

A Safer World For The Truth

*The murder of Gerry Ortega:  
Justice delayed; justice denied*



## **A Safer World For The Truth**

A Safer World for the Truth works towards the pursuit of justice for crimes committed against journalists.

The project consists of a series of investigations into cases where a journalist was murdered for doing his/her job. These investigations, will reveal new facts and information around the killings, paving the way for pursuing justice. A Safer World for the Truth is a collaborative initiative of Free Press Unlimited, the Committee to Protect Journalists and Reporters without Borders.



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Photo of Gerry Ortega from the Justice for Dr. Gerry Ortega Facebook page

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# Executive summary

Radio journalist Gerry Ortega reported on corruption within the administration of former Palawan Governor Joel T. Reyes (2002 - 2011). In his radio programme, he exposed corruption issues that hounded Governor Reyes' provincial government and commented specifically on the provincial government's alleged misappropriation of natural gas royalties. On the morning of 24 January 2011, Gerry Ortega was shot and killed in Puerto Princesa City, while shopping in a thrift store. The aftermath of the murder follows a pattern that haunts the Philippines; while the hit men who murder journalists are often arrested, the powerful masterminds behind the killings escape justice. In the case of the murder of Gerry Ortega, the alleged mastermind, former governor of Palawan, Joel T. Reyes, has escaped justice for more than a decade.

In the weeks following Ortega's murder, all members of the hit squad were arrested and subsequently confessed. The first to be arrested was hitman Marlon Recamata, a construction worker from Pagbilao (Quezon province). He pleaded guilty to the murder of Ortega and identified the other members of the hit squad: Dennis Aranas, Armando Noel and middleman Rodolfo Edrad, who was also governor Reyes' bodyguard, who were also arrested shortly after. Rodolfo Edrad implicated governor Joel T. Reyes as the mastermind behind the murder and was placed under witness protection. He identified Mario T. Reyes, brother of Joel T. Reyes, as the person who personally gave him the money in payment for the hit job and to cover expenses for remaining in hiding after the murder of Ortega.

Despite Mr. Edrad's confession, Joel T. Reyes still remains at large today. Even though Gerry Ortega's family presented phone communication in which Mr. Edrad asked Joel T. Reyes for money to execute Ortega, Joel T. Reyes managed to avoid prosecution during a decade-long legal battle.

A Safer World for the Truth conducted an investigation to discover how Joel T. Reyes managed to escape conviction. During the investigation, we interviewed a key witness who was part of the hit squad, police officials, jail officials, medical specialists, family members of the lookout of the murder Dennis Aranas, and former colleagues. We also analyzed the plethora of case files, consisting of court decisions, resolutions, autopsy reports and affidavits. Our investigation resulted in multiple findings.

First, the justice system in the Philippines failed to provide justice in the case of Gerry Ortega, while it had the opportunity to do so. The first panel of prosecutors from the Department of Justice (the First Panel) wrongfully denied the admission of crucial evidence that incriminated Joel T. Reyes. The second panel of prosecutors from the Department of Justice (the Second Panel), that was created by the Secretary of Justice after the decision by the First Panel, did find probable cause against Reyes. However, the Court of Appeals accepted a petition by Joel T. Reyes, which asked for the nullification of the Second Panel. Thereby, the Court of Appeals disregarded the fact that the Regional Trial Court had jurisdiction over the case at the time. By the nullification of the Second Panel and the arrest warrant against Reyes, Reyes had another opportunity to delay justice.

Second, our investigation found that Joel T. Reyes continues to wield influence over local public officials in Palawan and is thereby able to subvert the rule of law. After serving a jail term, having been found guilty of graft, he was released in April 2021. Despite a fresh arrest warrant issued against him on 19 August, for his involvement in the murder of Gerry Ortega, he has not been arrested. In the meantime, Joel T. Reyes even filed his candidacy for the position of governor in the coming local elections of 9 May 2022.

Third, on 25 August 2021, Rodolfo Edrad, the sole state witness in the Ortega murder, survived an attack when unidentified gunmen fired machine gun rounds at his house. Mr. Edrad told us that a few weeks before the brutal attack, a police official claiming he had been sent by Joel T. Reyes, visited him and pressured him into retracting the testimony in which he implicated Reyes in the murder. Mr. Edrad went into hiding after the incident, fearing for his life.

Fourth, the suspicious death of state witness – and member of the hit squad - Dennis Aranas, who was found hanging in his prison cell, was never thoroughly investigated. Prison authorities failed to preserve the death scene, and no reliable autopsy was performed to determine whether it was suicide or murder. Therefore, the question of whether Dennis Aranas was murdered to suppress evidence in the prosecution of the Gerry Ortega case remains unanswered.

As a result of these findings, the report concludes with the following concrete recommendations:

→ **To the Department of Justice of the Republic of the Philippines:**

The Department of Justice of the Republic of the Philippines should urge the Philippine National Police to prioritize the arrest of Joel T. Reyes. It should ensure that the Criminal Investigation Division Group, which is part of the Philippine National Police, follows up on their arrest warrant.

In future cases of journalist killings, the Justice Secretary should select the members of investigating prosecutor-panels based on their proven expertise, especially in cases concerning the prosecution of powerful actors and journalist murders. It is highly recommended that independent experts from government agencies, such as the National Bureau of Investigation (NBI) and non-governmental institutions are consulted in this process.

The Justice Secretary should be encouraged to use his/her existing power when necessary to review and/or reverse any decision of an investigating panel.

In order to effectively investigate custodial deaths, for example of key witnesses, the Department of Justice - with the National Bureau of Investigation under its office - should ensure that its agents comply with international standards for effective investigation of deaths in custody, such as those stipulated in the Minnesota Protocol. Records of such investigations should be carefully handled and external experts should have the ability to access these records.

The Department of Justice of the Republic of the Philippines should ensure that the Witness Protection Program provides key witness Rodolfo Edrad with enough resources to support himself without being exposed to potential physical harm, for example by putting security measures in place enabling him to continue his work.

The Department of Justice of the Republic of the Philippines should proactively monitor the case and further guarantee the safety of other actors: government actors, witnesses, prosecutors and judges, during future legal procedures.

The Department of Justice of the Republic of the Philippines should regularly monitor and evaluate cases of journalist murders to ensure a speedy investigation and effective response to any gaps in the investigation and prosecution of these cases.

→ **To the Department of the Interior and Local Government of the Republic of the Philippines:**

The Department of Interior and Local Government, with the Bureau of Jail Management and Penology under its office, should ensure that detaining authorities at all times strictly adhere to international standards for the effective investigation of deaths in custody;

The Department of Interior and Local Government, with the Bureau of Jail Management and Penology under its office, should ensure that detaining authorities observe international protocols to safeguard the life and physical integrity of every detainee, to prevent deaths in custody.

→ **To the Philippine National Bureau of Investigations:**

The alleged involvement of a police officer in the gun attack on key witness Rodolfo Edrad, means the impartiality of

the Philippine National Police in the case cannot be guaranteed. Therefore, the National Bureau of Investigation should conduct an independent investigation into the attack on Edrad and all other claims of security threats him.

In order to effectively investigate whether deceased key witnesses in cases of murders of journalists qualify as murder cases, the National Bureau of Investigations (NBI) should at all times adhere to international standards for investigating crime scenes, deaths in custody and conducting forensic autopsies.

The NBI should align their investigations into murdered journalists with international guidelines, specifically the UNESCO and the International Association of Prosecutors guidelines for prosecutors on cases of crimes against journalists. Thereby it should consider that, in line with Human Rights Council resolution 45/33, the Office of the United Nations High Commissioner for Human Rights offered to provide technical assistance to the government of the Philippines which can be called upon. The NBI should specifically observe the call to investigate the role of all intellectual and material authors in the murder, investigate the link between a journalists' work and the murder, and guarantee the safety of all individuals involved in the investigation.

→ **To the Philippine Congress:**

While Republic Act 6981 formally provides for the protection from physical reprisals and economic dislocation, it does not currently specify the level of financial support; therefore, key witnesses may be forced to work in order to sustain their livelihoods. As a result, key witnesses are exposed to physical harm and intimidation, which may also harm legal procedures. Therefore, the Philippine Congress should revisit its Witness Protection Program, by strengthening and specifying Section 8 of the Republic Act 6981, by defining a level of financial support that is, at least, sufficient for state witnesses to sustain their livelihoods.

→ **To the international community:**

The international community should provide support to achieve justice for Gerry Ortega and to fight impunity in the Philippines, when requested by the government of the Philippines.

Subsequently, the international community should monitor progress on the prosecution of the suspected mastermind Joel T. Reyes. When requested by Philippine authorities or Gerry Ortega's family, resources and expertise should be provided by the international community to spur the investigation and prosecution.

Support the call for the establishment of a new Special Representative of the UN Secretary General for the Safety of Journalists. Appointed by the Secretary-General, the Special Representative's mandate should include following up on the progress of investigations into attacks on journalists and fostering cooperation with the competent national authorities. In the case of Gerry Ortega, a UN Special Representative could stay in regular contact with the Department of Justice of the Republic of the Philippines to encourage them to take up the case.

# 1. Context of the Murder: sub-national undemocratic political elites, corruption, and attacks on the press

## Journalists under threat in the Philippines

In the Philippines, the Constitution provides for freedom of expression and the press, 'whereby private media are vibrant and outspoken.'<sup>2</sup> Nevertheless, for decades journalists have faced threats and come under attack. Since President Rodrigo Duterte took office, he has openly attacked independent media on several occasions.<sup>3</sup> When Duterte was asked about the assassination of a crime reporter in Manila, shortly after his election in 2016, he replied: 'Just because you're a journalist you are not exempted from assassination. If you're a son of a bitch.'<sup>4</sup> Such verbal attacks have been combined with an increase in attacks on journalists and other media workers. Over 150 incidents of threats and attacks were registered between 2016 and 2019.<sup>5</sup> Since the beginning of Duterte's term, the Philippines has dropped eleven places and now finds itself at position 136 on the Reporters Without Borders (RSF) Annual World Press Freedom Ranking.<sup>6</sup> Jesus Malabanan, a correspondent for the Manila Standard and the Manila Times, is the latest confirmed victim. He was murdered on 8 December 2021.<sup>7</sup>

While attacks on the media have escalated under Duterte, the Philippines was a dangerous country for journalists before he took office. In the period under President Benigno Aquino (2010 – 2016), 10 journalists were murdered for doing their job.<sup>8-9</sup> After Gerry Ortega was murdered in January 2011, the National Union of Journalists of the Philippines (NUJP) noted that Ortega was the 142nd journalist to be killed since 1986, and the third journalist to be killed under the Aquino administration.<sup>10</sup> These numbers highlight the fact that the murder of Gerry Ortega is part of a structural problem concerning the safety of journalists in the Philippines.

## Sub-national undemocratic political elites, attacks on the press, and impunity

While the Philippines' democracy has deteriorated under Duterte, sub-national undemocratic political elites were already an important feature of Philippine politics in the decades prior to Duterte's incumbency.<sup>11</sup> In many

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1 The Constitution provides that 'No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

2 Freedom House. *Freedom in the World 2020*. <https://freedomhouse.org/country/philippines/freedom-world/2020>.

3 CNN. 2020. *Duterte's War on the press in the Philippines could provide a model for Hong Kong and beyond*. <https://edition.cnn.com/2020/06/15/asia/philippines-ressa-hong-kong-national-security-intl-hnk/index.html>.

4 CNN. 2020. *Duterte's War on the press in the Philippines could provide a model for Hong Kong and beyond*. <https://edition.cnn.com/2020/06/15/asia/philippines-ressa-hong-kong-national-security-intl-hnk/index.html>.

