

WEE BIN, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-37100. September 19, 1980

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an appeal from the order of the Court of First Instance of Zamboanga City, Branch I, dated September 27, 1972, denying the "Motion To Set Aside Order dated May 9, 1951, and/or to Cancel Certificate of Naturalization" filed by the herein appellant, Republic of the Philippines, and declaring as valid and effective Certificate of Naturalization No. 6 which was issued in lieu of the lost Certificate of Naturalization No. 57 pursuant to the May 9, 1951 order of restoration of record.

On January 3, 1951, Wee Bin, through counsel, filed with the Court of First Instance of Zamboanga City a "Petition for Reconstitution" which he amended on April 26, 1951, to a "Petition for Restoration of Record" which read:

"Petitioner, Wee Bin, thru his undersigned counsel, respectfully states:

"1. That sometime in the year 1937 petitioner herein filed a petition for naturalization as Filipino citizen which was docketed in this Court as Special Case No. 60.

"2. That said case was set for trial and after a hearing, the Court ordered the preparation of a naturalization certificate to be issued.

"3. That after the said decision has become final, the clerk of this Court issued to the herein petitioner Naturalization Certificate No. 57.

"4. That on or about March 2, 1942, as a consequence of the invasion of the City of Zamboanga by the Japanese forces which resulted in the destruction of the Court house, the record of this case was totally destroyed.

"5. That sometime in August or September of 1942 during the occupation of the City of Zamboanga by the Japanese, and while petitioner was in the mountain of Tigbao, Zamboanga, he was attacked by robbers and among the personal property, documents and papers that were stolen from him was his Naturalization Certificate No. 57 that was issued by this Court.

"6. That in the early part of the year 1944, the Japanese then stationed in the City of Zamboanga began freezing all the deposits made by Chinese citizens in the Philippine National Bank, Zamboanga.

"7. That because of his Chinese name, the herein petitioner had to execute an affidavit to establish his Filipino citizenship the original of which was filed in the Philippine National Bank on March 6, 1944, and a copy thereof is hereby attached as Annex "A".

"8. That fortunately in the said month of March, 1944, the Register of Naturalization Certificate of the then Municipality of Zamboanga was intact, and hence the petitioner was able to obtain the data shown in his said

affidavit.

"9. That all the records of the City of Zamboanga, including the Register of Naturalization Certificate abovementioned, were destroyed when Zamboanga was liberated by the American forces in March, 1945.

"10. That affidavits executed by Messrs. Cirilo S. Rivera, Vicente C. Fernandez and Jose Azcarraga of the City of Zamboanga, persons who have knowledge of this case are hereto attached and marked respectively as Annexes "B", "C" and "D".

"WHEREFORE, it is respectfully prayed that pursuant to Section 5 (h) of Rule 124 of the Rules of Court, this Honorable Court order the restoration of the lost court record of this case and that a date be set for the presentation by the herein petitioner of the documents herein mentioned and other evidence."

The petition was heard by said court, then presided by Judge Pablo Villalobos, on April 28, 1951. During said hearing, petitioner Wee Bin, represented by the late Atty. Felix Catis, presented oral and documentary evidence in support of his petition. City Attorney Pascual Atilano, appearing for the Solicitor General in behalf of the Republic of the Philippines, cross-examined one of the witnesses of the petitioner but did not present any evidence in opposition to Wee Bin's petition for restoration of record.

Finding that there was an existing record in the Court of First Instance of Zamboanga City, before the outbreak of the war, of Special Case No. 60 (pre-war), entitled PETITION OF WEE BIN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, wherein petitioner Wee Bin was granted Philippine citizenship in a certificate of naturalization numbered 57, said court, on May 9, 1951, issued an order, the operative parts of which read:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court is of the opinion, and so holds, that there was an existing record in this Court before the out-break of the war of Special Case No. 60 (pre-war) wherein the petitioner was granted Philippine citizenship in a Certificate of Naturalization issued therein numbered 57.

"WHEREFORE, it is hereby ordered that Special Case Numbered 60 (pre-war) entitled IN THE MATTER OF THE PETITION OF WEE BIN TO BE ADMITTED AS A FILIPINO CITIZEN, be restored in the docket of this Court, and once so reconstituted issue the corresponding Certificate of Naturalization in favor of the petitioner bearing Number 57."

