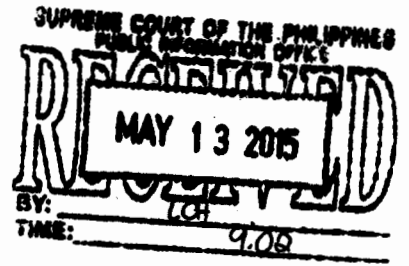




Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated April 22, 2015, which reads as follows:

“G.R. No. 212634 (People of the Philippines vs. Elizabeth H. Austria) – The Court NOTES accused-appellant’s Supplemental Brief dated November 24, 2014.

This is an appeal assailing the Decision¹ dated August 30, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05430 which affirmed the Consolidated Judgment² dated February 9, 2012 of the Regional Trial Court (RTC) of Manila, Branch 7 which convicted Elizabeth H. Austria (Austria) of Qualified Theft in Criminal Case Nos. 07-253295, 07-253296, 07-253297, 07-253298, 07-253299, 07-253300 and 07-253301; and, Theft in Criminal Case Nos. 07-253302, 07-253303, 07-253304, 07-253305 and 07-253306 when she forged the signatures of Ma. Antonia S. Parsons (Mrs. Parsons) and her son, Patrick Charles Parsons, Jr. (Patrick Jr.) in withdrawal slips transacted in their names at the Bank of the Philippine Island (BPI)-Malate Branch on several occasions.

When arraigned, Austria pleaded “not guilty”.

During the trial, it was proved that in 1987, Austria was employed as executive assistant/personal secretary in a real estate company of the Parsons. As such, she was given access to their mails, bank statements and correspondences, financial records and company contacts, and passbooks because the Parsons frequently travelled abroad.³

In 2001, Mrs. Parsons complained to BPI-Malate due to the significant discrepancy in her ATM-Peso account. The account reconciliation conducted by BPI-Malate on Mrs. Parsons’ personal accounts

¹ Penned by Associate Justice Francisco P. Acosta with Associate Justices Fernanda Lampas Peralta and Myra V. Garcia-Fernandez concurring; CA rollo, pp. 285-298.

² Issued by Presiding Judge Ma. Theresa Dolores C. Gomez-Estoesta; id. at 119-146.

³ Id. at 123-124.

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revealed a ₱28,000,000.00 deficiency which involved withdrawal transactions from FCDU account no. 0174005478 under the name of Mrs. Parsons and FCDU account no. 0174010668 under the name of Patrick Jr. Mrs. Parsons brought the financial documents and subject withdrawal slips to the National Bureau of Investigation (NBI) for handwriting analysis and later discovered that their signatures have been forged.⁴

Austria denied the allegations and maintained that the signatures appearing on the withdrawal slips belong to Mrs. Parsons and Patrick Jr.⁵

The RTC accorded merit to the testimonies of Mrs. Parsons and disregarded the denial interposed by Austria. On February 9, 2012, the RTC rendered its Consolidated Judgment convicting Austria of qualified theft through falsification of commercial document in Criminal Case Nos. 07-253295, 07-253296, 07-253297, 07-253298, 07-253299, 07-253300 and 07-253301, and simple theft through falsification of commercial document Criminal Case Nos. 07-253302, 07-253303, 07-253304, 07-253305 and 07-253306, the dispositive portion of which reads:

WHEREFORE, *in Criminal Case No. 07-253295* involving the amount of \$10,000.00 or the peso equivalent of P500,000.00, this Court finds accused **Elizabeth H. Austria** **GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon her the penalty of *reclusion perpetua*.

For her civil liability, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of Five Hundred Thousand Pesos (P500,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

Likewise, *in Criminal Case No. 07-253296* involving the amount of \$2,000.00 or the peso equivalent of P100,000.00, this Court finds accused **Elizabeth H. Austria** **GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **FOURTEEN (14) YEARS and EIGHT (8) MONTHS** of *reclusion temporal* in its minimum period as minimum to **EIGHTEEN (18) YEARS, TWO (2) MONTHS and TWENTY (20) DAYS** of *reclusion temporal* in its medium period as maximum.

