Republic of the Philippines

Department of National Defense

Armed Forces of the Philippines

Camp Aguinaldo, Quezon City

SPECIAL GENERAL COURT-MARTIAL Nr 2

CPT ARMANDO P PAREDES, JAGS,

 Accuser,

- versus - For: Viol. of AW 67

Attempting to

Create, Begin, Cause

or Join Mutiny

BGEN DANILO D. LIM AFP,

LTC NESTOR T. FLORDELIZA, PA,

LTC EDMUNDO D. MALABANJOT, PA,

MAJ LEOMAR JOSE M. DOCTOLERO, PA,

CPT MONTANO B ALMODOVAR, JR., PA

CPT ISAGANI O. CRISTE, PA,

CPT JOEY T. FONTIVEROS, PA,

CPT FREDERICK M. SALES, PA

CPT JAMES C SABABAN, PA

CPT DANTE D. LANGKIT, PA,

CPT WILLIAM VICTORINO F. UPANO, PA,

1LT ERVIN C. DIVINAGRACIA, PA,

1LT SANDO U. SEREÑO, PA,

1LT JACON S. CORDERO, PA,

1LT HOMER A. ESTOLAS, PA, and

1LT RICHIEMEL S. CABALLES,

 Accused.

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MOTION

FOR A FINDING OF NOT GUILTY

PREFACE

The first military law enacted by the National Assembly of the Philippines (Commonwealth Act No. 408 which remains the backbone of existing military law in our country) is essentially American in origin. With a few minor amendments, Commonwealth Act No. 408, similar to the American military code of 1928, continues to be the organic law of the Armed Forces of the Philippines. Our system of court martial proceedings therefore on the surface remains essentially identical to the system in force in the United States.

 Paradoxically, developments in our military law have failed to keep up with developments in law both here and in the United States.

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 Thus, ironically, while U.S. military law has dynamically reflected changes and trends in fair trial jurisprudence in enacting provisions giving life to the changes in the law, our military law has been stunted by legislative inaction.

 Obviously, current military law and jurisprudence in the Philippines have failed to respond to actual changes in the fundamental law guaranteeing and expanding the fair trial rights to the accused thereby leaving gaps in military law which enables our system of military justice to ignore on a wholesale basis substantive rights available to all citizens. (Lt. Gen Lisandro Abadia, et al vs. Court of Appeals, et al., G.R. No. 105597. September 23, 1994)

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Thus, the need to resort to American jurisprudence on U.S. laws after which some of our laws were patterned as pronounced by our Supreme Court:

 We have previously stated that in case of laws patterned after or adopted from those of the United States, decisions of United States courts construing similar laws are entitled to great weight. Generally speaking, when a statute has been adopted from another State and such statute has previously been construed by the courts of such State or country, this statute (Philippine) is deemed to have been adopted with the construction so given it. (Carolina Industries vs. CMS Stockbrokerage, Inc., G.R. No. L-54912-13. November 23, 1980)

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 Accused BGEN DANILO D. LIM AFP, LTC NESTOR T. FLORDELIZA, PA, LTC EDMUNDO D. MALABANJOT, PA, MAJ LEOMAR JOSE M. DOCTOLERO, PA, CPT MONTANO B ALMODOVAR, JR., PA, CPT ISAGANI O. CRISTE, PA, CPT JOEY T. FONTIVEROS, PA, CPT FREDERICK M. SALES, PA, CPT JAMES C SABABAN, PA, CPT DANTE D. LANGKIT, PA, CPT WILLIAM VICTORINO F. UPANO, PA, 1LT ERVIN C. DIVINAGRACIA, PA, 1LT SANDO U. SEREÑO, PA, 1LT JACON S. CORDERO, PA, 1LT HOMER A. ESTOLAS, PA, and 1LT RICHIEMEL S. CABALLES, by undersigned counsel, most respectfully move this Honorable Court for a finding of not guilty of the charge and specification of Attempting To Create or Begin, Excite, Cause or Join in A Mutiny filed against them, and humbly argue as follows:

I

THE CHARGE

 The accused are charged with attempting to create or begin a mutiny under the following specification ----

“CHARGE 1: Violation of the 67th Article of War (Attempting to Create or Begin, Excite, Cause or Join a Mutiny)