The Republic of the Philippines did not appeal from said order, a copy of which was received by City Attorney Pascual Atilano on May 21, 1951. Consequently, the Clerk of Court of the Court of First Instance of Zamboanga City, on July 14, 1951, issued Certificate of Naturalization No. 6 in lieu of the lost Certificate of Naturalization No. 57. Petitioner Wee Bin received three copies of said Certificate of Naturalization on July 20, 1951, while City Attorney Atilano received a copy thereof on July 27, 1951.

Almost two decades thereafter, or on March 25, 1970, the Office of the Solicitor General, in behalf of the Republic of the Philippines, filed with the same Court of First Instance of Zamboanga City, now presided by Judge Abdulwahid M. Bidin, a "Motion to Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization", to wit:

"COME NOW the undersigned counsel for the Republic of the Philippines and respectfully moves -

(1)

to set aside the order dated May 9, 1951 directing the restoration in the docket of this Honorable Court "Special Case Numbered 60 (pre-war) entitled IN THE MATTER OF THE PETITION OF WEE BIN TO BE ADMITTED AS A FILIPINO CITIZEN", and/or

(2)

to cancel the certificate of naturalization issued pursuant to the order dated May 9, 1951

on the ground that the proceedings taken and the order issued are null and void because -

(1)

the notice of the petition and amended petition for reconstitution was not published in the Official Gazette and in any newspaper read in the city or province, once a week, for four consecutive weeks;

(2)

the reconstitution of the alleged certificate of naturalization was not based upon an authentic document; and

(3)

the evidence submitted in support of the petition for reconstitution was based on false documents." (Arguments follow.)

On May 14, 1970, Wee Bin, through counsel, filed his "Opposition to 'Motion to Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization'" alleging among others, that the documents presented in support of the petition for restoration of record were genuine and sufficient to support the order sought to be set aside, and that even granting that the petition was not published and the restoration of the records was not based on an authentic document, the same did not render null and void the order granting the petition since said petition was filed pursuant to the provisions of Rule 124, Sec. 5 (h) of the old Rules of Court (now Rule 135, Sec. 5 (h) of the Revised Rules of Court) which did not require said publication and the presentation of authentic documents. The decision of this Court in the case of Testate Estate of the Deceased Maria Jacoba Cruz (Yatco vs. Cruz), R-G.R. Nos. 46500 and 48114, December 29, 1962, 6 SCRA 1077, was cited in support of Wee Bin's contention that Act No. 3110, invoked by the Solicitor General, is inapplicable to the case at bar.

As additional defenses, Wee Bin alleged in said opposition that the order sought to be set aside should be deemed final because of the lapse of 19 years from its issuance, and that the motion to set aside said order was filed at the instance of a complainant, a certain Porfirio Doctor, who, from 1963 to 1970, had embarked on a campaign of harassment against Wee Bin.

On May 18, 1970, Wee Bin, through counsel, filed an "Urgent Motion to Dismiss the Motion of the Republic of the Philippines 'To Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization'". Reiterating the grounds relied upon in his opposition to the motion of the Government, Wee Bin contended that said motion did not state facts sufficient to constitute a cause of action and/or to warrant further proceeding and should, thus, be dismissed.

On July 16, 1970, the CFI of Zamboanga City issued an order holding in abeyance the consideration of Wee Bin's motion to dismiss until after the trial on the merits of the "Motion to Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization."

At the start of the hearing on the Government's motion on July 22, 1970, Wee Bin's counsel, Atty. Rosaura Alvarez, orally manifested that since the issues raised in the pleadings concerned merely the reconstitution proceedings in 1951, he would object to any evidence touching on the 1937 naturalization proceedings. Thus, when the government's counsel, City Fiscal Pascual Atilano, started propounding questions from the government's witness, a certain Jose Camins, relative to the 1937 naturalization proceedings, Atty. Alvarez vigorously objected. The trial court, however, overruled such objection and allowed witness Camins to proceed with his testimony. To signify non-waiver of his objection, Atty. Alvarez did not cross-examine said witness and requested for time to file a written motion for reconsideration.