⁴ Id. at 124-126.

⁵ Id. at 130-132.

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For her civil liability, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of One Hundred Thousand Pesos (P100,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253297* involving the amount of \$1,000.00 or the peso equivalent of P50,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **ELEVEN (11) YEARS, SIX (6) MONTHS and TWENTY (20) DAYS** of *prision mayor* in its maximum period as minimum to **SIXTEEN (16) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS** of *reclusion temporal* in its medium period as maximum.

For her civil liability in this case, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of Fifty Thousand Pesos (P50,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253298* involving the amount of \$1,500.00 or the peso equivalent of P75,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **THIRTEEN (13) YEARS, ONE (1) MONTH and ELEVEN (11) DAYS** of *prision mayor* in its maximum period as minimum to **EIGHTEEN (18) YEARS, TWO (2) MONTHS and TWENTY (20) DAYS** of *reclusion temporal* in its medium period as maximum.

For her civil liability, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of Seventy Five Thousand Pesos (P75,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253299* involving the amount of \$2,000.00 or the peso equivalent of P100,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon said accused an

indeterminate penalty of **FOURTEEN (14) YEARS and EIGHT (8) MONTHS** of *reclusion temporal* in its minimum period as minimum to **EIGHTEEN (18) YEARS, TWO (2) MONTHS and TWENTY (20) DAYS** of *reclusion temporal* in its medium period as maximum.

For her civil liability, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of One Hundred Thousand Pesos (P100,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253300* involving the amount of \$4,000.00 or the peso equivalent of P200,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon said accused the penalty of *reclusion perpetua*.

For her civil liability, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of Two Hundred Thousand Pesos (P200,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253301* involving the amount of \$3,000.00 or the peso equivalent of P150,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Qualified Theft Through Falsification of Commercial Document* and imposes upon said accused the penalty of *reclusion perpetua*.

For her civil liability, accused is directed to pay Ma. Antonia S. Parsons and/or Bank of the Philippine Islands the amount of One Hundred Fifty Thousand Pesos (P150,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0054-78, with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

For the *Theft* charges, it is found:

In *Criminal Case No. 07-253302* involving the amount of \$200.00 or the peso equivalent of P10,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **ONE (1) YEAR, EIGHT (8) MONTHS and ONE (1) DAY** of *prision correccional* in its minimum period as minimum to **THREE**

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(3) YEARS, SIX (6) MONTHS and TWENTY ONE (21) DAYS of *prision correccional* in its medium period as maximum.

For her civil liability, accused is directed to pay Patrick Parsons, Jr. and/or the Bank of the Philippine Islands the amount of Ten Thousand Pesos (P10,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0106-68 with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253303* involving the amount of \$1,000.00 or the peso equivalent of P50,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY** of *prision correccional* in its maximum period as minimum to **TWELVE (12) YEARS** of *prision mayor* in its maximum period as maximum.

For her civil liability, accused is directed to pay Patrick Parsons, Jr. and/or the Bank of the Philippine Islands the amount of Fifty Thousand Pesos (P50,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0106-68 with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253304* involving the amount of \$10,000.00 or the peso equivalent of P500,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **TEN (10) YEARS and ONE (1) DAY** of *prision mayor* as minimum to **TWENTY (20) YEARS** of *reclusion temporal* as maximum.

For her civil liability, accused is directed to pay Patrick Parsons[,] Jr. and/or the Bank of the Philippine Islands the amount of Five Hundred Thousand Pesos (P500,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0106-68 with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

In *Criminal Case No. 07-253305* involving the amount of \$2,000.00 or the peso equivalent of P100,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **TWELVE (12) YEARS and ONE (1) DAY** of *reclusion temporal* in its minimum period as minimum to **SEVENTEEN (17)**

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YEARS and FOUR (4) MONTHS of *reclusion temporal* in its medium period as maximum.