SPECIFICATION: In that Major General RENATO P. MIRANDA O-6728 Armed Forces of the Philippines, Brigadier General DANILO D. LIM O-7665 Armed Forces of the Philippines, Colonel ARIEL O. QUERUBIN O-7901 Philippine Navy (Marines), Colonel ORLANDO E. DE LEON O-8600 Philippine Navy (Marines), Col. JANUARIO G. CARINGAL 0-8580 Philippine Navy (Marines), Lieutenant Colonel ARMANDO V. BAÑEZ O-8592 Philippine Navy (Marines), Lieutenant Colonel CUSTODIO J. PARCON O-9702 Philippine Navy (Marines), Lieutenant Colonel NESTOR T. FLORDELIZA O-109684 (Quartermaster Service) Philippine Army, Lieutenant Colonel EDMUNDO D. MALABANJOT O-115217 (Infantry) Philippine Army, Lieutenant Colonel ACHILLES S. SEGUMALIAN O-116089 Philippine Navy (Marines), Major JASON LAUREANO Y. AQUINO O-10503 (Infantry) Philippine Army, Major JOSE LEOMAR M. DOCTOLERO O-10124 (Infantry) Philippine Army, Major FRANCISCO DOMINGO R. FERNANDEZ O-10530 Philippine Navy (Marines), Captain ISAGANI O. CRISTE O-11549 (Infantry) Philippine Army, Captain MONTANO B ALMODOVAR O-11572, (Infantry) Philippine Army, Captain JAMES C SABABAN, O-11581 (Infantry) Philippine Army, Captain RUBEN B. GUINOLBAY O-11675 (Infantry) Philippine Army, Captain FREDERICK M. SALES O-11686 (Infantry) Philippine Army, Captain JOEY T. FONTIVEROS O-11713 (Infantry) Philippine Army, Captain WILLIAM F. UPANO O-11876 (Infantry) Philippine Army, Captain DANTE D. LANGKIT O-11957 (Infantry) Philippine Army, Captain ALLAN C. AURINO O-128459 (Finance Service) Philippine Army, First Lieutenant ERVIN C. DIVINAGRACIA O-12742 (Infantry) Philippine Army, First Lieutenant JACON S. CORDERO O-13434 (Infantry) Philippine Army, First Lieutenant HOMER A. ESTOLAS O-13449 (Infantry) Philippine Army, First Lieutenant SANDRO U. SERENO O-131279 (Infantry) Philippine Army, First Lieutenant BELINDA R. FERRER O-132579 Philippine Navy (Marines), and, Second Lieutenant RITCHIEMEL C. CABALLES O-13686 (Infantry) Philippine Army, persons subject to military law, did, on or about February 23, 2006, in Camp Aguinaldo, Quezon City and Fort Bonifacio, Makati City, together with several John Does, conniving, confederating, and mutually helping one another, *each committing individual acts* towards a common design or purpose, attempted to create or begin, excite, cause or join a mutiny by withdrawing their support from President Gloria Macapagal-Arroyo, Commander-in-Chief of the Armed Forced of the Philippines, urging the Chief of Staff of the Armed Forces of the Philippines and other officers and enlisted personnel to likewise withdraw their support from the President, and attempting to join the protest actions of the so-called civil society groups and political oppositions calling for the President’s resignation, with the intent to usurp, subvert and/or override lawful authority. [emphasis supplied]

 In other words, the charge sheet says that the accused attempted to create, begin, excite, cause or join a mutiny by (1) withdrawing their support from President Gloria Macapagal-Arroyo, Commander-in-Chief of the Armed Forced of the Philippines, (2) urging the Chief of Staff of the Armed Forces of the Philippines and other officers and enlisted personnel to likewise withdraw their support from the President, and (3) attempting to join the protest actions of the so-called civil society groups and political oppositions calling for the President’s resignation, with the intent to usurp, subvert and/or override lawful authority.

But how does one commit mutiny or attempted mutiny?

 Our own 1939-vintage Manual for Courts-Martial provides:

“136. sixty-seventh ARTICLE OF WAR (MUTINY)

a. attempting to create a mutiny or sedition – *Discussion –* Mutiny imports collective insubordination and necessarily includes some combination of two or more persons in resisting lawful military authority. Sedition implies the raising of commotion or disturbance against the State; it is a revolt against legitimate authority and differs from mutiny in that it implies a resistance to lawful civil power. The concept of insubordination contemplated in mutiny or sedition need not be preconceived, nor is it necessary that the act of insubordination be active or violent. It may consist simply in a persistent and concerted refusal or omission to obey orders, or to do duty, with an insubordinate intent.

