

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REY
DENIEGA Y MACOY, AND HOYLE DIAZ Y URNILLO,
DEFENDANTS-APPELLANTS.**

G.R. No. 103499. December 29, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The naked body of Marlyn Canoy was found on a heap of garbage in an ill-frequented back corner on the left side of the Mt. Carmel Church in New Manila, Quezon City. Her hands were tied behind her back by a shoestring and pieces of her own clothing. The body bore thirty nine (39) stab wounds. There was evidence that she had been brutally assaulted, physically and sexually, before she was murdered.

Police authorities investigating the gruesome crime on August 31, 1989, arrested Rey Daniega y Macoy on information that the victim was last seen with Daniega,[1] a waiter at the Gathering Disco where Canoy used to work. Friends of Canoy volunteered the information that the former had just broken off from a stormy relationship with Daniega.[2] The latter, it was bruited,[3] desperately tried to patch up the relationship.

Following the latter's arrest, and on the basis of a confession obtained by police authorities from him during custodial investigation (where he allegedly admitted raping and killing Canoy),[4] appellant Hoyle Diaz y Urnillo was invited by the investigators for questioning. A second sworn statement, substantially similar and corroborating many of the details of Daniega's sworn affidavit, was later extracted from Diaz. In the said statement, Diaz admitted his participation in the rape of Canoy, but denied that he had something to do with the victim's death.[5]

Armed with the said extra-judicial confessions, an Information was filed with the Regional Trial Court of Quezon City,[6] charging petitioners with the crime of Rape with Homicide, committed as follows:

That on or about the 29th day of August, 1989, in Quezon City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping each other, with lewd designs, did, then and there willfully, unlawfully and feloniously, by means of force, violence and/or intimidation have sexual intercourse with MARLYN CANOY BENDO, without her consent and against her will; and by reason of and on the occasion thereof, said accused, pursuant to their conspiracy, did, then and there willfully, unlawfully and feloniously, with intent to kill and without any justifiable cause, attack, assault and employ personal violence upon the person of said victim, by then and there stabbing her with an icepick several times, thereby inflicting upon her serious and mortal wounds which were the direct and immediate cause of her death, to the damage and prejudice of the heirs of said Marlyn Canoy Bendo, in such amount as may be awarded to them under the provisions of the New Civil Code.

CONTRARY TO LAW.

At trial, the confessions obtained by law enforcement authorities during their (separate) custodial investigations formed the centerpiece of the prosecution's case for Rape with Homicide against both accused.[7] These confessions allegedly disclosed details of the killing, summarized by the trial court in its Decision dated August 23, 1991, thus:

"Rey Deniega's confession essentially stated:

On August 28, 1989, he and Marlyn were at her house at Onyx Street, Sta. Ana Manila. There they had an altercation because she wanted to break up with her already. He accompanied Marlyn afterwards to Rolando's Disco Pub where Marlyn works. They agreed however, to meet again after she gets (sic) out of the Disco Pub to have a final talk about their relationship. They agreed to see each other at 3:00 in the morning of August 29, 1989 at a waiting shed along Aurora Boulevard near San Juan. He arrived there earlier than Marlyn. While waiting, Rey saw Hoyle Diaz (a.k.a. Boyet) pass by. Rey told Hoyle that he is going to take Marlyn to the Mt. Carmel Church compound and if Boyet wants to take revenge on Marlyn (makaganti) Boyet can hold-up her there.

When Marlyn and Rey were already at the Mt. Carmel Church compound, Boyet arrived with two companions. Boyet berated Marlyn for choosing Rey as her boyfriend instead of Boyet despite the fact that he has already spent large sums for her. Then, suddenly the two companions of Boyet by the name of Tony and Carlos pulled with a jerk the apparel of Marlyn and undressed her. The two tied Marlyn's hands and got her necklace and wristwatch. Boyet then took off his T-shirt and pulled down his pants and raped Marlyn. After the rape, Tony and Carlos stabbed Marlyn. Then Boyet gave Rey an icepick and ordered him to stab Marlyn whom he stabbed once in the stomach. Rey left leaving the three men behind.

Hoyle Diaz confession essentially stated:

He came to know of both Rey Deniega and Marlyn Canoy at Gathering House where Hoyle used to take drinks. He was courting Marlyn there and used to take her as a table partner.