5 Media Landscapes. 2021. *Philippines*. <https://medialandscapes.org/country/philippines>.

6 Reporters Without Borders. 2021. *Philippines*. <https://rsf.org/en/philippines>.

7 Committee to Protect Journalists. 2021. *Jesus Malabanan, reporter who covered Duterte drug war, killed in the Philippines*. <https://cpj.org/2021/12/jesus-malabanan-reporter-who-covered-duterte-drug-war-killed-in-the-philippines/>

8 Committee to Protect Journalists. 2021. *Journalists Attacked in Philippines*. [https://cpj.org/data/location/?cc\\_fips=RP&start\\_year=2010&end\\_year=2016&report-builder-type=year&motiveConfirmed%5B%5D=Confirmed&status%5B%5D=Missing&status%5B%5D=Imprisoned](https://cpj.org/data/location/?cc_fips=RP&start_year=2010&end_year=2016&report-builder-type=year&motiveConfirmed%5B%5D=Confirmed&status%5B%5D=Missing&status%5B%5D=Imprisoned).

9 Under the Aquino administration, the Maguindanao massacre took place during which 32 journalists were murdered. For more information on this event see: Reporters without Borders. 2019. *Ten years after massacre of 32 reporters, Philippine justice on trial*. <https://rsf.org/en/news/ten-years-after-massacre-32-reporters-philippine-justice-trial>.

10 Rainforest Rescue. *Press Release: Philippines-Palawan Environmental advocate and journalist shot dead*. <https://www.rainforest-rescue.org/press-releases/3305/philippines-palawan-environmental-advocate-and-journalist-shot-dead>

11 Sidel, J. T. (2014). Economic foundations of subnational authoritarianism: Insights and evidence from qualitative and quantitative research. *Democratization*, 21(1), 161-184.

of the Philippine provinces, dominant families and clans have held provincial executive positions for much of the current and last century.<sup>12</sup> Such clans use discretionary powers and state resources outside of effective democratic accountability, electoral challenge, and the rule of law.<sup>13</sup> Moreover, since such elites typically exercise control over local economies, they are able to provide career opportunities for political supporters and have disproportionate resources to fund political campaigns and cement their power.<sup>14</sup> Examples of such families are the Aquino, Marcos, Binay, Duterte, and Roxas families.<sup>15</sup>

Subnational undemocratic political elites also undermine journalists. While the Constitution of the Philippines invites critical and investigative journalism,<sup>16</sup> the political elites at state and municipal level have incentives to suppress critical coverage,<sup>17</sup> to prevent incriminating information about them reaching the national public sphere.<sup>18</sup> In light of this, it is no surprise that eight out of the ten murdered journalists in the period 2010 - 2016 were covering corruption either at municipal provincial level.<sup>19</sup> After Gerry Ortega was murdered, the Committee to Protect Journalists noted that “Gerardo Ortega sought to expose corruption through his work, like the other 190 journalists targeted for murder since 1992.”<sup>20</sup>

In the aftermath of the murder of journalists, the Philippine justice system often fails to provide complete justice. In the Philippines, in most cases of murdered journalists, the material authors are captured but the masterminds escape justice.<sup>21</sup> The murder of Gerry Ortega is one such case: the gunman and middleman have been in custody since 2011, while the suspected mastermind and former governor of Palawan, Joel T. Reyes, has avoided justice for more than a decade. In dozens of other cases, masterminds have also avoided justice.<sup>22</sup> This means that the systematic abuse of power in these cases is not addressed, and that those in power feel they are untouchable, or perhaps even immune to prosecution. Secondly, witnesses to the murders of journalists in the Philippines face extreme pressures and risks.<sup>23</sup> The government’s Witness Protection Program (WPP), while valuable, falls short of ensuring safety.<sup>24</sup> A case in point is the Maguindanao Massacre<sup>25</sup> trial, during which three witnesses were killed up to 2013, and many more bribed and threatened.<sup>26-27</sup> Unfortunately, the witnesses in Gerry Ortega’s case face similar fates.

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12 Sidel, J. T. (2014). Economic foundations of subnational authoritarianism: Insights and evidence from qualitative and quantitative research. *Democratization*, 21(1), 161-184.

13 Sidel, J. T. (2014). Economic foundations of subnational authoritarianism: Insights and evidence from qualitative and quantitative research. *Democratization*, 21(1), 161-184.

14 Sidel, J. T. (2014). Economic foundations of subnational authoritarianism: Insights and evidence from qualitative and quantitative research. *Democratization*, 21(1), 161-184.

15 For an extensive family tree of the most dominant Philippine dynasties see: <https://www.esquiremag.ph/politics/news/political-families-philippines-family-trees-a00203-20210923>.

16 See the Constitution of the Philippines, Article 111 of the Bill of Rights Section 4.

17 Hughes, S., & Vorobyeva, Y. (2019). Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations. *Journalism*, 22(8), 1873-1891.

18 Bartman, J. M. (2020). *The repression of boundary-blurring actors in subnational undemocratic regimes; Empirical explorations in Veracruz and Gujarat*. <https://pure.uva.nl/ws/files/51255041/Thesis.pdf>.

19 Committee to Protect Journalists. (2021). *Journalists Attacked in Philippines*. <https://cpj.org/asia/philippines/>

20 Witche, E. 2013. *News of convictions in journalist murders sadly infrequent*. <https://cpj.org/2013/05/news-of-convictions-in-journalist-murders-sadly-in/>.

21 Committee to Protect Journalists. 2013. *News of convictions in journalist murders sadly infrequent*. <https://cpj.org/2013/05/news-of-convictions-in-journalist-murders-sadly-in/>.

22 Committee to Protect Journalists. 2013. *News of convictions in journalist murders sadly infrequent*. <https://cpj.org/2013/05/news-of-convictions-in-journalist-murders-sadly-in/>.

23 Committee to Protect Journalists. 2009. *Philippines Special Report: Under Oath, Under Threat*. <https://cpj.org/reports/2009/08/philippines-impunity-under-oath-under-threat/>.

24 Committee to Protect Journalists. 2009. *Philippines Special Report: Under Oath, Under Threat*. <https://cpj.org/reports/2009/08/philippines-impunity-under-oath-under-threat/>.

25 During the Maguindanao Massacre, 34 journalists were killed.

26 Witche, E. 2014. *When Journalists are Killed, Witnesses May be Next*. <http://platform24.org/en/articles/87/when-journalists-are-killed---witnesses-may-be-next>.

27 GMA News Online. 2013. *Ortega kin fears witness death weakens murder case*. <https://ph.news.yahoo.com/ortega-kin-fears-witness-death-weakens-murder-case-111813251.html?guccounter=1>.

## Palawan at the time of Gerry Ortega's murder

The island of Palawan has a population of just below one million citizens and is known for its rich biodiversity.<sup>28</sup> It is also rich in metals such as nickel and iron, which makes it a lucrative location for mining companies.<sup>29</sup> One of the most influential political figures in the Province was Ramon Mitra, a congressman representing Palawan, and speaker of the house between 1987 and 1992. Mitra became Palawan's most well-known politician in the country; he even ran, albeit unsuccessfully, for president during the 1992 general elections.<sup>30</sup> As a vocal critic of Governor Socrates (1996 - 2001), and ally of Mitra, Joel T. Reyes participated in and won the 2002 gubernatorial elections. Although Joel T. Reyes does not belong to one of the Philippines most powerful political dynasties, he has dominated Palawan politics since then by serving three consecutive terms as governor of Palawan.

During his years as governor (2002 - 2011), Reyes attempted to gain control over the local economy and was in dispute with the central government over the sharing of the proceeds from the Malampaya Gas Fields - the Philippines' largest gas field, discovered in 1992.<sup>31</sup> After commercial production of gas started in 2002, Reyes claimed a 40 percent share in the proceeds, while President Gloria Macapagal Arroyo stated that Palawan did not qualify for any royalty share.<sup>32</sup> The Supreme Court ruling on the case, which was in full support of the national government, came only in 2019. In the meantime, in 2005 an interim agreement was concluded that resulted in the government of Palawan receiving 2.9 billion Pesos (approx.: 575 million US dollars) in proceeds.<sup>33</sup> In his radio programme *Ramatak*, Gerry Ortega accused Governor Reyes of misappropriating part of these funds.<sup>34</sup>

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28 Census of Population. 2020. *Highlights of the Philippine Population 2020 Census of Population*. PSA. Retrieved 8 July 2021.

29 Vereniging van Beleggers voor Duurzame ontwikkeling. 2021. *How to stop a mining company*. <https://www.vbdo.nl/2021/01/how-to-stop-a-mining-company/>.

30 Nohlen, D. (et al.). 2001. *Elections in Asia and the Pacific: A Data Handbook: Volume II: South East Asia, East Asia, and the South Pacific*. London: Oxford University Press.

31 Republic of the Philippines, Department of Energy. 2021. *Malampaya Gas Fields*. <https://www.doe.gov.ph/natgas/malampaya-gas-field?ckattempt=2>.

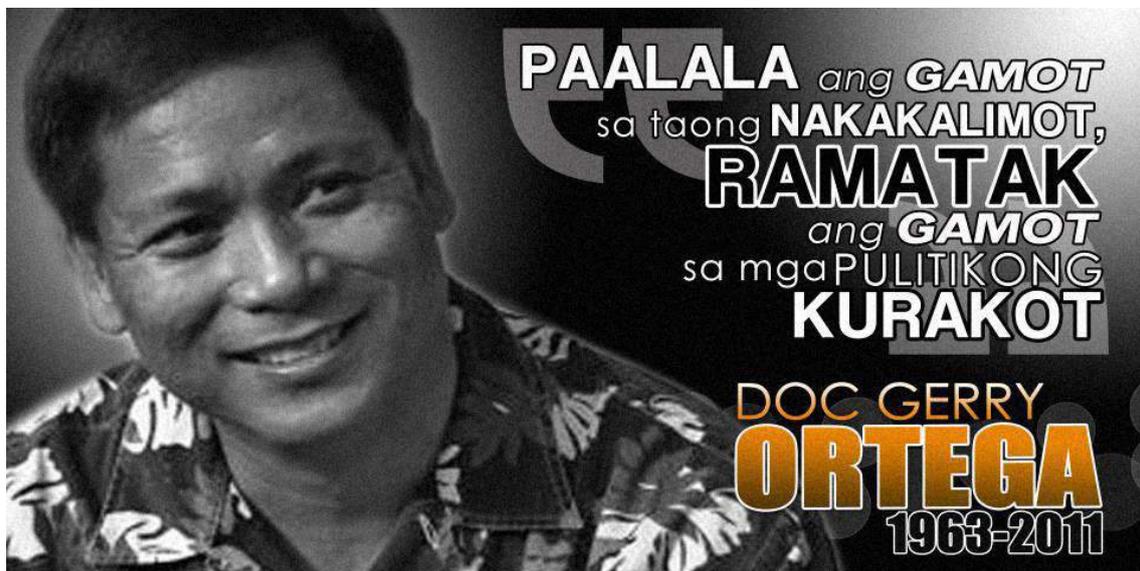
32 Supreme Court of the Philippines. (2019). *SC Holds Palawan as Not Entitled to Share in the Proceeds of the Camago-Malampaya Project*. <https://sc.judiciary.gov.ph/541/>.

33 The inquirer. 2012. *In The Know: The Malampaya Gas Project*. <https://newsinfo.inquirer.net/346607/in-the-know-the-malampaya-gas-project>.

34 Interview 22, 2 February. Amsterdam.

## 2. Gerry Ortega's life and work: Journalist and thorn in Governor Reyes' side

Gerardo Valeriano Ortega, also known as "Doc Gerry" or "Gerry", was born into a minor political family on 28 August 1963 in the province of Palawan. He was the son of Rafael "Totoy" Ortega, mayor of the municipality Aborlan.<sup>35-36</sup> He acquired his Doctor of Veterinary Medicine degree from the Gregorio Araneta University Foundation of Manila.<sup>37</sup> In 1988 he became the director of the Crocodile Farming Institute, which has since been renamed the Palawan Wildlife Rescue and Rehabilitation Center.<sup>38</sup> He was a devout Roman Catholic and married his wife, Patria Gloria "Patty" Inocencio, in a church in Bulacan in 1998.<sup>39</sup> Together, the couple had five children: Mika, Erika, Joaquin, Sophia and Bettina.<sup>40</sup>



A poster that was produced during the campaign for justice after Gerry Ortega's murder. The text was the actual promotional ad of his radio program Ramatak, and reads: Those who forget needs to be reminded. Those who are corrupt politicians will be severely criticized in Ramatak... Doc Gerry Ortega.

