkulat a.k.a. Benjie Dagendengan, Denga Mentol a.k.a. Ronnie Ofong, Fahad Utto a.k.a. Richard Gofel, Datu Akmad "Tato" Ampatuan, and Datu Sajid Islam Ampatuan;

4. Likewise, accused PO1 Abdullah Baguadatu, PO1 Oscar Donato and PO1 Michael Madsig are **ACQUITTED** as the evidence of the prosecution has absolutely failed to prove their guilt;

Accordingly, the Jail Warden of Quezon City Jail – Annex is hereby ordered to immediately release the aforementioned accused unless they are being detained for some other lawful cause or causes;

5. All the principal accused are likewise ordered to pay the following heirs jointly and severally, viz:

1. Heirs of victim Bai Genalyn Mangudadatu in the following amount:

    a. Civil Indemnity - ₱100,000.00
    b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

2. Heirs of victim Napoleon Salaysay in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity - ₱2,250,004.50

3. Heirs of victim Victor Nuñez in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,868,531.67

4. Heirs of victim Joel Parcon in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity - ₱4,030,006.50

5. Heirs of victim Santos "Jun" Gatchalian in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Actual Damages - ₱ 55,650.00
e. Loss of Earning Capacity- ₱560,001.00

6. Heirs of victim Jolito Evardo in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,853,971.68

7. Heirs of victim Andres Teodoro in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

8. Heirs of victim Daryl Vincent Delos Reyes in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,256,113.21

9. Heirs of victim Anthony Ridao in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Actual Damages (wake)- ₱ 103,433.40
e. Actual Damages (vehicle)- ₱ 120,000.00
f. Loss of Earning Capacity- ₱3,025,708.02

10. Heirs of victim Bai Eden Mangudadatu in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱2,799,996.00

11. Heirs of victim Eugene Demello in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱3,900,000.00

12. Heirs of victim Jose "Jhoy" Duhay in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱3,199,995.00

13. Heirs of victim Arturo Betia in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱ 1,350,000.00

14. Heirs of victim Lindo Lupogan in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱2,799,996.00

15. Heirs of victim Mercy Palabrica in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Actual Damages - ₱ 54,000.00

16. Heirs of victim Ronnie Perante in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

17. Heirs of victim Rosell Morales in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱3,759,996.00

18. Heirs of victim Welhelm Palabrica in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Actual Damages - ₱ 67,996.20
e. Loss of Earning Capacity- ₱821,305.21

19. Heirs of victim Rubell Bataluna in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

20. Heirs of victim Francisco Subang in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

21. Heirs of victim Raida Sapalon Pamensang in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,008,540.00

22. Heirs of victim Rahima Palawan in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

23. Heirs of victim Noel Decena in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱880,000.80

24. Heirs of victim Fernando Razon in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Actual Damages - ₱ 62,769.90
e. Loss of Earning Capacity- ₱1,800,000.00

25. Heirs of victim Eleanor Dalmacio in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00

c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱840,000.00

26. Heirs of victim Cynthia Oquendo in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
a. Actual Damages - ₱ 872,595.00 (also for victim Catalino Oquendo)

d. Loss of Earning Capacity- ₱9,025,714.80

27. Heirs of victim Marife Montaño in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

28. Heirs of victim Jephone Cadagdagon in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Actual Damages - ₱ 131,179.00
e. Loss of Earning Capacity- ₱23,131,785.44

29. Heirs of victims Eduardo and Cecil Lechonsito in the following amount:

a. Civil Indemnity - ₱ 100,000.00 for each victim
b. Moral Damages - ₱ 100,000.00 for each victim
c. Exemplary Damages - ₱ 100,000.00 for each victim
d. Actual Damages - ₱ 110,000.00 for each victim
e. Loss of Earning Capacity- ₱2,070,144.00 for Eduardo
₱2,107,055.28 for Cecil

30. Heirs of victim Catalino Oquendo in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Actual Damages - ₱872,595.00 (also for victim Cynthia Oquendo)