For purposes of this Article of War (67) an attempt includes all acts done with specific intent to commit the particular crime and proximately tending to, but falling short of its consummation. There must be an apparent possibility to commit the crime in the manner specified. Voluntary abandonment of purpose after an act constituting a attempt, while material in extenuation, is not a defense.

The intent which distinguishes mutiny or sedition is the intent to resist lawful authority in combination with others. The intent to create a mutiny or sedition may be declared in words, or, as in all other cases, it may be inferred from acts done, or from the surrounding circumstances. A single individual may harbor an intent to create a mutiny and may commit some overt act tending to create a mutiny or sedition, and so be guilty of an attempt to create a mutiny or sedition, like whether he was joined by others or not, or whether a mutiny or sedition actually followed or not.

*Proof –* (a) An act or acts of accused which proximately tended to create a certain intended [or actual] collective insubordination; (b) a specific intent to create a certain intended [or actual] collective insubordination; and (c) that the insubordination occurred or was intended to occur in a company, party, post, camp, detachment, guard, or other command in the Army of the Philippines.

b. Beginning or joining in a mutiny or sedition – *Discussion –* See Subsection 136*a.* There can be no actual mutiny or sedition until there has been an overt act or insubordination joined by two or more persons. Therefore, no person can be found guilty of beginning or joining in a mutiny unless an over act of mutiny is proved. A person is not guilty of beginning a mutiny unless he is the first, or among the first, to commit an overt act of mutiny; and a person can not join in a mutiny without joining in some overt act. Hence, the presence of the accused at the scene of mutiny is necessary in these two cases.

*Proof –* (a) The occurrence of certain collective insubordination in a company, party, post, camp, detachment, or other command of the Army of the Philippines; and (b) that the accused began or joined in such collective insubordination.

c. Causing or exciting a mutiny or sedition – *Discussion –* See Subsection 136*a.* As in Subsection 136*b,* no person can be found guilty of causing or exciting a mutiny unless an overt act of mutiny follows his efforts. But a person may excite or a cause a mutiny without taking personal part in it, or being present at, the demonstrations of mutiny which results from his activities.

*Proof –* (a) The occurrence of certain collective insubordination in a certain company, party, post, camp, detachment, guard, or other command in the Army of the Philippines; and (b) acts of the accused tending to cause or excite the certain collective insubordination.”

 Upon the other hand, the US Manual for Courts-Martial, after which the AFP Manual for Courts-Martial was patterned, defines Mutiny and provides for its elements as follows:

“18. Article 94—Mutiny

a. Text of statute.

Any person subject to this chapter who—

(1) with intent to usurp or override lawful military authority, refuse, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny.”

b. Elements.

(1) *Mutiny by creating violence or disturbance*.

(a) That the accused created violence or a disturbance; and

(b) That the accused created this violence or disturbance with intent to usurp or override lawful military authority.

(2) *Mutiny by refusing to obey orders or perform duty*.

(a) That the accused refused to obey orders or otherwise do the accused’s duty;

(b) That the accused in refusing to obey orders or perform duty acted in concert with another person or persons; and

(c) That the accused did so with intent to usurp or override lawful military authority.

c. Explanation.

(1) Mutiny.

Article 94(*a*)(1) defines two types of mutiny, both requiring an intent to usurp or override military authority.

(a) Mutiny by creating violence or disturbance.

Mutiny by creating violence or disturbance may be committed by one person acting alone or by more than one acting together.

(b) Mutiny by refusing to obey orders or perform duties.

Mutiny by refusing to obey orders or p e r f o r m d u t i e s r e q u i r e s c o l l e c t i v e i n s u b o r d i n a t i o n and necessarily includes some combination of two or more persons in resisting lawful military authority. This concert of insubordination need not be preconceived, nor is it necessary that the insubordination be active or violent. It may consist simply of a persistent and concerted refusal or omission to obey orders, or to do duty, with an insubordinate intent, that is, with intent to usurp or override lawful military authority. The intent may be declared in words or inferred from acts, omissions, or surrounding circumstances.”[US Manual for Courts-Martial, 2008th ed, p. IV-26]

II

THE EVIDENCE OF THE PROSECUTION

 With all due respect to the prosecution, the accused respectfully submit that it did not present proof beyond reasonable doubt that the above-named accused have committed attempted mutiny.