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35 Yasmin Arquiza. 24 January 2011. *Gerry Ortega: From crocodile hunter to hunted crusader*.

<https://www.gmanetwork.com/news/news/nation/211377/gerry-ortega-from-crocodile-hunter-to-hunted-crusader/story/>.

36 Gerry's father Rafael was knifed to death as he was trying to resolve a gambling dispute during a cockfight near Puerto Princesa.

37 It is unclear in which year exactly.

38 Rainforest Rescue. *Press Release: Philippines-Palawan Environmental advocate and journalist shot dead*.

<https://www.rainforest-rescue.org/press-releases/3305/philippines-palawan-environmental-advocate-and-journalist-shot-dead>.

39 Arquiza, Y. 2011. *Gerry Ortega: From crocodile hunter to hunted crusader*.

<https://www.gmanetwork.com/news/news/nation/211377/gerry-ortega-from-crocodile-hunter-to-hunted-crusader/story/>.

40 Arquiza, Y. 2011. *Gerry Ortega: From crocodile hunter to hunted crusader*.

<https://www.gmanetwork.com/news/news/nation/211377/gerry-ortega-from-crocodile-hunter-to-hunted-crusader/story/>.

Gerry Ortega combined his work as a veterinarian with his work as a politician, environmental activist, and later journalist. In 2001, Ortega ran for membership of the Provincial Board (the legislature of the provinces of the Philippines) of Palawan,<sup>41</sup> which he won. He held the position until 2004.<sup>42</sup> According to an affidavit filed by his wife, Patria Ortega, after his murder, it was during this time that Gerry Ortega gained access to documents concerning widespread corruption within the government of Palawan.<sup>43</sup> As a result, Ortega became one of the most outspoken critics of the incumbent governor Reyes.<sup>44</sup>

In 2004, Ortega even ran for Governor of Palawan. In a bid to oust Reyes, who was running for his second consecutive 3-year term,<sup>45</sup> Ortega campaigned for government transparency, poverty reduction and the protection of the rights of indigenous people.<sup>46-47</sup> However, he lost the elections and subsequently resumed his activism.<sup>48</sup> According to environmental groups, Ortega became involved in vigilant advocacy campaigns, participating in anti-mining protests and advocating for the Palawan community's share in the Malampaya natural gas project.<sup>49</sup> He was also active in the ABS-CBN Foundation's Bayanijuan eco-tourism project, serving as its project manager in Puerto Princesa. It won the 'Best Community-based Ecotourism Project' at the 2010 Pacific Asia Travel Association (PATA) Gold Awards.<sup>50</sup>

Besides being an activist, Gerry Ortega was also a journalist. His journalistic activities reinforced his activism. A former colleague of Ortega noted that 'Gerry would use the media for his advocacy, knowing it was the best forum for lashing out against corrupt politicians and selfish business interests.'<sup>51</sup> Ortega served as an anchor and commentator for various radio stations. At the time of the murder, he was a radio show host at local radio station DWaR (2009-2011), where he frequently and openly criticized local officials for their corruption, and where he opposed Palawan mining projects.<sup>52-53</sup> At the time of his murder, Gerry Ortega had picked up the newly released Commission on Audit (COA) special report on the Malampaya funds, in which the COA accused Reyes of graft.<sup>54</sup> In his *Ramatak* programme, Gerry Ortega detailed irregular transactions involved in the implementation of major infrastructure projects undertaken by the provincial government.<sup>19</sup> Gerry Ortega thereby engaged in activity that proved fatal in the Philippines: informing the public about graft and corruption within the subnational elite.

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41 Affidavit of Patria Gloria A. 2014. *Innocencio-Ortega, sworn before OIC Senior Deputy State Prosecutor Theodore M. Villanueva on 14th February 2011.*

42 Affidavit of Patria Gloria A. 2014. *Innocencio-Ortega, sworn before OIC Senior Deputy State Prosecutor Theodore M. Villanueva on 14th February 2011.*

43 Affidavit of Patria Gloria A. 2014. *Innocencio-Ortega, sworn before OIC Senior Deputy State Prosecutor Theodore M. Villanueva on 14th February 2011.*

44 Affidavit of Patria Gloria A. 2014. *Innocencio-Ortega, sworn before OIC Senior Deputy State Prosecutor Theodore M. Villanueva on 14th February 2011.* <https://www.scribd.com/doc/54448686/Supplemental-Affidavit-Complaint-Patria-Gloria-Ortega>.

45 Joel T. Reyes became Governor of Palawan by succession in 2000, when his predecessor Salvador Socrates died in a plane crash. In 2001 Joel T. Reyes started his first term after winning the gubernatorial elections. After serving his second term (2004 - 2007) and his third term (2007 - 2010), Joel T. Reyes ran for Congressman but lost.

46 Rainforest Rescue. *Press Release: Philippines-Palawan Environmental advocate and journalist shot dead.* <https://www.rainforest-rescue.org/press-releases/3305/philippines-palawan-environmental-advocate-and-journalist-shot-dead>.

47 Rainforest Rescue. *Press Release: Philippines-Palawan Environmental advocate and journalist shot dead.* <https://www.rainforest-rescue.org/press-releases/3305/philippines-palawan-environmental-advocate-and-journalist-shot-dead>.

48 Affidavit of Patria Gloria A. 2014. *Innocencio-Ortega, sworn before OIC Senior Deputy State Prosecutor Theodore M. Villanueva on 14th February 2011.* <https://www.scribd.com/doc/54448686/Supplemental-Affidavit-Complaint-Patria-Gloria-Ortega>.

49 Alleco Silverio, I. 2011. *Palawan Environmentalist and Broadcast shot dead.* <https://www.bulatlat.com/2011/01/24/palawan-environmentalist-and-broadcaster-shot-dead/>.

50 Alleco Silverio, I. 2011. *Palawan Environmentalist and Broadcast shot dead.* <https://www.bulatlat.com/2011/01/24/palawan-environmentalist-and-broadcaster-shot-dead/>.

51 Arquiza, Y. 2011. *Gerry Ortega: From crocodile hunter to hunted crusader.* <https://www.gmanetwork.com/news/news/nation/211377/gerry-ortega-from-crocodile-hunter-to-hunted-crusader/story/>.

52 Committee to Protect Journalists. 2011. Gerardo Ortega. <https://cpj.org/data/people/gerardo-ortega/>

53 Elbein, S. G. 2015. *The Philippines: Dead Air.* <https://pulitzercenter.org/stories/philippines-dead-air>.

54 Daily Inquirer. 2013 *COA files 46 counts of graft vs ex-gov.* <https://newsinfo.inquirer.net/496759/coa-files-46-counts-of-graft-vs-ex-gov>.

Ortega reportedly began receiving death threats in late 2009, which led to the family hiring a personal bodyguard for him.<sup>55</sup> His eldest daughter, Michaella, said the death threats increased in frequency and intensity before his murder, but she 'didn't expect that people would actually act on their threats.'<sup>56</sup> After Ortega's murder, the Ortega family lawyer, Joselito Alisuag, said the broadcaster was a "staunch critic" of illegal mining activities, and that the killing "could only be related to Ortega's journalistic work."<sup>57</sup>

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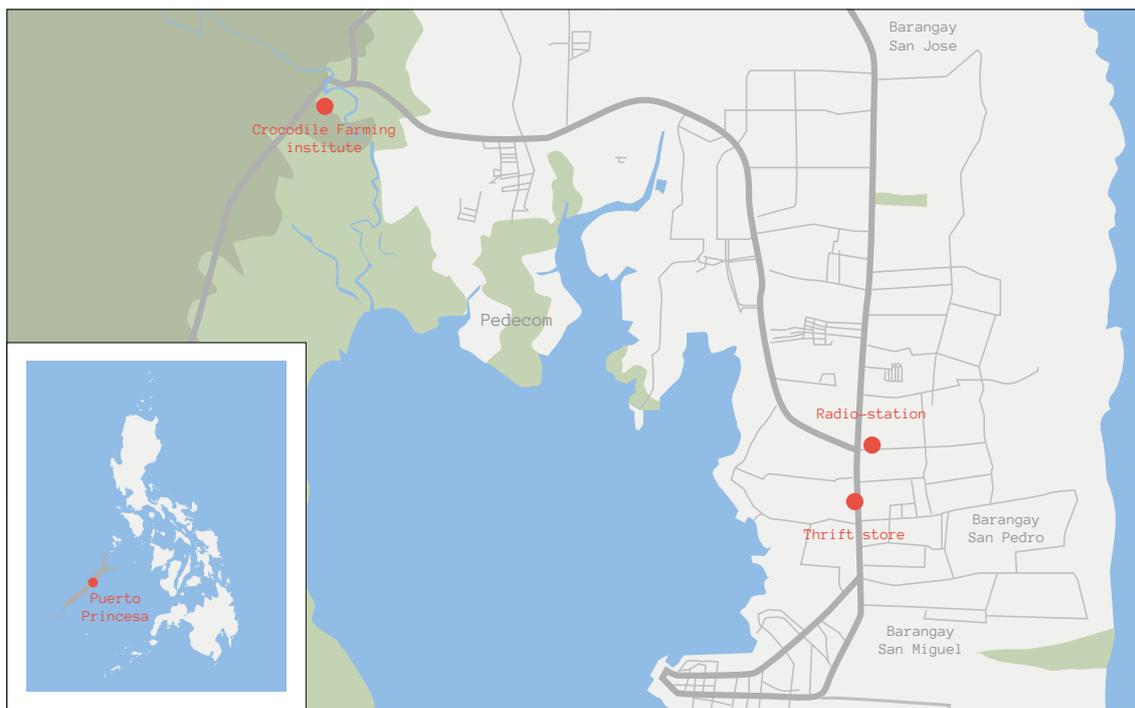
55 Alleco Silverio, I. 2011. *Killed for Anti-Mining Stand? Palawan's 'Doc Gerry' Was Friend of Environment and the Poor*. <https://www.bulatlat.com/2011/01/25/killed-for-anti-mining-stand-palawan-s-'doc-gerry'-was-friend-of-environment-and-the-poor/>.

56 Alleco Silverio, I. 2011. *Killed for Anti-Mining Stand? Palawan's 'Doc Gerry' Was Friend of Environment and the Poor*. <https://www.bulatlat.com/2011/01/25/killed-for-anti-mining-stand-palawan-s-'doc-gerry'-was-friend-of-environment-and-the-poor/>.

57 Rainforest Rescue. 2011. *Press Release: Philippines-Palawan Environmental advocate and journalist shot dead*. <https://www.rainforest-rescue.org/press-releases/3305/philippines-palawan-environmental-advocate-and-journalist-shot-dead>.

### 3. The murder of Gerry Ortega

Gerry Ortega was shot and killed on 24 January 2011 at 10:30 in the morning, in Puerto Princesa City.<sup>58</sup> Our investigation team obtained case files of the murder of Ortega, consisting of sworn affidavits of all the accused and pieces of material evidence about the murder, used by the prosecution. The next sections are based on these documents and show how Gerry Ortega was murdered and how the hit squad's middleman implicated Joel T. Reyes.



Map of Puerto Princesa (province of Palawan), with key locations. Gerry Ortega was murdered in a thrift store close to his veterinary clinic.