He saw Rey Deniega on a bridge near Broadway Avenue and Aurora Boulevard, Quezon City on August 29, 1989 at around 2:00 in the morning. There Rey told Hoyle that he will teach Marlyn a lesson and will hold her up. He asked Hoyle to accompany him. At between 3:00 and 4:00 that morning Marlyn arrived at the waiting shed where she and Rey were supposed to meet and Rey took Marlyn to Mt. Carmel Church compound with Hoyle Diaz following behind.

The two talked for about 20 minutes. Then they had an altercation, hurling and hollering bad words at each other. Rey tried to undress Marlyn who resisted. Rey boxed Marlyn and was finally able to take off her clothes. Then Rey raped Marlyn. After Rey was through, Hoyle raped Marlyn.

Afterwards, Rey told Hoyle that so that there will be no more trouble (abera) they better finish off Marlyn. Rey took out an icepick and stabbed Marlyn. Then he handed the icepick to Hoyle and Hoyle stabbed Marlyn too. Then Rey faced Hoyle (hinarap) and so Hoyle ran away as Rey chased him. As Hoyle ran he threw away the icepick. He does not know if Rey returned to get the necklace, bag and wristwatch of Marlyn. Hoyle also stated that he saw that Rey was heavily influenced by drugs (sabog sa gamot). Hoyle also recalled that on the way to Mt. Carmel a man followed them but the man was no longer in the vicinity when they reached the Mt. Carmel Church Compound.

When Rey ran after Hoyle, Rey was holding no weapon. Marlyn was raped right where she was found dead.[8]

In their defense, appellants, during the course of the trial, vehemently denied the claim that they had voluntarily

executed the said confessions.[9] Appellants Daniega and Diaz went to the extent of seeking the assistance of the National Bureau of Investigation, and there executed a sworn statement to the effect that their respective confessions were coerced and obtained through torture.[10] Both testified that they were subjected to electrocution and water treatment. They contended that they were arrested without warrants of arrest and that the confessions obtained from them immediately thereafter were made without the assistance of counsel.

After the prosecution rested its case on December 14, 1990, the accused-appellants moved for leave to file Demurrer to Evidence, which the trial court granted.[11] In a demurrer submitted to the trial court on December 28, 1990, appellants moved for the dismissal of the information for Rape with Homicide on the ground of insufficiency of evidence, stressing that: 1) the confessions obtained by police authorities were acquired without the assistance of counsel in violation of their constitutional rights and were hence, inadmissible in evidence; 2) the same (confessions) "were obtained through torture, force, threat and other means which vitiat[ed] (their) free will;" and 3) except for the testimonies of the medico-legal officer and two IBP lawyers who alleged that they assisted the accused during their custodial investigation, the prosecution presented no other evidence to warrant a conviction.[12]

In an Order dated January 30, 1991, the Regional Trial Court denied the motion for Demurrer to Evidence.[13] Consequently, after hearing the appellants' testimonies, the lower court, on August 31, 1991 rendered its Decision convicting the accused-appellants of the crime of Rape with Homicide and sentencing each of them to a penalty of Reclusion Perpetua.[14] They were likewise ordered to pay the heirs of Marlyn Canoy the amount of P50,000.00 in solidum.[15]

In dismissing appellants' principal defense that their confessions were obtained in violation of their constitutional rights, the trial court held that:

The court finds it hard to believe that (Atty. Sansano and Atty. Rous), both of whom are officers of the Legal Aid Committee of the IBP and are prominent practitioners of great integrity, would act as the accused said they did. Over and beyond this it appears that the confessions were executed during daytime and the accused themselves brought to the Quezon City IBP office at noontime during office hours when several employees of that chapter were working, there are usually other lawyers there, and therefore, the accused, if their confession were really prevaricated beforehand, had ample atmosphere to tell Atty. Sansano and Atty. Rous, respectively, that their confession were coerced and untrue. The two counsels testified that they precisely segregated the accused from their police escorts to cull out the truth and the accused volunteered to confess to the crime at bar;

Rey Deniega was arrested at around 6:30 in the morning and Hoyle Diaz at around 9:30 in the morning. Rey was brought to the IBP at around 11:00 in the morning and Hoyle at around 2:00 p.m. of the same day of their arrest on August 31, 1990. Their confession were quite lengthily (4 page each) and filled with details. There is nothing in the record to show that the apprehending officers are clever and articulate enough to be able to fabricate in a short a time the kind of confessions submitted here xxx.[16]

Considering that no eyewitnesses to the actual commission of the crime were presented before the court, the issue of the voluntariness and due execution of the extrajudicial confessions of the appellants upon which their conviction was based, is pivotal in the resolution of the instant appeal. Analyzing the appropriate provisions of law in relation to the facts of the case at bench, we find for appellants.