 Immediately, Your Honors, we make it of record, as proved by the transcripts of the proceedings, that the prosecution did not present an iota or a single piece of evidence against the following accused as they were never mentioned at all in the testimonies of the prosecution witnesses and in documentary exhibits of the prosecution:

LTC NESTOR T. FLORDELIZA, PA,

LTC EDMUNDO D. MALABANJOT, PA,

CPT FREDERICK M. SALES, PA

1LT ERVIN C. DIVINAGRACIA, PA,

1LT SANDO U. SEREÑO, PA,

1LT JACON S. CORDERO, PA,

1LT RICHIEMEL S. CABALLES, PA

 The following officers, although they had been mentioned or adverted to in the documentary exhibits of the prosecution and in some of the testimonies, no evidence was shown, however, that they committed attempted mutiny as specified in the charge sheet by *(1) withdrawing their support from President Gloria Macapagal-Arroyo, Commander-in-Chief of the Armed Forced of the Philippines, (2) urging the Chief of Staff of the Armed Forces of the Philippines and other officers and enlisted personnel to likewise withdraw their support from the President, and (3) attempting to join the protest actions of the so-called civil society groups and political oppositions calling for the President’s resignation*, with the intent to usurp, subvert and/or override lawful authority.

BGen Danilo Lim

 Accused General Lim did not commit any of the three (3) acts specified in the charge sheet allegedly constituting attempted mutiny. He did not withdraw support to the President. He did not urge the CSAFP and other officers and enlisted men to likewise withdraw their support. And neither did he attempt to join the protest actions of the so-called society groups and political oppositions calling for President’s resignation. The prosecution did not present any single piece of evidence showing that General Lim did commit any of these acts.

 The prosecution capitalized a lot on its Exhibit EE, a tape or compact disc which according to the prosecution shows footage allegedly of Genera Lim “reading a prepared manifesto against PGMA and her administration.” But it was admitted by the prosecution’s principal witness, Mr. Hermogenes Esperon, that the source of the tape or CD was Col Gaudencio Pangilinan, Commander of AFP Counter-Intelligence Group at the time, and that it was played for the first time and in public during the maiden presentation of *Bandila* on ABS-CBN Channel 2 on July 3, 2006. Since he was not the source of the tape which was aired on Channel 2 but Col Pangilinan, and he never authorized Col Pangilinan or ABS-CBN to make it public, General Lim had absolutely nothing to do with the CD or its contents. At the time it was shown on TV, July 3, 2005, General Lim was already under arrest and control of the military authorities for five (5) months and this fact was well known to the public as well. Surely, the showing thereof on Channel 2 did not incite or excite any military officer or personnel to withdraw support to PGMA.

 As testified to by Ambassador Senga, then CSAFP [and confirmed by VADM Mayuga when he testified], after talking with General Lim, Col Querubin and General Miranda in the early morning of 24 February 2006, the three officers agreed not to push through with their plan to provide leadership to the military elements who could not be dissuaded from joining the protest march on 24 February. So he ordered them to go home. And they followed CSAFP’s order to go home. Ambassador Senga, when asked during cross-examination why he did not order the arrest of General Lim and the other two officers, he readily admitted that he did not order their arrest because they did not commit any crime. So he let them go. And at 0430 of same day, he placed General Lim under his custody not to arrest him but to place him under military control; and General Lim without resistance agreed.

 General Lim, therefore, did not commit mutiny or attempted mutiny because he did not create any violence or disturbance and neither did he resist any order of his superior, two elements required in mutiny.

Maj Doctolero

His name was mentioned in Exhibit X (affidavit of 2Lt Harold Camazo) and in Exhibit Y (statement of 2Lt Mark Cimini) under the following tenor:

In his Affidavit, Exh. X, 2Lt. Camazo alleged that Maj Doctolero, Commandant, SRTS directed their class to be on alert because of a series of rallies in Manila and to withdraw security ammunitions from the supply room; while 2Lt. Cimini claimed in Exh. Y, that on or about 232100H Feb 06, Maj Doctolero, through the duty NCO, directed their class (CL 161-06) to be on alert status.