After finishing his morning radio programme, Ortega stopped at a thrift store in Bgy. (San Pedro), only a couple of meters from the veterinary clinic that he shared with his wife Patty Ortega.<sup>59</sup> A gunman approached Ortega from behind and shot him once in the back of the head.<sup>60</sup> The murder weapon, a .45 caliber pistol with serial number 1213618 registered to former provincial administrator of the Palawan province Atty. Romeo M. Seratubias,<sup>61</sup> was later found in a trash bin near the murder scene.<sup>62</sup> A CCTV-camera captured the run-up to the hit.<sup>63</sup> After a brief chase by local firemen who happened to be passing by,<sup>64</sup> the shooter was apprehended and later identified as Marlon Recamata.<sup>65</sup>

58 Center for Media Freedom and Responsibility. 2011. *Family of slain Palawan journalist files MR against dismissal of alleged masterminds, accomplices*. <https://www.cmf-phil.org/2011/07/01/family-of-slain-palawan-journalist-files-mr-against-dismissal-of-alleged-masterminds-accomplices/>.

59 Committee to Protect Journalists. 2011. *Philippine broadcaster gunned down after morning show*. <http://www.cpj.org/2011/01/philippine-broadcaster-gunned-down-after-morning-s.php>.

60 Mike Cohen. 2011. *Who killed Doctor Ortega, Dad?* <http://www.abs-cbnnews.com/insights/01/26/11/who-killed-doctor-ortega-dad>.

61 Romeo M. Seratubias. 2011. *Counter Affidavit, NPS Docket No. IV-17-INQ-11A-00005 for Murder*.

62 Cruz, N. H. 2011. *The assassination of Doc Gerry Ortega*. <https://opinion.inquirer.net/7041/the-assassination-of-doc-gerry-ortega>.

63 Some of this CCTV footage can be found here: <https://www.youtube.com/watch?v=Qy3qOQDTisU>.

64 Affidavit of Patria Gloria A. *Innocencio-Ortega, sworn before OIC Senior Deputy State Prosecutor Theodore M. Villanueva*. 14 February 2011. <https://www.scribd.com/doc/54448686/Supplemental-Affidavit-Complaint-Patria-Gloria-Ortega>.

65 *Case Files. 24 January 2011. Marlon Recamata's sworn statement*.

## Confessions of the hit squad and the implication of Joel T. Reyes

All members of the hit squad, including middleman Rodolfo Edrad, were either arrested or turned themselves in a few weeks after Ortega's murder. Recamata, a construction worker from Pagbilao, Quezon province, pleaded guilty and was sentenced to life imprisonment on 7 May 2013, by Judge Angelo R. Arizala.<sup>66-67</sup> Recamata said he received an initial payment of P10,000 (around 243 Dollar) to carry out the murder.<sup>68</sup> "Cell phones and gadgets cost more than my father's life," Ortega's daughter Michaella later said.<sup>69</sup>

After his arrest, Recamata named his accomplices Dennis Aranas and Armando Noel.<sup>70</sup> From their home province in Quezon, they arrived in Palawan on 19 January 2011 via a Cebu Pacific flight.<sup>71</sup> Recamata said they were hired by Rodolfo Edrad, one of Palawan Governor Joel T. Reyes' bodyguards.<sup>72</sup> To convince the men to carry out the murder, Edrad initially fabricated the story that their target, Ortega, had 'molested a young girl' and her father wanted him dead.<sup>73-74</sup>

In their sworn statements, members of the hit squad implicated governor of Palawan Joel T. Reyes. Dennis Aranas, who acted as a lookout, was arrested in Coron, Palawan on 28 January 2011<sup>75</sup> and confessed his participation to the National Bureau of Investigation (NBI).<sup>76</sup> Aranas said he learned through Edrad and Armando Noel that Reyes had ordered the hit.<sup>77</sup> He said he wanted to back out but was too scared, since he already knew too much about the plan.<sup>78</sup> On the day of the killing, Aranas tried to warn Ortega by making two calls to the pet shop's phone number.<sup>79</sup> When his calls failed to get through, Aranas fled the scene on a tricycle.<sup>80</sup> Aranas was put under NBI custody but was eventually moved to the Quezon Provincial Jail because of another murder case for which he was being charged.<sup>81</sup> On 5 February 2013, he was found hanging in his prison cell, triggering an unsolved debate about whether he committed suicide or was silenced for his role as a witness.<sup>82</sup>

Statements and records also show that, according to Edrad, the plan to kill Ortega was hatched as early as June 2010. When Edrad surrendered on 5 February 2011,<sup>83</sup> he told investigators that his former boss and Marinduque province governor, Jose Antonio Carrion,<sup>84</sup> told him about the plan to kill two journalists in Palawan.<sup>85-86</sup> Edrad

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66 Committee to Protect Journalists. 2013. *News of Conviction in journalist murders sadly infrequent*.

<https://cpj.org/2013/05/news-of-convictions-in-journalist-murders-sadly-in/>.

67 Angelo Arizala was a judge of the Branch 52 of the Regional Trial Court in Palawan and Puerto Princesa City.

68 Case Files. 24 January 2011. Marlon Recamata's sworn statement.

69 Committee to Protect Journalists. 2013. *News of Conviction in journalist murders sadly infrequent*.

<https://cpj.org/2013/05/news-of-convictions-in-journalist-murders-sadly-in/>.

70 Case Files. 24 January 2011. *Marlon Recamata's sworn statement*

71 Case Files. 24 January 2011. *Marlon Recamata's sworn statement*

72 Case Files. 24 January 2011. *Marlon Recamata's sworn statement*

73 Case Files. 24 January 2011. *Marlon Recamata's sworn statement*

74 Case Files. 22 February 2011. Dennis Aranas' sworn statement.

75 Philippine Daily Inquirer. 2011. Another Ortega slay suspect nabbed.

<https://www.pressreader.com/philippines/philippine-daily-inquirer-1109/20110130/283128540320635>.

76 Case Files. 22 February 2011. *Dennis Aranas' sworn statement*.

77 Case Files. 22 February 2011. *Dennis Aranas' sworn statement*.

78 Case Files. 22 February 2011. *Dennis Aranas' sworn statement*.

79 Case Files. 22 February 2011. *Dennis Aranas' sworn statement*.

80 Case Files. 22 February 2011. *Dennis Aranas' sworn statement*.

81 Case Files. 31 May 2012. Regional Trial Court Br. 62 Gumaca Quezon Transfer Order to Quezon Provincial Jail.

82 Department of Interior and Local Government. 2013. *NBI autopsy on Aranas points to asphyxia but BJMP says probe to continue*.

<https://dilg.gov.ph/news/NBI-autopsy-on-Aranas-points-to-asphyxia-but-BJMP-says-probe-to-continue/NC-2014-657>.

83 Rappler. 2015. *Timeline: Gerry Ortega murder case*.

<https://www.rappler.com/newsbreak/iq/106638-timeline-gerry-ortega-murder-case/>.

84 Jose Antonio Carrion denies involvement in the murder of Gerry Ortega.

85 Case Files. 6 February 2011. Rodolfo Edrad Jr.'s sworn affidavit.

86 Interview 14 (Rodolfo Edrad), Manila. 17 September 2021. Rodolfo Edrad Jr. said he never knew who the second journalist target was.

had then worked for Reyes, one of Carrion's gambling buddies.<sup>87</sup> In July 2010, Reyes told Edrad he wanted two people killed 'for giving him headaches' but preferred it done toward the end of the year so people would think the gunshots were just 'firecrackers' being set off for the New Year.<sup>88</sup> Edrad believed Reyes wanted Ortega dead because of the latter's work as a journalist.<sup>89</sup>

Edrad was paid P150,000 (around 2,000 Dollar) to recruit his team and lay the groundwork.<sup>90</sup> For directly implicating Joel T. Reyes and providing the links to Carrion, as well as Reyes' brother and Coron Palawan Mayor Mario T. Reyes,<sup>91</sup> Edrad became a key witness for the state. The murder charge against him was dropped and Edrad was placed under the Department of Justice's Witness Protection Program (WPP) on 19 June 2012.<sup>92</sup> In his supplemental affidavit, Edrad said he was offered P25 million (490,000 Dollar) to retract his statement against Reyes and the other government officials.<sup>93</sup> But "I refused, and will continue to refuse, any bribe offered to me. The truth cannot be bought. I will not and will never recant," he said.<sup>94</sup>

Armando Noel surrendered on 10 February 2011.<sup>95</sup> It was he who introduced the gunman, Recamata, to Edrad, after the botched attempt to kill Ortega in December 2010. Noel and another accused, Arwin Arandia, went to Palawan on Edrad's instructions.<sup>96</sup> Noel said that they had a chance to shoot Ortega on 24 December 2010, but realized they 'both could not do it' and 'decided to return to Manila.'<sup>97</sup> While Armando Noel was present during the successful hit, Arandia was not. Arandia surrendered to the NBI on 28 February 2011. While he did not mention Joel T. Reyes specifically, Arandia said that on one occasion Edrad mentioned a certain 'Guv'<sup>98</sup> described as 'someone powerful' who ordered the hit on Ortega.<sup>99</sup>

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87 Philippine Daily Inquirer. 2011. *Witness nails 2 ex-govs on Ortega slay*.  
<https://newsinfo.inquirer.net/23524/witness-nails-2-ex-govs-on-ortega-slay>.

88 Case Files. 6 February 2011. *Rodolfo Edrad Jr.'s sworn affidavit*.

89 Interview 14, Manila. 17 September 2021.

90 Case Files. 6 February 2011. *Rodolfo Edrad Jr.'s sworn affidavit*.

91 Case Files. 6 February 2011. *Rodolfo Edrad Jr.'s sworn affidavit*. Hours after the murder, Edrad met with Mario T. Reyes Jr., who gave him another P500,000, the cash meant for them to hide.

92 Philippine Daily Inquirer. 2012. *Witness stricken off list of accused*.  
<https://newsinfo.inquirer.net/216683/witness-stricken-off-list-of-accused>.

93 Case Files. 15 April 2011. *Rodolfo Edrad Jr.'s supplemental counter-affidavit*.

94 Case Files. 15 April 2011. *Rodolfo Edrad Jr.'s supplemental counter-affidavit*.

95 Rappler. 2015. *Timeline: Gerry Ortega murder case*.  
<https://www.rappler.com/newsbreak/iq/106638-timeline-gerry-ortega-murder-case/>.

96 Case Files. 13 February 2011. *Armando Noel Jr.'s sworn statement*.

97 Case Files. 13 February 2011. *Armando Noel Jr.'s sworn statement*.

98 In the Philippines, a governor is often colloquially referred to as 'guv' or 'gov.'

99 Case Files. 28 February 2011. *Arwin Arandia's sworn statement*.

# 4. Investigation and prosecution of the perpetrators

The investigation and prosecution that followed after the murder of Gerry Ortega provides an example of how a powerful actor can escape justice. As the next paragraphs will highlight, the First Panel of government prosecutors, tasked with the preliminary investigation into the murder of Gerry Ortega, indicted the members of the hit squad but dropped the charges against Joel T. Reyes and his co-conspirators.<sup>100</sup> This action sparked a long complex legal back-and-forth.<sup>101</sup> The paragraphs below detail how this legal back-and-forth unfolded, and how it severely delayed justice.

## The First Panel of investigators

In the Philippines, criminal prosecution begins by filing a complaint with a prosecutor. The prosecutor then conducts a preliminary investigation and evaluates the evidence to determine whether or not there is probable cause to proceed with a court trial.<sup>102</sup> After Ortega's murder, Department of Justice (DOJ) Secretary Leila De Lima created a special panel of prosecutors (the First Panel)<sup>103</sup> to conduct such a preliminary investigation on 7 February 2011.<sup>104</sup>

During the First Panel's investigation, Ortega's family filed a formal complaint on 14 February 2014 and named Reyes as mastermind and his personal associates Carrion, his brother Mario, Seratubias, Arturo Regalado, and Percival Lecias as co-conspirators.<sup>105-106-107</sup> Other respondents named were the members of the hit squad.<sup>108</sup> Reyes denied being in any way involved in the Ortega murder.<sup>109</sup> In his counter-affidavit, he argued that Edrad's statement alone could not be used against him without corroborating evidence.<sup>110</sup> Reyes also invoked the principle of "*res inter alios acta*"<sup>111</sup> and claimed that Edrad's confession was 'binding' only to himself and not to Reyes or any of the respondents.<sup>112</sup>

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100 Department of Justice. 2011. *Resolution 8 June 2011*.