It is a settled rule that this Court will not normally overturn factual conclusions of the trial court, unless factual evidence has either been deliberately ignored or misapprehended. The confessions which form part of the record of the case at bench are an eloquent example of facts deliberately ignored: the legal insufficiencies and inconsistencies in the documents in question are so glaring, even from a cursory examination of the confessions,

that they should not escape even the untrained eye.

The statements evidencing the interrogation, including those portions in which the appellants purportedly were informed of their constitutional rights, were in typewritten form. However, within the body of these documents, blank spaces were conspicuously left at strategic areas (spaces) where the accused were supposed to sign and acknowledge that they were apprised of their rights and that they gave their statements voluntarily. These were spaces obviously provided for the accused to fill in the blank with the word "yes" ("opo") followed by another blank space for their respective signatures. In addition to these, the header of the disputed documents indicates that the investigations were conducted at the police headquarters, contradicting the prosecution witnesses' declarations that the confessions were obtained in the Quezon City IBP office.

Apart from the defects evident on the face of the documents, there exists evidence indicating that the actual custodial investigation was conducted at the police headquarters in the absence of counsel, as contended by appellants. While we have no dispute with the trial court's observation that the appellants were brought to the Quezon City IBP office during daytime when other individuals were holding office in the IBP floor (who may have witnessed the presence of the appellants in the area),^[17] it is one thing for appellants to be brought to the IBP office only for the purpose of signing the confessions in plain view of the other employees of the office, while compliance with the constitutional mandate requiring the presence of counsel during the actual custodial investigation is quite another.

There is convincing proof^[18] that, while Attys. Sansano and Rous may have been present at the signing of the documents, they were not present at all during the actual custodial investigation of the accused in the police headquarters.

For instance, Atty. Sansano placed the time of arrival of appellant Deniega at the IBP Quezon City chapter office at "around 11:30 in the morning" of August 31, 1989.^[19] However, Deniega's extrajudicial confession taken by Pat. Maniquis gives the time of its execution as 11:20 A.M. also on August 31, 1989 or earlier than the time they allegedly arrived at the IBP office.

Moreover, even assuming the possibility of error in recording the actual time of the investigation,^[20] there is conflict as to the place where the custodial investigation was actually conducted. Atty. Sansano for instance, testified that Daniega's extrajudicial confession was taken at the QC-IBP office.^[21] An examination of the document's heading however reveals that the confessions were given to the investigator (Maniquis) at the police headquarters of the SID, QCPS (sa himpilan ng homicide ng SID, QCPS) not in the IBP office of Atty. Sansano.

With respect to the extrajudicial confession of appellant Diaz, Atty. Rous' declaration that "the custodial investigation was conducted by the policeman in the (IBP chapter) office,"^[22] conflicts with the statement in the actual document (sinumpaang salaysay) that he (appellant) executed his confession at the police headquarters of the SID, QCPS (himpilan ng homicide, SID, QCPS) and not the IBP office.

Lastly, the probity of Pat. Maniquis, who testified in rebuttal was certainly not enhanced by the information given the trial court by prosecution witness P/Sgt. Rogelio Barcelona that he (Maniquis) had been dismissed from the service for unspecified reasons.^[23]

A thorough reading of the transcripts of the testimonies of the two lawyers, Atty. Sansano and Atty Rous, indicates that they appeared less as agents of the accused during the alleged investigation than they were agents of the police authorities. In the case before us, it was the police authorities who brought the accused, handcuffed, to the IBP headquarters where the services of the lawyers were supposedly "engaged." No details of the actual assistance rendered during the interrogation process were furnished or alleged during the entire testimony of the

lawyers in open court. The bulk of the lawyers' oral testimonies merely gave the trial court assurance that they supposedly explained to the appellants their constitutional rights, that the signatures present were their signatures and those of the accused, and that the accused agreed to having the lawyers assist them during the process of custodial investigation.[24]

Clearly, the standards utilized by police authorities (and the lawyers) to assure the constitutional rights of the accused in the case at bench fall short of the standards demanded by our case law and the Constitution itself.