 Anent the evidence against Maj. Doctolero, no conceivable connection could be ascribed to any act of attempt to commit mutiny when he allegedly ordered his men to be on alert status and withdraw ammunitions because of a series of rallies in Manila. He should be commended instead for his snappy behavior.

Cpt Criste & Cpt Almodovar

Their names were mentioned in prosecution’s Exh. V, Supplemental Affidavit of 1LT Jerald Reyes. In said affidavit, Reyes said that:

On or about 031900H Feb 06, CPT ISAGANI CRISTE fetched him at his Coy TCP. They fetched MAJ JASON AQUINO and CPT ALMODOVAR at their BOQ and they all proceeded to the latter’s rest house near the so-called tower area.

Cpt Fontiveros

His name was mentioned in prosecution’s Exh. V, Supplemental Affidavit of 1LT Jerald Reyes in that allegedly during a meeting on 03 February 2006 at the Tower Area, Reyes “overheard Cpt Fontiveros intimate to Maj Lacson that he does not have the exact number of required troops for his HPA tasking.”

Cpt Upano

His name was mentioned in prosecution’s Exh. V, Supplemental Affidavit of 1LT Jerald Reyes simply, *viz*: “That while CPT ALMODOVAR was in the process of posing the above-mentioned documents, CPT Opano arrived.”

Cpt Langkit

He was mentioned in the Supplemental Affidavit, Exh. V, of 1LT Jerald Reyes as follows:

On the second week of Nov 06, CPT LANGKIT contacted him to meet the former at SM Pampanga purportedly for them to discuss an important matter. When they met, CPT LANGKIT expressed to him his gripes about what is happening in the chain of command and the corruption in the government.

Another meeting followed on the first week of December 2005 at SM Pampanga. 1LT CUARTEROS was also present and during that meeting they talked about the death of one of their men who was liquidated by NPAs. Cpt Langkit told them to be always on the alert so that same incident would not happen again. He told them to be ready for a simulated battalion operations to keep them on the alert.

In his dubious statement, Exh. “U”, Lt Reyes said that at the time he met with Cpt Langkit his troops were operating in Bulacan. When he was where Cpt Langkit asked him to bring his troops for the alleged battalion operation, he answered that Cpt Langkit asked him to bring his troops to Clark in Pampanga. Lt Reyes must have realized that Cpt Langkit, a former intelligence officer of SOCOM, was taking him for a ride so that Lt Reyes did not form the sections Cpt Langkit asked him to do. For common sequence dictates that if the alleged battalion operation would be used for destabilization efforts in Manila, you don’t bring your battalion away from Manila farther from your present position. [Please see Tanong 40, page 4, Exh. “U”]

In Exh. DD, Sinumpaang Salaysay, and Exhibit W, both signed by 1Lt Michael Cuarteros, said Lt. Cuarteros made mention of his meeting with Cpt Langkit together with Lt. Reyes. He said that Cpt Langkit ask him to form three sections. During his testimony, however, he admitted to the law member that Cpt Langkit did not talk of any destabilization, to wit:

 LAW MEMBER : Ask the witness, was that the statement of CPT LANGKIT that the purpose of organization 3 sections was to use that for destabilization. Did you hear that from the mouth of LANGKIT, if he said?

 ANSWER : No, Ma’am. (TSN, p. 84, Dec 19, 2008)

Cpt Sababan

 His name was mentioned in Lt Reyes’s Exh. U in that he attended a meeting sometime in the 1st week of February 2006.

1Lt Estolas

He was mentioned by SSg Rodelio Quilapio in Exh. AA as the CO of 9th SRC and that prior to 24 February 06, Lt Estolas alerted all Sections and mentioned that there will be augmentation teams for the 10th SR Company at FSRR Liaison Office, Fort Bonifacio. The teams left for Ft. Bonifacio by bus on or about 240400H Feb 2006 but before reaching Tabaco City, they were ordered by 1LT Estolas to return to their Company CP.

In prosecution’s Exh. BB, affiant SSgt Salvador Dacanay corroborated Quilapio’s statement.

The act of Lt Estolas was perfectly legal as it was in obedience to the order of his commander to augment 10th SR Company at FSRR Liaison Office which augmentation was pursuant to HPA General Orders No. 417, dated 07 November 2005, issued as early as December 2005 by then CGPA LtGen Alexander Yano and a radio order dated 20 February 2006 from CG, SOCOM, PA directing the movement of 10th SRC to Fort Bonifacio for consolidation and reorganization of the newly-formed 2nd Special Operations Battalion of the CG, SOCOM, PA. Copies of the G.O. 471 and radio order were previously attached as Annexes “A” & “B” to accused’s Demurrer to Evidence. They are again appended to this motion as Annexes “1” & “2”.

