

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEXANDER NAVAJA, ACCUSED-APPELLANT.

G.R. No. 104044. March 30, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Accused Alexander Navaja appeals from the decision[1] of Branch 5 of the Regional Trial Court (RTC) of Cebu in Criminal Case No. CBU-16994, finding him guilty beyond reasonable doubt of selling a prohibited drug in violation of Section 4, Article II of Republic Act (R.A.) No. 6425, as amended, otherwise known as the Dangerous Drugs Act. The dispositive portion of the decision reads in part as follows:

"WHEREFORE, all the foregoing considered, this Court finds accused Alexander Navaja guilty beyond reasonable doubt of violation (sic) of Sec. 4, Art. II, of RA No. 6425, as amended, and absent any modifying circumstances, hereby sentences said accused with (sic) the penalty of life imprisonment and a fine of P20,000.00 and cost de oficio."[2]

Judgment was promulgated on 14 October 1991. Thereupon, the accused filed a Notice of Appeal[3] manifesting his intention to appeal the said decision "to the Court of Appeals or to the Supreme Court." The trial court gave due course thereto and correctly ordered the transmittal of the records of the case to this Court.[4]

Accused was the object of a buy-bust operation conducted by the Anti-Narcotics and Dangerous Drugs Section (ANDDRUS) of the Cebu City Police Station, Metropolitan District Command on 30 August 1989 at sitio Tambisan, Salvador Extension, Labangon, Cebu City. Unlike in other buy-bust operations where the supposed seller of prohibited drugs is arrested immediately after the transaction, Navaja successfully evaded arrest after the consummation of the sale and just as the members of the buy-bust team were about to pounce on him. On 6 September 1989, the ANDDRUS filed a complaint against the accused for the violation of Section 4, Article II of R.A. No. 6425, as amended, which was duly endorsed to the Office of the City Prosecutor of Cebu City.[5] A preliminary investigation was conducted by the latter without any controverting evidence having been offered by the accused because of the non-submission of counter-affidavits. On 23 October 1989, the Office of the City Prosecutor prepared an Information against the accused for the violation of Section 4, Article II of R.A. No. 6425, as amended.[6] The same was filed on 13 November 1989 with the RTC of Cebu City; its accusatory portion reads:

"That on or about the 30th day of August, 1989, at about 1:00 o'clock in the afternoon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there sell and deliver, without authority of law, one (1) line of marijuana dried leaves, buds and seeds, approximately 100 grams, a prohibited drugs, (sic) to a person who posted himself as buyer, (sic) in Violation of Section 4, Art. II, RA 6425, as amended."

The case was docketed as Criminal Case No. CBU-16994 and was raffled off to Branch 5 of the same court. In its Order of 28 February 1990, the trial court archived the case, as the accused had not yet been arrested, and decreed

the issuance of an alias warrant of arrest.[7]

On 10 May 1990, the accused was finally apprehended while attending the hearing of a habeas corpus case filed by his mother against the police officers stationed at Pahina Central or Taboan Market, Cebu City in connection with a case of illegal possession of firearms filed against him.[8] Consequently, Criminal Case No. CBU-16994 was revived and arraignment of the accused was set for 2 July 1990. Arraigned on said date, the accused pleaded not guilty.[9]

During the trial, the prosecution presented Pfc. Ranulfo Espina, a member of the team which conducted the buy-bust operation; Cesar Cagalawan, Regional Chemist of the NBI; and Myrna Areola, Chief of the Chemistry and Physical Identification Section of the PC/INP Crime Laboratory Service, Cebu City. The last two testified that the pieces of evidence submitted to them (Exhibits "A" and "B" to "B-62") were positive for marijuana. The defense, on the other hand, presented Seno Cañedo, Joaquina Navaja (mother of the accused) and the accused himself.

The facts, as proven by the prosecution and as summarized by the trial court in its decision, are as follows:

"Stripped to essentials, their testimonies disclosed that on August 30, 1989 at around 8:00 o'clock in the morning, Ranulfo Espina was on duty at ANDDRUS [Anti-Narcotics and Dangerous Drugs Section], Fuente Osmeña, Cebu City. While there, together with Pfc. Abraham Ocampo, Pfc. Milo Dagasdas, Pat. Roseller Paler, their Chief of Office Lt. Fortunato Quijon, and two agents, namely Belocura and Camargo, a confidential informant arrived and informed them that a certain Alex is engaged in the selling marijuana (sic) at Sitio Tambisan, Salvador St., Cebu City. Their informant further told them that Alex will not sell by joint but by line or kilo. That the first time he heard of Alex was five days before, because they received calls regarding his illicit trade.

Afterwards, Lt. Fortunato Quijon called them for a briefing relating to a buy bust operation to be conducted against Alex. In the briefing, Lt. Quijon informed them that two poseur-buyers will be utilized in the buy-bust operation because Alex is a big time marijuana pusher. They also supplied the informant the marked money to be used in the buy-bust, one P100.00 bill bearing serial number JR685858 and one P50.00 bill bearing serial number HA483042.