In *Morales, Jr. v. Enrile*,[25] the Court defined the procedure which law enforcement officers must observe in custodial investigations as follows:

At the time, a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means - by telephone if possible - or by letter of messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence.[26]

The rules laid down in *Morales* were reiterated in 1985 case of *People vs. Galit*. [27]

The 1987 Constitution provided a stricter rule by mandating that waiver of the right to counsel must be made not only in the presence of counsel but also in writing. Article III, Section 12 provides:

1) Any person under investigation for the commission of an offense shall have the right to be informed of the right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

Section 33, Rule 130 of the Rules of Court requires, moreover, that a confession, to be admissible, must be express.

Finally, Republic Act 7438 mandates that the entire confession must be in writing.[28]

In all, under rules laid down by the Constitution and existing law and jurisprudence, a confession to be admissible must satisfy all of four fundamental requirements: 1) the confession must be voluntary 2) the confession must be made with the assistance of competent and independent counsel; 3) the confession must be express and 4) the confession must be in writing.

It is noteworthy that the modifiers competent and independent were terms absent in all organic laws previous to the 1987 Constitution. Their addition in the fundamental law of 1987 was meant to stress the primacy accorded to the voluntariness of the choice, under the uniquely stressful conditions of a custodial investigation, by according the accused, deprived of normal conditions guaranteeing individual autonomy, an informed judgment based on the choices given to him by a competent and independent lawyer.

Thus, the lawyer called to be present during such investigations should be as far as reasonably possible, the choice of the individual undergoing questioning. If the lawyer were one furnished in the accused's behalf, it is important

that he should be competent and independent, i.e., that he is willing to fully safeguard the constitutional rights of the accused, as distinguished from one who would merely be giving a routine, peremptory and meaningless recital of the individual's constitutional rights. In *People vs. Basay*, this Court stressed that an accused's right to be informed of the right to remain silent and to counsel "contemplates the transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle." [29]

Ideally therefore, a lawyer engaged for an individual facing custodial investigation (if the latter could not afford one) "should be engaged by the accused (himself), or by the latter's relative or person authorized by him to engage an attorney or by the court, upon proper petition of the accused or person authorized by the accused to file such petition." [30] Lawyers engaged by the police, whatever testimonials are given as proof of their probity and supposed independence, are generally suspect, as in many areas, the relationship between lawyers and law enforcement authorities can be symbiotic.

Conditions vary at every stage of the process of custodial investigation. What may satisfy constitutional requirements of voluntariness at the investigation's onset may not be sufficient as the investigation goes on. There would be denial of the right to the assistance of competent and independent counsel if the investigation or, as in the case before us, during the process of signing. The competent or independent lawyer so engaged should be present from the beginning to end, i.e., at all stages of the interview, counseling or advising caution reasonably at every turn of the investigation, and stopping the interrogation once in a while either to give advice to the accused that he may either continue, choose to remain silent or terminate the interview.

The desired role of counsel in the process of custodial investigation is rendered meaningless if the lawyer merely gives perfunctory advice as opposed to a meaningful advocacy of the rights of the person undergoing questioning. If the advice given is so cursory as to be useless, voluntariness is impaired. If the lawyer's role is reduced to being that of a mere witness to the signing of a pre-prepared document albeit indicating therein compliance with the accused's constitutional rights, the constitutional standard guaranteed by Article III, Section 12 (1) is not met. The process above-described fulfills the prophylactic purpose of the constitutional provision by avoiding "the pernicious practice of extorting false or coerced admissions or confessions from the lips of the person undergoing interrogation for the commission of the offense" [31] and ensuring that the accused's waiver of his right to self incrimination during the investigation is an informed one in all aspects.

The process of assisting appellants in the case at bench as described by the lawyers in their testimony therefore hardly meets the standard of effective and meaningful communication required by the 1987 Constitution, when its framers decided to add the modifiers competent and independent to the requirement for counsel during the process of custodial investigations.

The failure to meet the constitutional requirement for competent and independent counsel and the glaring inconsistencies in documents purportedly executed under the trained and watchful eyes of the lawyers who allegedly were of assistance to the accused during the process of custodial investigation — taken together with the manner in which the signatures of the accused were affixed into the confessions — cast a serious doubt on their due execution, and support the contention that the sworn statements executed by the appellants were already prepared and signed at the police headquarters before the statements were brought to the QC-IBP office for signing. During the trial, Daniega testified to the following:

Q.