On August 12, 1970, Atty. Alvarez filed his motion for reconsideration contending that what the Government sought to cancel in its "Motion to Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization" was the certificate of naturalization issued pursuant to the 1951 order of restoration of records and not the original certificate of naturalization which was issued in the 1937 naturalization proceedings which was subsequently lost. A reconsideration of the trial court's order overruling Wee Bin's objection to the presentation of evidence relative to the 1937 naturalization proceedings was, thus, sought on the ground that said evidence were "irrelevant and immaterial because they were not directed towards proving matters embraced within the issues made out by the pleadings," which merely concerned the 1951 restoration proceedings.

Finding merit in Wee Bin's motion for reconsideration, the trial court on September 17, 1970, granted the same and ordered that the testimony of Jose Camins or such portions thereof as are irrelevant and impertinent to the 1951 restoration proceedings be stricken off the records.

No written motion for reconsideration was filed by the Government. However, three months thereafter, City Fiscal Pascual Atilano, orally sought reconsideration of the Order of September 17, 1970, on the ground that the previous order of the court allowing the presentation of evidence relative to the 1937 naturalization proceedings was "legal and valid." Wee Bin's counsel opposed said motion for reconsideration.

The trial court, after hearing the oral arguments of the parties, denied the Government's motion for reconsideration for lack of merit. Thereafter, the Government continued with its presentation of evidence. But the trial court had to remind City Fiscal Atilano, from time to time, that the proceeding was not one for denaturalization but for the cancellation of the 1951 order of restoration of record and that the evidence to be presented should, thus, be limited to those which were relevant and material to the 1951 restoration proceedings. Despite such reminder, City Fiscal Atilano proceeded with the presentation of evidence in support of his theory that Wee Bin was not born in the Philippines and that his mother was not Mora Sering, a Filipina, but a Chinese woman by the name of Wee Luy Chiang Niu or Loi Chan.

Finding the evidence presented by the Government as irrelevant and immaterial to the 1951 restoration proceedings, Wee Bin's counsel did not bother to rebut the same. Instead, he tried to prove that the complaint which precipitated the filing by the Office of the Solicitor General of the subject motion was but a part of the scheme of harassment which the complainant (Porfirio Doctor) had been pursuing since 1963. Aside from the testimony of Wee Bin, his counsel likewise presented documents relative to the various complaints filed by Porfirio Doctor before different agencies or offices of the Government which invariably resulted either in their dismissal or in the refusal of the government agency or office concerned to act thereon for lack of merit.

After consideration of the evidence adduced by both parties, the Court of First Instance of Zamboanga City, in an order dated September 27, 1972, held:

- (a) that there was an absolute failure of proof on the part of the Government to support the allegations in the motion - (1) that there was no publication of the petition for reconstitution and/or restoration of records; (2) that restoration was not based on authentic documents; and (3) that the restoration was based upon false documents;
- (b) that had there been any irregularity in the 1951 reconstitution proceedings, like a lack of publication or the like, assuming them to be necessary, City Attorney Pascual Atilano (the same counsel who represented the Government in the 1951 reconstitution proceedings) should have interposed his objection during said proceedings; since no objection was interposed by said counsel, the reconstitution proceeding was presumed to be regular;
- (c) that such presumption stood until overcome by competent evidence to the contrary which was sadly lacking in

the case; and

(d) that even if such evidence were forthcoming, the result would have been the same because the proceedings in 1951 had been initiated under the provisions of the Rules of Court for the restoration of lost court record of finished cases - as such, there was no need for publication of notices or for the restoration to be based on authentic documents.