 With respect to the names of Cpts. Criste, Fontiveros, Upano, Almodovar, Sababan having been mentioned in Exhibits “U” & “V” of Lt. Reyes because he allegedly had meeting with them, it is enough to state that these statements of Lt Reyes cannot be used against them for two (2) reasons:

 1. Exhibit “U” was never signed by Lt Reyes and it was not affirmed or confirmed by him when he testified on February 27, 2009;

 2. Exhibit “W”, a supplemental affidavit, refers to a prior or first affidavit which was never shown to the accused. And when he testified on February 27, 2009, Lt Reyes failed or refused to reveal the contents of the first affidavit thereby denying the accused the opportunity to cross-examine him on both the first affidavit and Exhibit “W”, the supplemental affidavit, which are intertwined or connected to each other.

*But setting aside the dubious character of his affidavits, and assuming for the sake of argument* that indeed these accused officers had meetings with Lt Reyes and discussed some ideas or things, there was no evidence presented which shows that the matters discussed in those meetings were mutinous and anti-government. And Lt Reyes, during his testimony and even in his spurious affidavits, did not claim that any of the officers singly or collectively did commit an overt act to bring about what they had discussed during their meetings with Reyes and Cuarteros.

 As spelled out in the charge sheet quoted above, the accused are charged with (a) attempting to create a mutiny; (b) attempting to begin or join in a mutiny; or (c) attempting to cause or excite a mutiny by *(1) withdrawing their support from President Gloria Macapagal-Arroyo, Commander-in-Chief of the Armed Forced of the Philippines, (2) urging the Chief of Staff of the Armed Forces of the Philippines and other officers and enlisted personnel to likewise withdraw their support from the President, and (3) attempting to join the protest actions of the so-called civil society groups and political oppositions calling for the President’s resignation*, with the intent to usurp, subvert and/or override lawful authority.

 Referring once more to the US Manual for Courts-Martial after which the AFP Manual for Courts-Martial was patterned, attempted mutiny is defined, to wit:

“(6) Attempted mutiny.

(a) That the *accused committed a certain overt act*;

(b) That the *act was done with specific intent to commit the offense*

 *of mutiny*;

(c) That the *act* *amounted to more than mere preparation*; and

(d) That the *act apparently tended to effect the commission of the*

 *offense of mutiny*.” [id., p. IV-26]

 With the above definition of attempted mutiny as the yardstick, the evidence of the prosecution could not sustain the charge of attempted mutiny. There is not a single overt act shown in the prosecution evidence which could be considered as constituting an attempt to commit mutiny. The testimonies of witnesses for the prosecution and their documentary evidence talk nothing but ideas, plans, and discussions among some of the accused but they did not mention or describe how any one of the accused did perform any overt act that could be considred as an attempt to bring into fruition the alleged ideas, plans and discussions. As borne by the prosecution’s own evidence, General Lim, Captain Almodovar, Captain Sababan, Captain Criste, Captain Fontiveros, Captain Upano, and Captain Langkit did not commit any act, overt or otherwise.

 William Winthrop, the world well-acclaimed authority on military law and justice, and whose work, *Military Law and Precedents*, is extensively quoted and referred to by Philippine and US Supreme Courts in military cases decided by these courts, wrote on Mutiny:

“While the intent indicated is essential to the offense, the latter is not completed unless the opposition or resistance be manifested by some overt act or acts, or specific conduct. Mere intention however deliberate and fixed, or conspiracy however unanimous, will fail to constitute mutiny. Words, alone, unaccompanied by acts, will not suffice.” [*vide*, *Winthrop, Military Law and Precedents, 2nd ed., pp. 577-581*; underscoring supplied]

 The accused, as the Honorable Court may take judicial notice of, have been in jail for more than three and a half years already. Many of them have suffered the deaths of their loved ones while in detention.

 They all respectfully pray this Honorable Court TO DISMISS the charge against all of them considering that the evidence of the prosecution failed to prove their guilt beyond reasonable doubt.

 RESPECTFULLY SUBMITTED.

 October 12, 2009.

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