Was Atty. Sansano present when this alleged sinumpaang salaysay was taken from you by questions and answers which consist of 31 questions and 32 answers?

A

No, because this statement was signed by me at the police station and then we brought it to the IBP office.[32]

In his cross-examination, the other accused, Diaz likewise testified as follows:

Q.

Who told you to sign this document?

A.

That paper, we made that at the headquarters.

Q

Do you know who prepared this at the headquarters?

A.

It was Pat. Maniquis.

Q.

And Pat. Maniquis was typing this while he was asking you this question?

A.

I did not see that paper while he was investigating me, it was later, he showed that to me, ma'am.

Q.

For how long a time more or less (did) Pat. Maniquis investigate(d) you?

A.

About one hour ma'am.

Q.

And after that one hour, how long a time elapse(d) before you were brought to the IBP Bldg.

A.

Two or three in the afternoon.

Q.

And when you were told to sign this document, at the IBP Bldg., Pat. Maniquis, who were the person(s) present aside from you and Pat. Maniquis?

Atty. Gojar:

He did not sign that in the IBP, your Honor. It was at the headquarters.

A.

I signed that document(s) at the police headquarters.

Q.

What time more or less was that, when you signed that document?

A.

About lunch time.

Q.

Was that after Pat. Maniquis investigated you?

A.

Yes ma'am.

Q.

Who were present at the time Pat. Maniquis told you to sign this?

A.

I don't know them, I only remember Pat. Maniquis.

Q.

Did you have any occasion to read this before you sign(ed) this?

A.

No ma'am, he just asked me to sign it.

Q.

But can you read tagalog?

A.

Yes ma'am.

Q.

And you did not take any opportunity to read this before you sign(ed) it?

A.

Everything went fast, sir.

Q.

After you signed this how long a time elapse(d) before you went to Quezon City IBP?

Atty. Gojar:

It was already answered, your honor.

Q.

what time did you sign this?

A.

I signed it about ten to eleven in the morning and we went to IBP about two or three in the afternoon.[33]
(Italics supplied.)

Together with all the legal deficiencies pointed out so far, it would not be difficult for us to give credence to appellants' testimonies to the effect that the investigation was actually conducted in the absence of counsel in one

place (the QC SID headquarters) and signed in the presence of counsel in another (the QC IBP office). Appellants, who were not trained in the law, would not have understood the constitutional nuances of the fact that the confessions and the signing of the documents evidencing the confessions were obtained in different places. Assuming they were couched, appellants were quite vehement as they were consistent in their separate oral testimonies, and one or both of them would have withered, in any case, on intense cross examination.

These facts lead us to the inevitable conclusion that the confessions of both defendants were obtained in the absence of independent and competent counsel as mandated by the 1987 Constitution and that the same may have been acquired under conditions negating voluntariness, as alleged by the accused.[34]

In fine, the likelihood for compulsion is forcefully apparent in every custodial investigation. A person compelled under the circumstances obtaining in every custodial investigation is surrounded by psychologically hostile forces and the threat of physical violence so that the information extracted is hardly voluntary. In the oftentimes highly intimidating setting of a police investigation, the potential for suggestion is strong.

Every so often, courts are confronted with the difficult task of taking a hard look into the sufficiency of extra-judicial confessions extracted by law enforcement authorities as the sole basis for convicting accused individuals. In cases of crimes notable for their brutality and ruthlessness, the impulse to find the culprits at any cost occasionally tempts these agencies to take shortcuts and disregard constitutional and legal safeguards intended to bring about a reasonable assurance that only the guilty are punished. Our courts, in the process of establishing guilt beyond reasonable doubt, play a central role in bringing about this assurance by determining whether or not the evidence gathered by law enforcement agencies scrupulously meets exacting standards fixed by the Constitution. If the standards are not met, the Constitution provides the corresponding remedy by providing a strict exclusionary rule, i.e., that "[a]ny confession or admission obtained in violation of (Article III, Section 12(1)) ...hereof shall be inadmissible in evidence." [35]