101 Case Files. 2019. *Court of Appeals. Amended Decision CA-G.R. SP No. 132847*.

102 Rules of Criminal Procedure. 2000. <https://www.set.gov.ph/resources/revised-rules-of-court/2000-rules-of-criminal-procedure/>.

103 The First Panel was composed of Senior Assistant Prosecutor Edwin S. Dayog, Assistant State Prosecutor Bryan Jacinto S. Cacha, and Assistant State Prosecutor John Benedict D. Medina. See: Case Files. 7 February 2011. *Department of Justice Order No. 091 Designation of Personnel*.

104 Case Files. 7 February 2011. *Department of Justice Order No. 091 Designation of Personnel*.

105 Philippine Star. 2011. *Ortega family files murder raps vs ex-Palawan executive*.  
<https://www.philstar.com/headlines/2011/02/15/657247/ortega-family-files-murder-raps-vs-ex-palawan-executive>.

106 Also named were Regalado, a former security officer of Reyes, who purchased the murder weapon registered under Seratubias (See: Case Files. 28 February 2011. *Arturo Regalado's supplemental affidavit*) with money wired to him by Lecias, a provincial government employee (Case Files. 26 January 2011. *Percival Lecias' sworn affidavit*).

107 Mario Reyes, Seratubias, Arturo Regalado, and Percival Lecias have all denied their involvement into the murder. Sera-tubias and Lecias have deceased from natural causes.

108 Philippine Star. 2011. *Ortega family files murder raps vs ex-Palawan executive*.  
<https://www.philstar.com/headlines/2011/02/15/657247/ortega-family-files-murder-raps-vs-ex-palawan-executive>.

109 ABS-CBN. 2011. *Ex-Palawan gov denies hand in Ortega murder*.  
<https://news.abs-cbn.com/nation/regions/02/10/11/ex-palawan-gov-denies-hand-ortega-murder>.

110 Case Files. 31 March 2011. *Joel T. Reyes' counter-affidavit*.

111 *Res inter alios acta* is a legal principle that means that the rights of a party cannot be prejudiced by an act, declaration, or omission of another.

112 Case Files. 31 March 2011. *Joel T. Reyes' counter-affidavit*.

Agreeing with Reyes, on 8 June 2011, the First Panel dismissed the complaint against Reyes and his associates because of insufficient evidence.<sup>113</sup> It did recommend the filing of a murder case against contract killers Edrad,<sup>114</sup> Noel, and Aranas. The First Panel argued that without any corroboration, Edrad's testimony could not be admitted as evidence.<sup>115</sup> It said: "The alleged conversations between Governor Reyes and Mr. Edrad that purport to show that the former masterminded the killing of Doc Gerry; the alleged payment to Edrad by Governor Reyes of P15,000 {294 U.S. Dollar} in Marriott Hotel on 4 July 2010 and P100,000 {1,965 U.S. Dollar} in Dasmarinas Village on 8 January 2011; and the alleged payment by respondent Mayor Reyes to Edrad of P500,000 (9,825 U.S. Dollar) in Ayala Alabang on request of Gov. Reyes, rest solely on the statements of Edrad in his extrajudicial confession and no independent evidence corroborates any such statements."<sup>116</sup> In effect, the First Panel disregarded an important part of Edrad's statement, i.e. the details of the transaction between Reyes and Edrad, as well as the individual roles Reyes' associates played in the murder.<sup>117</sup>

Ortega's family appealed the First Panel's decision by filing a Motion to Re-Open Preliminary Investigation and a Motion for Partial Reconsideration on 28 June and 7 July 2011.<sup>118</sup> In their petitions, the Ortega family sought the admission of a new piece of evidence: the text messages between Reyes and Edrad.<sup>119</sup> These contained an exchange that took place a few days before and after the murder and could establish that Reyes was the mastermind.<sup>120</sup> A part of the conversation went as follows with Reyes telling Edrad: 'Hopefully, upon my return, the problem is over.'<sup>121</sup> Hours after Ortega was shot, Edrad told Reyes: 'He's dead' to which Reyes replied 'Okay. Be safe.'<sup>122</sup>

However, both petitions were denied by the First Panel on 2 September 2011.<sup>123</sup> According to the prosecutors, the petitions were 'filed out of time.'<sup>124</sup> and admitting additional evidence presupposes that no decision has been made yet. 'Since a resolution has already been promulgated by the panel of prosecutors in this case, the motion to re-open the preliminary investigation is not proper and has to be denied' it said.<sup>125</sup>

## The Second Panel and the Court of Appeals

After the First Panel's decision, Justice, Secretary De Lima, formed a new panel of prosecutors (the Second Panel) in 'the interest of service and due process,'<sup>126</sup> to review the First Panel's recommendation and assess the additional evidence submitted to it.<sup>127-128</sup> Reyes opposed the review and challenged the creation of the Second Panel. He argued that there was no new evidence and that De Lima 'gravely abused her discretion' by creating another panel.<sup>129</sup> On 3 October 2011, Reyes sought a temporary restraining order from the Court of Appeals in an attempt to block the re-investigation.<sup>130</sup>

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113 Department of Justice. 2011. *Resolution 8 June 2011*.

114 The murder charge against Rodolfo Edrad was later dropped as he became a state witness in June 2012.

115 Department of Justice. 2011. *Resolution 8 June 2011*.

116 Department of Justice. 2011. *Resolution 8 June 2011*.

117 Department of Justice. 2011. *Resolution 8 June 2011*.

118 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

119 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

120 Case Files. 14 February 2011. *Patri Ortega. Supplemental-Affidavit Complaint*.

121 Case Files. 6 February 2011. *Rodolfo Edrad Jr.'s sworn affidavit*.

122 Case Files. 6 February 2011. *Rodolfo Edrad Jr.'s sworn affidavit*.

123 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

124 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

125 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

126 Case Files. 7 September 2011. *Department of Justice Order No. 710 Designation of Personnel*.

127 Case Files. 7 September 2011. *Department of Justice Order No. 710 Designation of Personnel*.

128 Composition of the Second Panel: Assistant State Prosecutors Stewart Allan A. Mariano, Vimar M. Barcellano, and Gerard E. Gaerlan.

129 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

130 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision. G.R. No. 209330*.

The Second Panel issued subpoenas and ordered Reyes to appear before them on 6 and 13 October 2011.<sup>131</sup> On 12 March 2012, it reversed the First Panel's resolution and, after admitting the text messages as evidence, found probable cause to charge Reyes, his brother Mario, Seratubias, Regalado, and Lecias with murder.<sup>132</sup> Two weeks later, Joel T. Reyes and his brother fled the country, after which Branch 52 of the Regional Trial Court issued arrest warrants.<sup>133</sup> However, on 19 March 2013 the Court of Appeals rendered the Department of Justice Order (No. 710) that created the Second Panel 'null and void.'<sup>134</sup> Thereafter Secretary of Justice Leila de Lima appealed this decision at the Supreme Court, while the trial proceeds. On 20 September 2015, acting on an Interpol tip, the Reyes brothers were arrested by Thai authorities for violation of immigration laws and were deported to the Philippines, after which he was detained in the Puerto Princesa City Jail.<sup>135-136</sup>

Joel T. Reyes was released after three years. On 4 January 2018, after Joel T. Reyes filed multiple petitions, the Court of Appeals nullified the arrest orders issued by the Palawan court.<sup>137</sup> The Court of Appeals questioned Edrad's credibility as a witness and ordered the Reyes brothers' immediate release.<sup>138</sup> In a statement Secretary of Justice de Lima described this exoneration as one of the 'judicial miracles' that allowed the powerful and influential to evade justice.<sup>139</sup>

Just weeks after his release, Reyes was returned to custody for a different graft conviction in relation to the anomalous issuance of a mining permit in Palawan.<sup>140-141</sup> Subsequently, on 20 December 2019, a new bench of judges of the Court of Appeals reversed the 2018 decision and ordered the Palawan court to resume its trial.<sup>142</sup> Currently, more than two years after this decision, the case is back on Judge Angelo Arizala's bench at the lower court in Palawan. The hearings and trials are expected to resume, but Ortega's daughter, Michaela, said they are given scant information on any progress.<sup>143</sup> On 14 July 2021, Judge Angelo Arizala of Branch 52 of the Regional Trial Court (RTC) of Palawan issued a fresh arrest warrant for Reyes for the Ortega murder case.<sup>144</sup> Over 6 months later, this arrest warrant has not been executed and Joel T. Reyes remains at large.

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131 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision*. G.R. No. 209330.

132 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision*. G.R. No. 209330.

133 Case Files. 11 January 2016. *Secretary Leila de Lima v. Mario Joel T. Reyes Decision*. G.R. No. 209330.

134 Supreme Court Second Division. 2016. G.R. No. 209330.

135 Bangkok Post. 2015. *Fugitive Philippine politicians nabbed in Phuket*.

<https://www.bangkokpost.com/world/701204/fugitive-philippine-politicians-nabbed-in-phuket>.

136 Philippine Daily Inquirer. 2012. *Aquino ups reward for Palparan, Reyes et. al.*

<https://newsinfo.inquirer.net/251212/palparan-bounty-raised-to-p2-million>.

137 Philstar.com. 2018. *CA orders release of ex-Palawan governor suspect in Gerry Ortega slay*.

<https://www.philstar.com/headlines/2018/01/06/1775249/ca-orders-release-ex-palawan-governor-suspect-gerry-ortega-slay>.

138 Philstar.com. 2018. *CA orders release of ex-Palawan governor suspect in Gerry Ortega slay*.

<https://www.philstar.com/headlines/2018/01/06/1775249/ca-orders-release-ex-palawan-governor-suspect-gerry-ortega-slay>.

139 Case Files. 2018. *Sen. Leila M. de Lima's statement on the CA decision absolving former Palawan Gov. Reyes in the Ortega Murder Case*.

140 Rappler. 2021. *Convicted and with warrant, a free Joel Reyes will run for Palawan gov.*

<https://www.rappler.com/nation/elections/joel-reyes-running-palawan-governor-2022/>.

141 The Sandiganbayan, the Philippines' anti-graft court, convicted Reyes in August 2017 over the anomalous issuance of a mining permit in Palawan. The Sandiganbayan committed Reyes to the Camp Bagong Diwa in Taguig City, Metro Manila.

142 Case Files. 2019. Court of Appeals. *Amended Decision CA-G.R. SP No. 132847*.

143 Interview 2, Amsterdam. 10 August 2021.

144 Palawan News. 2021. *New arrest warrant issued vs former governor Joel T. Reyes*.

<https://palawan-news.com/new-arrest-warrant-issued-vs-former-governor-joel-t-reyes/>.

# 5. Flaws in the legal proceedings

More than 10 years after Ortega's murder, multiple legal decisions have left his family without a reasonable opportunity to achieve justice. Despite the new arrest warrant of July 2021, the decade-long delay in getting justice has done damage to the family, and exposed them to substantial burden and risks. The most important flaws during the legal procedures that have led to this sad result are listed below.

## The denial of additional evidence by the First Panel of Prosecutors

The First Panel of investigators applied the doctrine of 'res inter alios acta alteri nocere non debet' even though it was not applicable, therefore unreasonably rejecting evidence.<sup>145</sup> The res inter alios-rule states that extrajudicial confessions by an accused are not admissible evidence against a co-accused.<sup>146</sup> Exceptions to this rule are possible, particularly in cases where defendants acted in conspiracy.<sup>147</sup> But the First Panel did not consider the existence of a conspiracy. Even though Edrad revealed a conspiracy in his sworn statements, the First Panel found that there was no independent and supporting evidence of the conversations between Reyes and Edrad that showed that Reyes masterminded the killing of Gerry Ortega.

