

### Title: Anthony De Silva Cruz vs. People of the Philippines

### Facts:

1. On April 18, 2006, at Duty Free Philippines Fiesta Mall in Parañaque City, Cruz attempted to purchase items using a Citibank Visa credit card.
2. At 7:30 p.m., Cruz used the Visa card to buy two Calvin Klein perfumes worth US\$96.00. Cashier Danilo Wong processed the payment but noticed some misalignment in the card's number.
3. At 8:00 p.m., Cruz tried to buy Ferragamo shoes worth US\$363.00 using the same Citibank Visa card bearing the name "Gerry Santos." Cashier Ana Margarita Lim discovered discrepancies in the card's physical attributes and validity date.
4. The staff called Citibank for verification and learned the card was counterfeit. Citibank's fraud manager, Gerardo T. Santos, confirmed the card was fake and used fraudulently before.
5. Security held Cruz and companion Rodolfo De Silva Cruz until law enforcement arrived. Cruz attempted to flee but was apprehended.
6. Citibank Visa card number 4539 7207 8677 7008 was turned over to authorities.
7. Cruz faced multiple charges under Criminal Cases Nos. 06-0479, 06-0480, and 06-0481 for possessing and using a counterfeit credit card.
8. Cruz pled not guilty and underwent trial. He contested the admission of evidence and the prosecution's witness testimonies.
9. The Regional Trial Court of Parañaque found him guilty in Criminal Cases Nos. 06-0479 and 06-0480 but acquitted him in Criminal Case No. 06-0481.
10. Cruz's conviction was upheld by the Court of Appeals with modifications to the penalties.
11. Cruz filed a Petition for Review on Certiorari with the Supreme Court, questioning the evidence admission and claiming ineffective assistance of counsel.

### Issues:

1. Whether the counterfeit access device could be admitted in trial despite not being pre-marked during pre-trial.
2. Whether Cruz was proven guilty beyond a reasonable doubt for violating Section 9(a) and (e) of R.A. No. 8484.
3. Whether Cruz was bound by the alleged negligence of his former counsel.

### Court's Decision:

1. **\*\*Admission of Evidence:\*\***

- The Supreme Court upheld that the trial court could admit the counterfeit credit card at trial despite it not being pre-marked during pre-trial as the prosecution showed good cause for the delay, i.e., the card was with the police and part of previously presented evidence (Certification from Citibank).

2. **Violation of Section 9(a) and (e) of R.A. No. 8484:**

- The prosecution established evidence (false name on the card, card's misalignment) showing Cruz's guilt for using and possessing a counterfeit access device.
- Testimonies by the mall's staff and Citibank's fraudulent transaction evidence corroborated the charges.
- Minor inconsistencies in witness testimonies were dismissed as they did not undermine the core evidence of guilt.

3. **Negligence of Counsel:**

- The Court held that there was no reckless neglect by Cruz's former counsel that would amount to depriving Cruz of due process.
- Atty. Musico's actions (consistent objections, cross-examinations, and filing of a Demurrer to Evidence) demonstrated adequate defense representation. Cruz's decision not to present evidence was taken as a strategy rather than counsel's inefficiency.

**### Doctrine:**

- The admission of critical evidence not pre-marked at pre-trial could be allowed for good cause.
- The standard in criminal cases requires the prosecution to establish guilt beyond a reasonable doubt based on strong, corroborative evidence.
- Counsel's negligence typically binds the client unless it involves gross and reckless misconduct leading to deprivation of due process.

**### Class Notes:**

- **Key Elements:**

1. **Access Device Fraud:**

- Definition under R.A. No. 8484 includes any instrument used to access money, goods, or services.
- Relevant statutes are sections 3 and 10 of R.A. No. 8484 outlining prohibited acts and penalties.

2. **Rules of Evidence:**

- The requirement and exceptions for pre-marking evidence under A.M. No. 03-1-09-SC.

3. **Criminal Liability:**

- The necessity for proof beyond reasonable doubt.
- Evaluation of witness credibility and minor inconsistencies in testimony.

- **Statutes/Provisions:**

- Republic Act No. 8484, Sections 3(a), 3(b), 9, and 10.

**Historical Background:**

- Launched following increasing access device fraud cases, Republic Act No. 8484 aims to regulate the use of access devices and prescribe penalties for fraudulent activities. This case exemplifies the stringent enforcement arising out of the need to curb misuse of such financial instruments and was influenced by a growing trend of electronic and credit card fraud in the late 20th and early 21st centuries.