There is a distinct possibility that the confessions given by the appellants in the case at bench might speak the truth. Judges face unimaginable pressures from all areas, including the pressure of their heavy dockets. They are on the forefront of the government's battle against crime. Were it not for the defects inherent in the confessions, and the contradictions and inconsistencies here noted, the trial court's well-written opinion in the case at bench — an eloquent example of the earnest attempts judges make to battle crime, would have been readily sustained by this Court. Yet again, there remains the possibility that the real assailants lurk free somewhere, thanking their luck. What can only be said, in relation to the unfortunate circumstances of the case at bench has already been said, *ad nauseam*, in a number of cases before this. In *People v. Javar*, [36] for instance, we emphasized, conformably with Art. III, Sec. 12 of the Constitution that:

Any statement obtained in violation of the constitutional provision, or in part, shall be inadmissible in evidence. Even if the confession speaks the truth, if it was made without the assistance of counsel, it becomes inadmissible in evidence regardless of the absence of coercion or even if it had been voluntarily given.

We stress, once again, that the exclusionary rules adopted by the framers of the 1987 Constitution were designed, not to vindicate the constitutional rights of lawbreakers but to protect the rights of all citizens, especially the innocent, in the only conceivable way those rights could be effectively protected, by removing the incentive of law enforcement and other officials to obtain confessions by the easy route, either by psychological and physical torture, or by methods which fall short of the standard provided by the fundamental law. Allowing any profit gained through such methods furnishes an incentive for law enforcement officials to engage in constitutionally proscribed methods of law enforcement, and renders nugatory the only effective constitutional protections available to citizens.

WHEREFORE, PREMISES CONSIDERED, appellants Rey Daniega y Macoy and Hoyle Diaz y Urnillo are hereby ACQUITTED of the crime of Rape with Homicide. Their immediate release from custody is hereby ordered unless they are being held on other legal grounds.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Hermosisima, Jr., JJ., concur.

[1] TSN, September 24, 1990, p. 3-11.

[2] Id.

[3] Id.

[4] Record, p. 187.

[5] Rollo, pp. 191-192.

[6] Docketed as Criminal Case No. Q-89-6734

[7] The prosecution produced the oral testimony of Atty. Confessor B. Sansano, Chairman of the Free Legal Aid Committee of the Quezon City IBP who testified that he was present during Daniega's custodial investigation and that he had advised Daniega of his constitutional rights and Atty Florimond C. Ross Free Legal Aid Counsel of the Quezon City Chapter of the IBP, who testified that he assisted appellant Diaz during the latter's custodial investigation.

[8] Rollo, pp. 172-173.

[9] Rollo, p. 173.

[10] Id.

[11] Record, p. 130.

[12] Record, pp. 131-130.

[13] Record, p. 142.

[14] Record, p. 174.

[15] Id.

[16] Record, pp. 173-174.

[17] Rollo, pp. 35-36.

[18] People v. Baello, G.R. No. 101314, July 1, 1993, 224 SCRA 218.

[19] TSN, November 15, 1990, p. 8.

[20] Ibid., p. 20. On cross-examination and after he had been shown a copy of Deniga's statement by the prosecutor, Atty. Sansano indicated Deniega's time of arrival at his office at "about 11:00 o'clock in the morning.

[21] Ibid., pp. 13-14.

[22] Ibid., p. 38.

[23] TSN, September 24, 1990, p. 11.

[24] TSN, Nov. 24, 1990, pp. 57-110.

[25] 121 SCRA 538, 554 (1983).

[26] Id.

[27] 135 SCRA 465 (1985).

[28] Under R.A. 7438: "The custodial investigation report shall be reduced to writing by the investigating officer, provided that such report is signed or thumbmarked, if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person, otherwise, such investigation shall be null and void and of no effect whatsoever."

[29] 219 SCRA 404, 418 (1993) citing *People vs Nicandro*, supra.

[30] *People vs. Saludar*, 188 SCRA 189, 197 (1990).

[31] *Gamboa v. Cruz*, G.R. No. 56291, June 27, 1988, 162 SCRA 642, 648.

[32] TSN, April 17, 1991, p. 11.

[33] TSN, May 27, 1991, pp. 32-36.

[34] *People v. Malakas*, G.R. No. 92150, Dec. 8, 1993, 228 SCRA 310, 318 citing *People v. Viray*, G.R. Nos. 87184-85, October 3, 1991, 202 SCRA 320 and *People v. Padilla*, G.R. No. 72709, August 31, 1989, 177 SCRA 129.

[35] CONST., art. III, sec. 12(1).

[36] Supra.

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