Remarkably, the First Panel deemed the evidence for a conspiracy to be insufficient, without having investigated the existence of a conspiracy itself. In addition, the denial of admission of phone conversations between Reyes and Edrad is an infringement of due process. As reiterated by the Supreme Court of the Philippines in multiple cases, a preliminary investigation is merely inquisitorial. The investigation is not aimed at determining the guilt or innocence of the accused, and prosecutor/s do not exercise quasi-judicial, adjudication or rule-making functions.<sup>148</sup> By rejecting the evidence confirming the finding of probable cause against Reyes, the First Panel also exceeded its mandate.

## The Appellate Court's acceptance of former Governor Joel Reyes' petition

One of the reasons for the delay in the prosecution of Reyes was the fact that Reyes successfully appealed the creation of the Second Panel. After Joel Reyes filed his petition before the Court of Appeals, the Court of Appeals nullified the DOJ Second Panel and the arrest orders issued by the Palawan court.

Strikingly however, at that moment the Regional Trial Court, independently of the findings and recommendations by the First Panel and the Second Panel, determined that probable cause existed for the issuance of the warrant for Reyes' arrest.<sup>149</sup><sup>150</sup> Therefore, the Court of Appeals was not in a position to quash the warrant for Reyes' arrest. In January 2016, the Supreme Court acknowledged this and ruled that Reyes' petitions were rendered moot by the fact that the Regional Trial Court had independently established probable cause. By doing so, the jurisdiction over the case had been transferred to the Regional Trial Court. By ignoring this, the Court of Appeals gave Joel T. Reyes another opportunity to evade justice.

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145 Section 28 of Rule 130 of the Rules of Court of the Philippines

146 See *People of the Philippines v. Solito Tena*, G.R. No. 100909, October 21, 1992

147 Section 30 of Rule 130 of the Rules of Court of the Philippines

148 *De Lima, et al. vs Reyes* (G.R. No. 209330, decided on January 11, 2016); *Pilapil v. Sandiganbayan*, G.R. No. I 01978, April 7, 1993, 221 SCRA 349, 357 [Per J. Nocon, En Banc]; 219 Phil. 402 (1985) [Per J. Gutierrez, Jr., En Banc]

149 See *De Lima, et al. vs eyes*, G.R. No. 209330, pages 12-13

150 Criminal Case Docket No. 25727, pending before the Regional Trial Court of Palawan and Puerto Princesa City, Branch 52

## The creation of investigative panels by the Secretary of Justice

The First Panel's decision not to admit the additional evidence from the Ortega family, led the DOJ Secretary to create another investigation panel. This decision was in line with the DOJ's mandate to order a re-investigation in cases where this is deemed necessary to avoid a 'probable miscarriage of justice'<sup>151</sup> However instead of establishing a Second Panel, the Justice Secretary could have opted to review, modify and revise the First Panel's decision.<sup>152</sup> The creation of the Second Panel of prosecutors is therefore not legally erroneous, but did give former Governor Reyes the opportunity to delay the preliminary investigation by – successfully -appealing the creation of the Second Panel.

The correction of the Court of Appeals decision to nullify the creation of the Second Panel took over a year, and compelled the Secretary of Justice De Lima and Dr. Patria Ortega to appeal to the Supreme Court. This investigation thereby shows that, in future cases involving powerful suspects in the killing of journalist/s, the composition of the panel conducting the preliminary investigation is crucial for expeditious proceedings. By using her existing power to review and/or reverse decisions of the First Panel, rather than establishing a second panel to conduct a re-investigation, the Justice Secretary could have prevented this painful delay.

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<sup>151</sup> Section 4, RA 10071; See also De Lima, et al. vs Reyes (G.R. No. 209330, decided on January 11, 2016).

<sup>152</sup> Section 4 of Republic Act No. 10071 or the Prosecution Act of 2010, states.

# 6. New findings that shed light on the power of Reyes and his possible involvement in the murder of Gerry Ortega

Keeping in mind the potential shortcomings in the prosecution of Joel T. Reyes, our own investigation focused on those leads that could shed more light on Joel Reyes' possible intellectual authorship in the murder, and the question of how he was able to evade justice for more than a decade. The key observations from this investigation are listed below. Overall, these observations further highlight the power that Joel T. Reyes still has in Palawan, and how witnesses of the case have been endangered.

## Reyes walks free and returns to politics

During our investigation, we found strong indications that Joel T. Reyes still wields influence over local public officials, enabling him to escape the rule of law.

The first indication of this power is Joel T. Reyes' ability to travel freely between Philippine islands despite a tight Covid-19 lockdown banning people from doing so.<sup>153</sup> Joel T. Reyes was released from prison in April 2021, after completing his sentence in a graft case over an illegal small-scale mining permit in Puerto Princesa in 2006.<sup>154-155</sup> After his release, Reyes traveled to Coron island. This was confirmed to us by a Coron councilor and a former schoolmate (with whom he had frequent contact), interviewed for this investigation.<sup>156-157</sup> Ervin Plando, Chief of Police of Coron Municipal Police Station, also confirmed that Reyes was sighted in Coron with his 'investor friends.'<sup>158</sup>

The second indication of this power is that, despite a newly issued arrest warrant, Reyes was not arrested. As noted above, on 14 July 2021 Judge Angelo Arizala of Branch 52 of the Regional Trial Court of Palawan, issued a new warrant to arrest Reyes for the Ortega murder case,<sup>159</sup> despite which he was not arrested. At the same time, the public official and former friend of Joel T. Reyes confirmed that he was still in Coron, Palawan and in Metro Manila.<sup>160</sup>

When asked why Reyes had not yet been arrested, Chief of Police Plando said that 'after the new arrest warrant was issued, he was never seen again in Coron. I talked to his brother, Mayor Marjo Reyes, and according to him, even he doesn't know where his brother is. He said they are letting his lawyers file the motion at court. However, we know through other sources that there is a new arrest warrant against former governor Reyes.'<sup>161</sup> Plando argued that there was continuous 'monitoring of his presence' in Coron.<sup>162</sup>

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153 In April, the Philippines experienced a peak of reported Covid-19 infections.

154 Interview Ervin Plando, Coron. 6 September 2021.

155 Inquirer. 2017. *Ex-Palawan gov Joel Reyes gets 6 to 8 years, lifetime gov't ban for graft.* <https://newsinfo.inquirer.net/926710/ex-palawan-gov-joel-reyes-gets-6-to-8-years-lifetime-govt-ban-for-graft>.

156 Interview 18, Puerto Princesa City. 24 September 2021

157 Interview 19, Puerto Princesa City. 1 July 2021.

158 Interview Ervin Plando, Coron. 6 September 2021.

159 Palawan News. 2021. *New arrest warrant issued vs former governor Joel T. Reyes.* <https://palawan-news.com/new-arrest-warrant-issued-vs-former-governor-joel-t-reyes/>.

160 Interview 18, Puerto Princesa City. 24 September 2021; Interview 19, Puerto Princesa City. 1 July 2021.

161 Interview Ervin Plando, Coron. 6 September 2021.

162 Interview Ervin Plando, Coron. 6 September 2021.



One of Joel T. Reyes' campaigning posts on Facebook, posted on 29 November 2021. Translated to English: Bring back honor and zeal in Palawan.

Over time, these statements concerning the lack of opportunity to arrest Joel T. Reyes became less convincing. During an interview on 19 August 2021, one of Reyes' closest relatives and spokesperson, Rolando Bonoan Jr., told us that he was aware of the arrest warrant and implied that the arrest warrant may have been politically motivated.<sup>163</sup> He also insinuated that Reyes could still run for any political position, despite being convicted of graft in a mining case in 2017.<sup>164</sup> This insinuation became clearer in an interview on 27 September 2021, during which Rolando Bonoan confirmed that Joel T. Reyes was set to file his certificate of candidacy for the gubernatorial elections of 2022.<sup>165</sup> On 1 October 2021, Joel T. Reyes did indeed file his candidacy.<sup>166</sup> The fact that several of Reyes' relatives, including his own spokesperson, knew of his whereabouts and that Reyes publicly filed his candidacy for the gubernatorial elections of 2022, indicates a lack of willingness of the Philippine National police to arrest Reyes. This implies that Joel T. Reyes still has influence over public officials.

### Threats to middleman and key witness Rodolfo Edrad

During our investigation, we found multiple indications that Edrad was threatened and attacked for implicating Reyes in the murder of Ortega. In an interview with Edrad, conducted for this investigation, Edrad said that, on 25 August 2021, two men armed with an M16 rifle riddled his house with bullets.<sup>167</sup> This was corroborated by former mayor of Puerto Princesa City, Edward Hagendorn, who led Edrad's arrest and stayed in contact with him afterwards.<sup>168</sup> The incident was officially recorded in the Pagbilao Quezon police files and subsequently became the basis for a case of attempted murder that Edrad filed in court.<sup>169-170</sup>

163 Interview with Rolando Bonoan Jr., 11 August 2021. Palawan.

164 Interview with Rolando Bonoan Jr., 11 August 2021. Palawan.

165 Interview with Rolando Bonoan Jr., 27 September. Palawan.

166 Palawan News. 2021. *Former governor Joel T. Reyes eyes return to Palawan politics*. <https://palawan-news.com/jtr-eyes-return-to-palawan-politics/>.

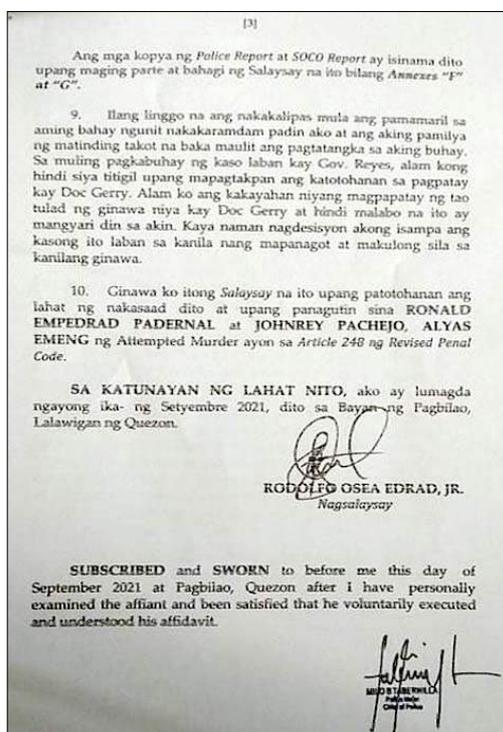
167 Interview 14, Manila. 17 September 2021.

168 Interview Edward Hagendorn, 8 September 2021.

169 Case Files. 25 August 2021. *Pagbilao Police. Report number 2021-08-1474*.

170 Case Files. 30 September 2021. *Lucena Regional Trial Court. Investigation Data Form 09*.

Remarkably, a few weeks before the attack incident, on 8 August 2021, a local police officer paid Edrad a visit.<sup>171</sup> The police officer allegedly told Edrad that he was sent by Reyes and offered him a “large sum of money” in exchange for a new testimony that would exonerate the former governor.<sup>172</sup> Edrad refused, and the same police officer was later identified by Edrad as one of the shooters in the attack<sup>173</sup>



The final page of Edrad’s complaint to the Quezon Police after the attack

Edrad increasingly feared for his life, as suspicious persons began roaming the vicinity at night. Since he felt he could no longer leave the house and earn a living as a fisherman, he and his family relied on neighbours for sustenance.<sup>174</sup> Edrad reported the attack to the Department of Justice (DOJ)<sup>175</sup> but was told the government could not send a security detail since, due to the COVID-19 pandemic, it was understaffed.<sup>176-177</sup> The DOJ offered to move him into a WPP safehouse instead, but Edrad said he needed to think it over.<sup>178</sup> Edrad was torn between his safety and the effects his stay in the WPP facility would have on his family.<sup>179</sup> The P10,000 (around 196 U.S. dollar) monthly state allowance was not enough to feed his family or send his children to school, but since his movement was restricted to the safehouse he could not make a living.<sup>180</sup> In 2017, Edrad left the safehouse and chose protection under the Outside Temporary Shelter (OTS) programme.<sup>181</sup> Other witnesses, Arwin Arandia and Amrando Noel Jr., had also terminated their registration with the WPP a long time ago for the same reasons, he said.<sup>182</sup>

171 Interview 14, 17 September 2021. Manila

172 Interview 14, 17 September 2021. Manila

173 Interview 14, 17 September 2021. Manila

174 Interview 14, 17 September 2021. Manila

175 Edrad declined to give the investigating team a copy of his letter to the DOJ. He said it was confidential and sharing it might jeopardize his status as a state witness.