31. Heirs of victim Rasul Daud in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱3,703,752.00

32. Heirs of victim Abdillah Ayada in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱5,279,994.00

33. Heirs of victim Marites Cablitas in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱2,100,000.00

34. Heirs of victim Mc Delbert Arriola in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of earning capacity- ₱1,986,400.00

35. Heirs of victim Ernesto S. Maravilla, Jr. in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱12,605,567.69

36. Heirs of victim Benjie Adolfo in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

37. Heirs of victim Norton Edza in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱5,639,994.00

38. Heirs of victim Henry Araneta in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Actual Damages - ₱ 80,000.00

39. Heirs of victim Rey Merisco in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱3,220,003.50

40. Heirs of victim Bienvenido M. Legarta, Jr. in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱2,100,000.00

41. Heirs of victim Daniel Tiamzon in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Actual Damages - ₱101,297.40
e. Loss of Earning Capacity- ₱926,988.32

42. Heirs of victim Romeo Cabillo in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

43. Heirs of victim Gina Dela Cruz in the following amount:

a. Civil Indemnity - ₱100,000.00

b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱780,000.00

44. Heirs of victim Rowena Ante in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

45. Heirs of victim Suraida Bernan in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,273,145.48

46. Heirs of victim John Caniban in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

47. Heirs of victim Hannibal Cachuela in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱3,479,994.00

48. Heirs of victim Wahida Ali Kalim in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

49. Heirs of victim Bai Farinah Hassan Mangudadatu in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00

d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,341,086.80

50. Heirs of victim Meriam Calimbol Pandal in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱1,969,245.57

51. Heirs of victim Concepcion Jayme Brizuela in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Temperate Damages - ₱ 50,000.00
e. Loss of Earning Capacity- ₱10,357,520.00

52. Heirs of victim Alejandro Reblando, Sr. in the following amount:

a. Civil Indemnity - ₱ 100,000.00
b. Moral Damages - ₱ 100,000.00
c. Exemplary Damages - ₱ 100,000.00
d. Loss of Earning Capacity- ₱1,131,829.82
e. Actual Damages - ₱ 146,557.34

53. Heirs of victim Mamotabai Mangudadatu in the following amount:

a. Civil Indemnity - ₱100,000.00
b. Moral Damages - ₱100,000.00
c. Exemplary Damages - ₱100,000.00
d. Temperate Damages - ₱ 50,000.00

54. Heirs of victims Lailani and Pinky Balayman in the following amount:

a. Civil Indemnity - ₱ 100,000.00 each
b. Moral Damages - ₱ 100,000.00 each
c. Exemplary Damages - ₱ 100,000.00 each
d. Temperate Damages - ₱ 50,000.00 each
e. Loss of Earning Capacity - ₱1,980,001.80 only for victim Lailani Balayman

6. The accused are hereby directed to pay the aforementioned amount with an interest rate of six percent (6) per annum reckoned from the rendition of judgment until the award shall have been fully paid;

7.The filing fees shall constitute a first lien on the judgment pursuant to par. 3 of Section 1, Rule 111 of the Rules of Court and reiterated in OCA Circular No. 54-2018 dated March 21, 2018.

8. The cases filed against accused PO2 Hernanie Decipulo, Datu Andal Ampatuan, Sr., Moactar Daud, SPO1 Eduardo Ong, Nasser Talib a.k.a. Morales Sisay Amilol, Macton Bilungan and PO1 Bersedick Alfonso are hereby **DISMISSED**, pursuant to Article 89 par. 1 of the Revised Penal Code.

In Criminal Case No. GL-Q-12-178638

All the accused above-mentioned are hereby **ACQUITTED** on ground of reasonable doubt.

Accordingly, the claim for damages of the heirs of Reynaldo "Bebot" Momay are hereby **DISMISSED.**

SO ORDERED.

Quezon City, December 19, 2019.

JOCELYN A. SOLIS-REYES
Presiding Judge