For her civil liability, accused is directed to pay Patrick Parsons[,] Jr. and/or the Bank of the Philippine Islands the amount of One Hundred Thousand Pesos (P100,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0106-68 with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

Lastly, in *Criminal Case No. 07-253306* involving the amount of \$1,000.00 or the peso equivalent of P50,000.00, this Court finds accused **Elizabeth H. Austria GUILTY** beyond reasonable doubt of the complex crime of *Theft Through Falsification of Commercial Document* and imposes upon said accused an indeterminate penalty of **FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY** of *prision correccional* in its maximum period as minimum to **TWELVE (12) YEARS** of *prision mayor* in its maximum period as maximum.

For her civil liability, accused is directed to pay Patrick Parsons[,] Jr. and/or the Bank of the Philippine Islands the amount of Fifty Thousand Pesos (P50,000.00) representing the amount withdrawn without authority from FCDU Account No. 0174-0106-68 with legal interest at the rate of 12% per annum from date of judicial demand on May 29, 2007.

With costs against the accused.⁶

On appeal, the CA agreed with the RTC's findings and, accordingly, **AFFIRMED** its judgment in its entirety. The CA ratiocinated on the sufficiency of the circumstantial evidence adduced which proved the fact of taking and Austria's intent to gain when she forged the signatures of Mrs. Parsons and Patrick Jr. in the withdrawal slips kept in her possession as their personal secretary. The CA also discussed on Austria's grave abuse of confidence when she took advantage of her job of being entrusted with the custody of the financial documents of the Parsons including access to their personal accounts. Hence, the CA agreed with the RTC's findings as there was no showing that the RTC gravely abused its discretion or misappreciated any material fact.

Ruling of the Court

There is no cogent reason to reverse the conviction.

⁶ Id. at 141-145.



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Prefatorily, the assessment of the facts and the credibility of the witnesses made by the trial court, and affirmed by the CA, as a rule, shall not be disturbed on appeal by this Court unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.⁷

The confluence of all the essential elements for theft to prosper was sufficiently proved by the circumstantial evidence surrounding its commission. As aptly stated by the CA, the taking of the personal property such as cash deposits was committed through the forgery of the signatures of Mrs. Parsons and Patrick Jr. on the withdrawal slips which Austria transacted in their names. Austria took possession of the withdrawn deposits as it was already assumed by BPI that all the transactions were coursed through her after she was introduced by the Parsons as their trusted secretary. Regretably, not all the transactions verified by BPI were authorized by the Parsons and turned out to be for the personal benefits of Austria.⁸

The RTC, as affirmed by the CA, correctly convicted Austria of qualified theft and simple theft, respectively. This Court draws no other reasonable inference deduced from the circumstances other than Austria's guilt for gravely abusing the confidence of her employers. Her bare denial is intrinsically weak in order to convince this Court that she was innocent of the charges filed against her.

WHEREFORE, in view of the foregoing premises, the Decision dated August 30, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05430 is **AFFIRMED.**" (Jardeleza, *J.*, no part in view of his participation in the Office of the Solicitor General; Mendoza, *J.*, designated additional Member per Raffle dated November 3, 2014; Peralta, *J.*, no part in view of participation of his spouse in the assailed CA decision; Perlas-Bernabe, *J.*, designated additional Member per Raffle dated January 12, 2015.)

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court
4/21/15

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⁷ *People v. Rivera*, G.R. No. 200508, September 4, 2013, 705 SCRA 187, 200-201.

⁸ *CA rollo*, pp. 295-296.

COURT OF APPEALS
CA G.R. CR HC No. 05430
1000 Manila

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 7, 1000 Manila
(Criminal Case Nos. 07-253295-99; 07-253300-06)

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