176 Interview 14, 17 September 2021. Manila

177 The WPP sent Edrad security during the preliminary investigation of the attempted murder case he filed in relation to the attack.

178 Interview 14, 17 September 2021. Manila

179 Interview 14, 17 September 2021. Manila

180 Interview 14, 17 September 2021. Manila

181 Under the OTS program, Edrad remains a state witness but loses his safehouse, security, and monthly allowance.

182 Interview 14, 17 September 2021. Manila

## The suspicious death of lookout and witness Dennis Aranas

On 5 February 2013, 39 year-old Aranas was found hanging from the ceiling of his prison cell, with the strap of his own bag tied around his neck. Gerry Ortega's family responded to the news by stating that his death could weaken their case against Reyes in the long run,<sup>183</sup> while Aranas' relatives believed he was murdered for his role as a witness in the Gerry Ortega case.<sup>184</sup>

Our investigation identified multiple lapses by the Philippine authorities to manage a death in custody and to effectively investigate the manner of death, in accordance with international protocols. Based on these anomalies, we conclude that to this day the more important question, namely whether Aranas committed suicide or was silenced for his role in the Ortega case, has not been fully resolved.<sup>185</sup> The analysis below is based on the autopsy reports and government records obtained, interviews with the authors of the autopsy reports, and the expert opinion of Professor Duarte Nuno Viera, a forensic pathologist and Chairman of the Scientific Advisory Board of the Prosecutor of the International Criminal Court. We outline the anomalies based on the Guidelines for Investigating Deaths in Custody, set by the International Committee of the Red Cross (ICRC).<sup>186</sup>

### **Failure to inform authorities and preserve the death scene**

One glaring violation of the ICRC Guidelines was the failure by prison guards to notify the police of the unnatural death of a detainee. Because of this, investigators failed to effectively preserve the scene, which was crucial to any investigation.

According to the police report, it was the Aranas family, and not the Quezon Provincial Jail (QPJ) as it should have been, that reported the incident to them at approx. 5:30p.m., several hours after the body was found.<sup>187</sup> Prison Officer, Dennis Daya, told investigators that they did not notify the police because prison warden Ma. Annie A Espinosa wanted Aranas rushed to hospital, thinking he might still be alive.<sup>188</sup> Meanwhile, Assistant Warden, Jaytee Tangcangco, said he did not think it was necessary to call in the police, since QPJ had its own investigating body.<sup>189</sup>

Photos of the scene taken by prison guards showed men in civilian clothes, either prison guards or detainees themselves, interfering with the scene,<sup>190</sup> while there is no mention at all in the case files of any medical personnel as first responder.<sup>191</sup> The decision and actions of prison authorities to move the body rendered an in situ examination impossible.

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183 GMA News Online. 2013. At the time of his death, Ortega slay witness already excluded from Witness Protection Program. <https://www.gmanetwork.com/news/news/nation/294062/at-the-time-of-his-death-ortega-slay-witness-already-excluded-from-witness-protection-program/story/>.

184 Interview 11, Manila. 12 September 2021.

185 Interview 21, Duarte Nuno Viera. 9 October 2021. Amsterdam.

186 ICRC. 2013. *Guidelines for Investigating Deaths in Custody*. [https://www.icrc.org/en/doc/assets/files/publications/icrc-002\\_4126.pdf?fbclid=IwAR2l41rCoFV6muPfrINMR7RwJUWY\\_IeQ3KPeoHxbrSuneGDPTzfnJnjY\\_I](https://www.icrc.org/en/doc/assets/files/publications/icrc-002_4126.pdf?fbclid=IwAR2l41rCoFV6muPfrINMR7RwJUWY_IeQ3KPeoHxbrSuneGDPTzfnJnjY_I).

187 Case Files. 7 February 2013. *Lucena City Police Report*.

188 Case Files. 6 February 2013. *Jail Officer 2 Dennis Daya's sworn statement*.

189 Case Files. 6 February 2013. *Assistant Warden Jaytee Tangcangco's sworn statement*.

190 Inmate Christopher Marquez said prison guards asked help from detainees to cut down the body and carry it out of the cell (Case Files. 6 February 2013. *Christopher Marquez's sworn statement*).

191 Dennis Aranas was pronounced dead on arrival at the Quezon Medical Center at 10:50am on Feb. 5 2013 (Case Files. 5 February 2013. Bureau of Jail Management and Penology Report).



Unidentified men in at the prison cell of Dennis Aranas, where he was found hanging.

## No reliable autopsy performed

Three post-mortem examinations were performed on Aranas, none of which substantially and reliably determined the cause of death.<sup>192</sup> In fact, the autopsies gave conflicting findings. No toxicological analysis, which would have been the first logical step to dispel a possibility that Aranas was hung after being poisoned, was ever done.<sup>193-194</sup>

The first autopsy was performed by Dr. Antonio Vertido of the National Bureau of Investigation (NBI) on 6 February 2013. Vertido concluded that the cause of death was asphyxia by hanging. However, he did not say if it was self-inflicted.<sup>195</sup>

Autopsy Report No. 13-016

Decedent: DENNIS COSINAS ARANAS, 39 yrs, Male, Filipino

Married: Inmate, 43 Int. 19 M. Leonor St., San Pablo City

Identified by: Ma. Elena Aranas, Wife, same as above

Died or found dead: Quezon Medical Center, Lucena City, February 5, 2013, at about 10:30 AM

Allegedly resulting: Hanging, Quezon Provincial Jail, Lucena City, February 5, 2013, at about 7:00 AM

Autopsied at: Funeraria Popular, San Pablo City, February 6, 2013, 3:30 PM, 170 cms

Requesting Officer or Party: Ma. Elena Aranas

**POSTMORTEM FINDINGS**

The photographs of the deceased were taken during the autopsy by the undersigned, Medical Specialist.

**EXTERNAL EXAMINATION:** The bared body was that of a well-nourished adult, Filipino male, in early stage of postmortem decomposition. The tongue was protruding, face was congested. The fingertips and soles were cyanosed. Lividity noted at the back and posterior extremities (upper and lower). Body length was 170 cms.

**EXTERNAL PHYSICAL INJURIES:**

NECK: Ligature mark, contused and abraded running backwards and upwards, located at the neck above the Adam's apple, with a circumference of 31 cms. and width ranging from 1.0 cm. to 2 cms., right extremity, ending at a point, 5 cms. below and 7 cms. behind the right external auditory meatus, while the left extremity ending at a point, 2 cms. below, 13 cms. behind the left external auditory meatus.

**INTERNAL EXAMINATION:**

**HEAD:** Scalp - no hemorrhage present. Skull - no fracture present. Meninges - Dura mater was intact. No extradural, subdural or subarachnoidal hemorrhages present. Leptomeninges were unremarkable. Brain was congested. No intracerebral hemorrhages noted.

NECK: Hemorrhages, interstitial underneath ligature marks noted. Cut section of trachea showed congestion.

**CARDIOVASCULAR SYSTEM:**

HEART: Subendocardial petechial hemorrhages noted. The heart is normal in size. Myocardium was grossly unremarkable.

AORTA: Grossly unremarkable.

Unconvinced by the NBI findings, the families of Aranas and Ortega requested a second autopsy, this time to be carried out by the Public Attorney's Office (PAO).<sup>196</sup> On 10 February 2013, five days after Aranas' death, PAO Forensic Consultant, Dr. Erwin Erfe, performed the second and post-embalming autopsy.

Erfe concluded that the cause of death was asphyxia, secondary to manual (hand) and ligature strangulation. He noted multiple physical injuries including: fingernail marks on the right lateral aspect of the neck; swelling of the periorbital area; hematoma on the left aspect of the lower lip; fingertip marks on the posterior aspect of the right forearm; as well as contused tissue on the right shoulder area, the anterior aspect lower third of both forelegs and other parts of the body.<sup>197</sup> He also concluded that Aranas died in a recumbent (lying) position.<sup>198</sup> He ruled out death by hanging, saying there was no evidence to support this.<sup>199</sup>

Picture of the first autopsy report

The PAO's autopsy thereby indicated foul play and a cover-up,<sup>200</sup> putting pressure on the national government to hold back from ending the investigation at that point. Two months later, on 8 April 2013, independent forensic pathologist Dr. Raquel B. Del Rosario-Fortun was appointed by the court to perform the third post-mortem examination. Despite opposition from Aranas' family, who by now only wanted some peace for their dead,<sup>201</sup> Judge Agripino G. Morga<sup>202</sup> granted the police investigators' request to exhume the body and perform another autopsy.

Dr. Fortun's findings were similar to the first autopsy: Aranas died of asphyxia caused by hanging by ligature. She

192 Interview, Duarte Nuno Viera. 9 October 2021.

193 Interview Duarte Nuno Viera. Amsterdam. 9 October 2021.

194 Citing the "lack of resources" and "practical reasons," Vertido said that as a practice in the Philippines, toxicological analysis is commonly done only in cases of apparent poisoning or intoxication (Interview 17, Manila. 31 October 2021).

195 Case Files. 6 February 2013. National Bureau of Investigation Autopsy Report 13-016.

196 Philippine Daily Inquirer. 2013. Confessed gunman in Ortega murder case fears transfer to Lucena City jail. <https://newsinfo.inquirer.net/355935/confessed-gunman-in-ortega-murder-case-fears-transfer-to-lucena-city-jail>.

197 Case Files. 11 February 2013. *Public Attorney's Office Postmortem Examination of the body of Dennis C. Aranas*.

198 Erfe said the injuries on Aranas' forearm and forelegs and the angle of the ligature mark were consistent with having been sustained while Aranas was recumbent or lying down (Interview 7, Manila. 1 November 2021).

199 Case Files. 11 February 2013. *Public Attorney's Office Postmortem Examination of the body of Dennis C. Aranas*.

200 Department of Interior and Local Government. 11 February 2013. NBI autopsy on Aranas points to asphyxia but BJMP says probe to continue. <https://dilg.gov.ph/news/NBI-autopsy-on-Aranas-points-to-asphyxia-but-BJMP-says-probe-to-continue/NC-2014-657>.

201 Case Files. 19 March 2013. *Order in the Matter of the Request for the Exhumation of the Body of Dennis C. Aranas*.

202 Agripino Morga was the executive judge of the Regional Trial Court in San Pablo City, Laguna at the time.

also concluded his death was suicide.<sup>203</sup> Fortun did not find fingernail marks, contusions or bruises, or any other injury as stated in Erfe's report.<sup>204</sup>

Professor Duarte Nuno Viera, forensic pathologist and Chairman of the Scientific Advisory Board of the Prosecutor of the International Criminal Court, examined the autopsy reports and crime scene photos for this investigation. He concluded that none of the autopsy reports adhere to the minimal international standards for conducting an autopsy.<sup>205</sup> Additionally, according to Duarte Nuno Viera, it is impossible to meaningfully decide between suicide and murder on the basis of an autopsy conducted months after death. An important reason being that it is impossible to conduct a reliable toxicological analysis after so long. Such analysis is necessary to rule out the possibility of Aranas being hung after poisoning. In general, a toxicological analysis should be one of the first logical steps to take, but it is missing in all the reports. In conclusion, despite three autopsies being performed, the question whether Aranas was murdered for his role as a witness in the Ortega case remains unanswered.