Thus, the trial court denied the Government's "Motion to Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization" and declared the certificate of naturalization issued pursuant to such order of restoration of record as valid and effective. The dispositive portion of said Order dated September 27, 1972, read as follows:

"WHEREFORE, in view of the foregoing, and for failure to adduce evidence to substantiate the charges of irregularity and validity of the proceedings and order of May 9, 1951 for the restoration and/or reconstitution of the records of Special Proceeding No. 60 (old), pursuant to the pertinent provisions of the Rules of Court, as also because this Court finds no justification to disturb the findings, and, consequently, validity, of the order of May 9, 1951, issued by a predecessor incumbent, the same being presumed to have been made regularly and properly in due course of judicial business, the motion dated March 24, 1970, entitled "MOTION TO SET ASIDE ORDER DATED MAY 9, 1951 AND/OR TO CANCEL CERTIFICATE OF NATURALIZATION" is hereby DENIED and DISMISSED and, in consequence thereof, the certificate of naturalization issued pursuant to said order is hereby declared valid and effective.

"SO ORDERED."

From the foregoing Order, the Republic of the Philippines appealed to this Court. In the appeal brief filed by the Solicitor General, he made the following -

"ASSIGNMENT OF ERRORS

I

"THE LOWER COURT ERRED IN CONCLUDING THAT 'THERE WAS AN ABSOLUTE FAILURE OF PROOF ON THE PART OF THE GOVERNMENT AS NO EVIDENCE WAS INTRODUCED IN SUPPORT OF ITS ALLEGATIONS IN ITS MOTION (1) THAT THERE WAS NO PUBLICATION OF THE PETITION FOR THE RECONSTITUTION AND/OR RESTORATION OF THE RECORDS; (2) THAT RESTORATION WAS NOT BASED ON AUTHENTIC DOCUMENTS; AND (3) THAT THE RESTORATION WAS BASED UPON FALSE DOCUMENTS.'

II

"THE LOWER COURT ERRED IN DISALLOWING THE STATE TO PRESENT EVIDENCE ASSAILING THE VALIDITY OF APPELLEE'S NATURALIZATION IN 1937."

It is clear from the foregoing assignment of errors that appellant anchors its appeal on the following issues:

- Whether or not it was necessary for petitioner-appellee Wee Bin to have published his petition for reconstitution or restoration of records and to have based the reconstitution or restoration of records on authentic documents.
- In the affirmative, whether or not the lower court erred in ruling that the Government failed to prove the allegations in its motion (1) that there was no publication of the petition for reconstitution and/or restoration of the records; (2) that restoration was not based on authentic documents; and (3) that the restoration was based upon false documents.
- Whether or not the lower court erred in disallowing the State to present evidence assailing the validity of

appellee's naturalization in 1937.

The appellant contends that the publication of appellee's amended petition for restoration of records "in the Official Gazette and in one of the newspaper most widely read in the province, once a week, for four consecutive weeks" is required by Sec. 2 of Act No. 3110. While admitting that the title of Act No. 3110 refers to "pending judicial proceedings" and that appellee's petition for restoration of record was filed under the provision of Sec. 5 (h) of Rule 124 of the old Rules of Court (now Sec. 5 (h), Rule 135, Revised Rules of Court), appellant nonetheless alleges that Sec. 2 of Act 3110 applies to the present case since the first two sections of said Act "do not distinguish between pending or terminated judicial proceedings" and that Sec. 5 (h) of Rule 124 (Rule 135) "merely complements Act No. 3110 which is the basic law governing the reconstitution of court records."

The question of whether Act No. 3110 is applicable to the reconstitution of records of decided cases, such as the case at bar, had already been answered in the case of "Yatco vs. Cruz", R-G.R. Nos. 46500 and 48114, December 29, 1962, 6 SCRA 1077, where this Court ruled that -

"Neither are the provisions of Act No. 3110 applicable in this proceeding because this Act governs the reconstitution of pending judicial proceedings, etc. as witness the title of the Act which is as follows:

'AN ACT TO PROVIDE AN ADEQUATE PRO-CEDURE FOR THE RECONSTITUTION OF THE RECORDS OF PENDING JUDICIAL PROCEEDINGS AND BOOKS, DOCUMENTS AND FILES OF THE OFFICE OF THE REGISTER OF DEEDS DESTROYED BY FIRE OR OTHER PUBLIC CALAMITIES AND FOR OTHER PURPOSES.'" (Italics supplied).

Clearly, therefore, Act No. 3110 is not applicable to the case at bar which involved the reconstitution/restoration of records of a decided naturalization case.

Furthermore, the appellant even erred in contending that Sec. 2 of said Act requires the publication of petitions for reconstitution or restoration of records. Section 2 of Act 3110 reads:

"SEC. 2. Upon receipt of the notice mentioned in the preceding section, the court shall issue or cause to be issued a general notice which shall be addressed and sent by registered mail to the lawyers and officers mentioned in the preceding section, and to such other persons as might be interested, advising them of the destruction of the records, with a brief list of the proceedings not affected in case the destruction was partial, and of the time fixed by this Act for the reconstitution of the destroyed records.

This notice shall also be published in the Official Gazette and in one of the newspapers most widely read in the province, once a week, for four consecutive weeks."

It can be seen that what the foregoing provision requires to be published is not the petition for reconstitution or restoration as claimed by appellant, but the notice issued by the court "of the destruction of the records with a brief list of the proceedings not affected in case the destruction was partial, and of the time fixed by the Act for the reconstitution of the destroyed records."

Anent appellant's contention that the appellee should have based the reconstitution or restoration on authentic documents, it must be observed that since the petition for restoration was filed under Sec. 5 (h), Rule 124 (now Rule 135) of the Rules of Court, Our ruling in *Yatco vs. Cruz*, *supra*, is applicable, to wit:

"x x x We do not think it essential or necessary that an authentic copy be produced to reconstitute a decision of this Court under Rule 124, Sec. 5 (h) of the Rules. Evidence which is sufficient to prove the contents of a lost or destroyed document in accordance with the rules of evidence x x x should be sufficient. x x x."

It was not, therefore, essential or necessary that the restoration in the court's docket book of Special Case No. 60 and of Certificate of Naturalization No. 57 be based on authentic documents. All that was required of the

petitioner, in line with the above-quoted ruling, was to present evidence sufficient to prove that the naturalization case and the certificate of naturalization which granted to the petitioner Filipino citizenship in fact existed in the docket of the CFI of Zamboanga City before the war.

That petitioner-appellee had presented evidence to prove the existence in the docket book of the CFI of Zamboanga City before the war of Special Case No. 60 (pre-war) and of Certificate of Naturalization No. 57 which granted to him Filipino citizenship in 1937 is borne out by the records of the case and the admission of the appellant itself. It is, however, contended that the documents presented by the appellee were false and that the same were inadequate to support the 1951 order of restoration of records. It is insisted that the petitioner-appellee should have presented copies of all the pleadings and documents filed and of all the orders issued in the 1937 naturalization proceeding.

We find no reason to disturb the trial court's conclusion that the evidence adduced by petitioner-appellee in the restoration proceeding were genuine and were sufficient to support the 1951 order requiring the restoration in the docket of the CFI of Zamboanga City of Special Case No. 60 (pre-war) and of Certificate of Naturalization No. 57. This is specially so since no contrary evidence were pre-sented by the oppositor-appellant despite due notice of the filing of the petition for restoration of record and of the hearing of the same, and despite the actual participation of City Attorney Pascual Atilano in the hearing of said petition.

Appellant's contention that the appellee should have presented copies of all the pleadings and documents filed and of all the orders issued in the 1937 naturalization proceeding is without merit. Such rigorous process may be required in the case of a petition for reconstitution of a pending naturalization case since no decision can be rendered in such naturalization case unless all the pleadings and documents filed and the orders issued therein are first reconstituted. But not so in the case at bar which involved the restoration of a naturalization case which had already been decided and the certificate of naturalization already issued. For, here, the manifest purpose of the petitioner was merely to establish the fact of his naturalization in 1937. And such purpose could be accomplished by restoring in the docket of the CFI of Zamboanga City merely the docket number and title of the naturalization case and the certificate of naturalization which granted to petitioner Filipino citizenship in 1937. All that was required of petitioner, therefore, was to prove that the naturalization case and the certificate of naturalization which granted to him Filipino citizenship in 1937 and in fact existed in the docket book of the said court before the war.