### **No public scrutiny of the investigation**

Surprisingly, Fortun's autopsy report was never officially submitted to the investigators nor reported in the press. Fortun said she would have preferred to submit her autopsy report, but since no one bothered to ask for it she opted to keep the file instead. "Maybe they had already forgotten about it," she said.<sup>206</sup> This irregularity also means that the autopsy was not subjected to any public scrutiny. And in light of the fact that custodial deaths may be linked to foul play, and that the detaining authorities have a vested interest in preventing a thorough investigation into a custodial death, such public scrutiny is crucial.<sup>207</sup>

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203 Case Files. Undated. *Autopsy Report Aranas, Dennis C. / Pathological Diagnosis and Opinion*.

204 Interview 6, Manila. 20 August 2021.

205 Interview Duarte Nuno Viera. Amsterdam. 9 October 2021.

206 Interview with Dr. Raquel Fortun on Aug. 20 2021. Manila.

207 ICRC. 2013. *Guidelines for Investigating Deaths in Custody*. [https://www.icrc.org/en/doc/assets/files/publications/icrc-002\\_4126.pdf?fbclid=IwAR2l41rCoFV6muPfrINMR7RwJUWY\\_IeQ3KPeoHxbrSuneGDPTzfnJnjgY\\_I](https://www.icrc.org/en/doc/assets/files/publications/icrc-002_4126.pdf?fbclid=IwAR2l41rCoFV6muPfrINMR7RwJUWY_IeQ3KPeoHxbrSuneGDPTzfnJnjgY_I).

# 7. Conclusions & recommendations

Journalist, Gerry Ortega, reported on corruption within the administration of Governor Joel T. Reyes, was shot and died on the morning of 24 January 2011.

Following the murder, all members of the hit squad were arrested, and the First Panel of investigators was given the task of establishing probable cause in the murder. The middleman of the murder, Rodolfo Edrad, implicated Joel T. Reyes as the mastermind. Also, Gerry Ortega's family presented phone communication to the First Panel, in which Edrad asked Joel T. Reyes for money for executing Ortega. Yet, the First Panel only indicted the hit squad for the murder and did not file charges against Joel T. Reyes, due to the lack of evidence. In an ensuing decade-long legal battle, because of procedural technicalities, Reyes managed to keep the upper hand and therefore managed to escape justice.

A Safer World for the Truth conducted its own investigation into how Joel T. Reyes managed to escape justice. First, we found that Joel T. Reyes still exerts influence over local public officials in Palawan and is therefore able to subvert the rule of law. Second, we found that key witness and middleman in the murder, Rodolfo Edrad, survived a machine-gun attack carried out by men who passed his house on a motorcycle. Edrad has stated that the shooter passed by his home the day before to ask him to withdraw his testimony against Joel T. Reyes. Third, we found that the suspicious death of witness Dennis Aranas, who was found hanging in his prison cell, was never properly investigated.

In light of these findings, A Safer World for the Truth makes the following recommendations to achieve justice for Gerry Ortega, and to prevent future impunity in cases of journalist murders in the Philippines:

→ **To the Department of Justice of the Republic of the Philippines:**

The Department of Justice of the Republic of the Philippines should urge the Philippine National Police to prioritize the arrest of Joel T. Reyes. It should ensure that the Criminal Investigation Division Group, which is part of the Philippine National Police, acts on their arrest warrant.

In future cases of the killing of journalists, the Justice Secretary should select the members of investigating panels of prosecutors based on their verified expertise, particularly in the prosecution of powerful actors and the murder of journalists. It is highly recommended that independent experts from government agencies, such as the National Bureau of Investigation (NBI), and non-governmental institutions are consulted in this process.

The Justice Secretary should be encouraged to use his/her existing power to review and/or reverse decisions of an investigating panel where necessary.

In order to effectively investigate custodial deaths, for example of key witnesses, the Department of Justice - with the National Bureau of Investigation under its office - must ensure that its agents adhere to international standards for effective investigation of deaths in custody, such as those stipulated in the Minnesota Protocol. Records of such investigations should be carefully handled and external experts should have the ability to access these records.

The Department of Justice of the Republic of the Philippines should ensure that the Witness Protection Program provides key witness Rodolfo Edrad with sufficient resources to sustain himself without being exposed to potential physical harm, for example, by ensuring he does not have to work unless security measures are in place.

The Department of Justice of the Republic of the Philippines should proactively monitor the case and further guarantee the safety of other actors: government actors; witnesses; prosecutors and judges, during future legal procedures.

The Department of Justice of the Republic of the Philippines should regularly carry out a monitoring and evaluation of cases of murdered journalists to ensure a speedy investigation and effective response to any gaps in the investigation and prosecution of these cases.

→ **To the Department of the Interior and Local Government of the Republic of the Philippines:**

The Department of Interior and Local Government, with the Bureau of Jail Management and Penology under its office, should ensure that detaining authorities at all times strictly adhere to international standards for the effective investigation of deaths in custody;

The Department of Interior and Local Government, with the Bureau of Jail Management and Penology under its office, should ensure that detaining authorities observe international protocols to safeguard the life and physical integrity of every detainee, to prevent deaths in custody.

→ **To the Philippine National Bureau of Investigations:**

As a result of the alleged involvement of a police officer in the gun attack on key witness Rodolfo Edrad, the impartiality of the Philippine National Police in the case cannot be guaranteed. Therefore, the National Bureau of Investigation should conduct an independent investigation into the attack on Edrad and all other claims by Edrad about security threats.

In order to effectively investigate whether deceased key witnesses in cases of murdered journalists, the National Bureau of Investigations (NBI) should at all times adhere to international standards for investigating crime scenes, deaths in custody and conducting forensic autopsies.

The NBI should align their investigations into murdered journalists with international guidelines, specifically the UNESCO and the International Association of Prosecutors guidelines for prosecutors on cases of crimes against journalists. Thereby it should consider that, in line with Human Rights Council resolution 45/33, the Office of the United Nations High Commissioner for Human Rights offered to provide technical assistance to the government of the Philippines which can be called upon. The NBI should specifically observe the call to investigate the role of all intellectual and material authors in the murder, investigate the link between a journalists' work and the murder, and guarantee the safety of all individuals involved in the investigation.

→ **To the Philippine Congress:**

While Republic Act 6981 formally provides for the protection from physical reprisals and economic dislocation, it currently does not specify the level of financial support, so key witnesses may be forced to work in order to sustain their livelihoods. As a result, key witnesses are exposed to physical harm and intimidation, which can also harm legal procedures. Therefore, the Philippine Congress must revisit its Witness Protection Program, by strengthening and specifying Section 8 of the Republic Act 6981, by defining a level of financial support that is, at least, sufficient for state witnesses to sustain their livelihoods.

→ **To the international community:**

The international community should provide support to achieve justice for Gerry Ortega and to fight impunity in the Philippines, when requested by the government of the Philippines.

Subsequently, the international community should monitor the progress on the prosecution of the suspected mastermind Joel T. Reyes. When requested by Philippine authorities or Gerry Ortega's family, resources and expertise should be made available by the international community to spur the investigation and prosecution.

Support the call for the establishment of a new Special Representative of the UN Secretary General for the Safety of Journalists. Appointed by the Secretary-General, the Special Representative's mandate should include following up on the progress of investigations into attacks on journalists and fostering cooperation with the competent national authorities. In the case of Gerry Ortega, a UN Special Representative could stay in regular contact with the Department of Justice of the Republic of the Philippines to encourage them to take up the case.

\*Both Joel T. Reyes and Menardo I. Guevarra - the Secretary of Justice of the Republic of the Philippines - were asked for a response on the findings of this investigation. Neither of them gave a response.

# Appendix: timeline with key events

24/1/2011	▶	Gerry Ortega is murdered in a thrift store in Puerto Princesa
5/2/2011	▶	The middleman of the hit team that assassinated Gerry Ortega – Rodolfo Edrad – confesses and implicates the Reyes brothers, governor Carrion and Arturo Regalado.
7/2/2011	▶	Secretary of Justice de Lima establishes the first panel of prosecutors (First Panel) for the preliminary investigation.
8/6/2011	▶	The First Panel of Prosecutors finds insufficient evidence against Joel T. Reyes and recommends recommend the filing of a murder case against the arrested members of the hit team.
28/6/2011	▶	Patria Ortega's lawyer (Roque) submits motion to re-open the preliminary investigation, alleging that the National Bureau of Investigations found new evidence that implicates Joel T. Reyes: phone conversation between Edrad and Reyes.
1/7/2011	▶	Patria Ortega submits a motion to reopen the investigation against the alleged masterminds and reconsider the decision of 8/6/2011.
2/9/2011	▶	The First Panel rejects both motions from Ortega and Roque.
7/9/2011	▶	Justice Secretary Leila de Lima formed a Second Panel of Prosecutors (the Second Panel) to reinvestigate the murder. The reinvestigation considered the additional evidence offered by the family, which was refused by the First Panel.
12/3/2012	▶	The Second Panel issues a resolution finding probable cause against Joel T. Reyes.
18/3/2012	▶	The Reyes brothers flee to Vietnam
27/3/2012	▶	The Regional Trial Court (RTC) issues arrest warrants against Reyes and co-accused following the resolution by the Second Panel.
29/3/2012	▶	Governor Reyes files a petition for review to attack the Second Panel's decision of 12/3/2012.
7/2/2013	▶	Dennis Aranas, the accomplice who turned state witness, is found dead in his prison cell.
19/3/2013	▶	The Court of Appeals (10th division) renders the decision by de Lima to instruct the Second Panel void, and reinstates the First Panel's decision of 8/6/2011 and 2/9/2011.
27/9/2013	▶	The Court of Appeals denies the request by the Secretary of Justice de Lima, the Second Panel and Patria Ortega to reconsider its decision of 19/3/2013.
2013	▶	Secretary of Justice Leila de Lima appeals the decision of the Court of Appeals of 27/9/2013 at Supreme Court. Meanwhile the trial is officially proceeding.
11/1/2016	▶	The Supreme Court (2nd division) orders RTC (branch 52) to proceed with the trial of Joel Reyes, thereby transferring jurisdiction over the course to the trial court.
21/9/2015	▶	The Reyes brothers are arrested in Thailand for overstaying their visa, after which they are deported to the Philippines and detained in the Puerto Princesa City Jail
March – August 2017	▶	The Trial against Joel T. Reyes for the misappropriation of the Malampaya fund is taking place. He is sentenced to 6–8 years in prison for graft, but allowed bail while the conviction is under appeal.
12/2019	▶	A new bench of the Court of Appeals reverses the decision, after which the murder trial proceeds again.
4/1/2018	▶	The Court of Appeals (11th division): RTC (branch 52) had no basis to issue the arrest warrants in March 2012 (two dissenting judges). Joel Reyes is released immediately.
04/2021	▶	Joel T. Reyes is released after serving the sentence for his graft conviction.
29/01/2018	▶	Joel T. Reyes is arrested after his bail in the graft case is lifted as a result of flight risk.
14/06/2021	▶	Judge Angelo Arizala of Branch 52 of the Regional Trial Court of Palawan issues a new warrant to arrest Reyes for the Ortega murder case.
08/08/2021	▶	According to Edrad, a local police officer asks him to withdraw his testimony, in which he implicated Joel T. Reyes in exchange for money. Edrad refuses the offer.
25/08/2021	▶	According to Edrad two men armed with an M16 rifle riddled his house with bullet. He identifies one as the local police officer that visited him on 25/08/2021. The incident became the basis for a case of attempted murder that Edrad filed in court.
1/10/2021	▶	Joel T. Reyes files his candidacy for the gubernatorial elections of 2022

# A Safer World For The Truth