The evidence presented by the petitioner-appellee in the 1951 restoration proceeding had been summarized by the oppositor-appellant itself in the appeal brief filed with this Court as follows:

"During that single hearing for the alleged re-constitution of Special Case No. 60, appellee presented in his behalf four witnesses including himself. The first witness, Jose Azcarraga, Register of Deeds of Zamboanga City since 1928 and until the date of the hearing of the petition for reconstitution, identified the following: (1) Exhibit A, which is a Deed of Sale registered in 1939 in favor of Wee Bin (pp. 7-12, tsn. Exh. E, pp. 19-75, Folder of Exhibits) in which the Notary Public certified that appellee is a Filipino citizen; (2) Exhibit B, another Deed of Sale dated July 29, 1940 (pp. 13-16, tsn, *ibid.*) in favor of Wee Bin where the Notary Public certified that he is a Filipino citizen; and (3) Exhibit C, likewise a Deed of Sale (pp. 17-19, tsn, *ibid.*) in favor of Wee Bin where the Notary Public also certified that he is a Filipino citizen.

"The second witness presented by the appellee as shown by the transcript was Vicente Fernandez, Chief Loan and Discount Division of the Philippine National Bank, Zamboanga City, who testified that appellee's deposit with the PNB was frozen during the Japanese occupation because his name appeared to be Chinese (pp. 30-31, tsn, *ibid.*); that Wee Bin executed an affidavit (Exh. D, Annex A, pp. 35-36, Rec. on Appeal) stating that he is a Filipino citizen as a consequence of which his deposit with the PNB was reactivated (pp. 32-35, tsn, Exh. E).

"Cirilo S. Rivera, clerk of court, was the third witness for appellee. This witness testified that Wee Bin filed a petition for naturalization before the out-break of the last Pacific War (p. 37, tsn, id.); that his petition was granted and a certificate of naturalization was issued to appellee (pp. 38-39, tsn. id.).

"As the last witness, the appellee took the witness stand. He testified that he filed a petition for naturalization in 1937 which was granted (p. 42-A, tsn, id.); that a corresponding certificate of naturalization was issued to him by the clerk of court; that said certificate was stolen by bandits in 1942 when he evacuated to the Tigbao mountains (p. 43, tsn, id.); that the records of his citizenship were found in the office of the secretary of the City Hall by his lawyer, Atty. Catis (pp. 50-51, tsn, id.)." (Appellant's Brief, pp. 9-10.)

It is clear from the foregoing summary made by the appellant itself that the petitioner-appellee had sufficiently proven in the 1951 restoration proceeding the existence in the docket of the CFI of Zamboanga City, before the outbreak of the Pacific War, of the naturalization case and of the certificate of naturalization which granted to him Filipino citizenship in 1937. In view thereof, the CFI of Zamboanga City correctly allowed in its Order dated May 9, 1951, the restoration in its docket of Special Case No. 60 (pre-war), entitled IN THE MATTER OF THE PETITION OF WEE BIN TO BE ADMITTED AS A FILIPINO CITIZEN, and the issuance of Certificate of Naturalization No. 6 in lieu of the lost Certificate of Naturalization No. 57. The denial of the motion to set aside said order should, thus, be affirmed.

Finally, We find no error in the lower court's order dis-allowing the presentation of evidence assailing the validity of appellee's naturalization in 1937. For, clearly, said evidence was irrelevant and immaterial to appellant's "Motion To Set Aside Order dated May 9, 1951 and/or to Cancel Certificate of Naturalization" which undoubtedly assailed only the 1951 order of restoration of record and the certificate of naturalization issued pursuant thereto. Had the Government intended to assail the validity of appellee's naturalization in 1937, it could have filed a petition for denaturalization, instead of the motion to set aside order of restoration of records, or it could have amended its motion after the trial court had ruled that said motion merely assailed the 1951 order of restoration of records and not the validity of appellee's naturalization in 1937. Assailing the fact of naturalization is different from assailing the validity of such naturalization.

WHEREFORE, the appeal of the Republic of the Philippines is hereby DISMISSED for lack of merit and the Order of the Court of First Instance of Zamboanga City dated September 27, 1972 is hereby AFFIRMED. No costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Guerrero,[*] and De Castro, JJ., concur.

[*] Justice Guerrero was designated to sit temporarily in the Second Division during the absence of Justice Concepcion.

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