At 12:30 noon of that same day, he, together with Pfc. Abraham Ocampo, Pfc. Gualberto Gabales, Pfc. Milo Dagasdas, Pat. Roseller Paler, and agents Belocura and Camargo left their office to conduct the operation. They arrived at sitio Tambisan, Salvador Ext. at around 1:00 o'clock in the afternoon. Upon arrival, they let the two poseur-buyers to walk [sic] ahead of them, and tailing [sic] them secretly. At the target place, for the buy-bust operation, they posted themselves in different strategic places in order to get a clear view of their poseur-buyers and the pusher. That moments later, and from a distance of 8 to 10 meters, they noticed their poseur-buyers approached by a person beside the chicken pens. After a short conversation, they saw the person got [sic] something wrapped in a sheet of newspaper under the galvanized roof. The person then handed it to one of their poseur-buyers. The other poseur-buyer took the marked money from his pocket and handed the same to the pusher. After giving the money, the poseur-buyer immediately gave the pre-arranged signal by combing his hair. Instantly, they rushed to the place where Alex, the pusher, was, but the latter ran upon noticing their presence. That some of their comrades gave chase to Alex but they failed to catch him. They failed also to recover the marked money from Alex. However, they recovered from their poseur-buyers the one line of marijuana leaves, buds and seeds (Exh. A). They also found a brown cigarette case (Exh. B) containing 62 sticks of handrolled marijuana cigarettes (Exhs. B-1 to B-62) near the chicken pens. That when they inquired from the neighborhood the [sic] name of the person who sold the marijuana they were told that the man was Alexander Navaja, alias 'Sindak', the accused in this case.

That they then submitted the evidence confiscated to Lt. Quijon for a field test examination. That per certification (Exhs. C, C-1, C-2 and C-3) issued by Lt. Quijon, the evidence were [sic] found positive for

marijuana. After the field test examination, they sent the evidence for laboratory examination to the PC Crime Laboratory per letter-request (Exhs. E, E-1, E-2, E-3) of Lt. Quijon. That per Chemistry Report No. C-314-89 (Exhs. F, F-1, F-2, F-3) issued by Myrna P. Areola, Chief of the Chemistry and Physical Identification Section of the PC/INP Crime Laboratory Service, Cebu City, the evidence submitted were [sic] positive for marijuana. Furthermore, the evidence confiscated from the accused were [sic] also submitted to the National Bureau of Investigation (NBI) for examination, upon order of the court. That Dangerous Drugs Report No. 90-DD-16309 (Exhs. D, D-1, D-2, D-3) issued by Cesar Cagalawan, Regional Chemist of NBI, Region 7, shows that the specimens submitted were positive for marijuana."[10]

The accused denied that he was at any time engaged in the selling of marijuana or that he had ever smoked it.[11] He likewise denied that he was caught selling the prohibited drug presented as Exhibits "A" and "B" by the prosecution in a buy-bust operation conducted on 30 August 1989.[12] All three (3) defense witnesses testified that the accused has never been known as "Sindak" and that the accused's namesake, Alexander Navaja alias "Sindak," the son of Pepe Navaja, was the person selling marijuana in the area; however, the said "Sindak" was killed in January 1990 by his financier and associate, Oscar Parba.[13]

Defense witness Seno Cañedo also testified that he and the accused were engaged in the buying and selling of fighting cocks; on the day of the alleged buy-bust operation, they were in Mantalongon, Dalaguete which is an hour's ride from Cebu City.

In convicting the accused, the court a quo relied on the testimony of Pfc. Ranulfo Espina, thus:

"Pfc. Ranulfo Espina made a positive identification of the accused, Alexander Navaja, to be the same person who sold and delivered 100 grams of dried marijuana leaves, buds, seeds and stalks wrapped in a sheet of paper to the poseur-buyers; the 100 grams of dried marijuana leaves, buds, seeds and stalks were found to be positive of [sic] marijuana by the findings of both Lt. Myrna P. Areola and Mr. Cesar Cagalawan, the Forensic Chemist of the PCCL and of the National Bureau of Investigation, respectively.

x x x

Although the testimony of Pfc. Espina has not been corroborated by any of his companions during the buy-bust operation, he made a positive and affirmative testimony [sic] how the operation was conducted, where and when, and the identity of the person who sold to the poseur-buyers the said marijuana leaves. The defense have [sic] not produced any single evidence of any improper motive on the part of Pfc. Espina and other prosecution witnesses to prevaricate and testify falsely against the accused. Accused admitted that he had no misunderstanding with Pfc. Espina and anyone of his companions in the buy-bust operation. The filing of the instant case was well-ahead of the filing of the habeas corpus petition against another group of police officers headed by one Pat. Raul Tumakay. As a matter of fact, accused was arrested by virtue of the warrant issued in this case in the course of the hearing of the petition for a writ of habeas corpus, before the sala of Hon. Meinrado Paredes. Definitely, it cannot be said that this case was filed in retaliation and as leverage to the petition for habeas corpus filed by the mother of the accused against Pat. Raul Tumakay, et al."[14]

In his Appellant's Brief, accused interposes five (5) errors allegedly committed by the trial court, hereby quoted verbatim:

"ERROR NO. ONE

THAT THE TRIAL COURT ERRED IN GIVING FULL CREDIT TO THE LONE WITNESS RANULFO ESPINA WHO WAS AT A DISTANCE OF FROM EIGHT [8] TO TEN [10] AWAY [sic] FROM THE ALLEGED TRANSACTION AND THERE WAS A FENCE SURROUNDING THE HOUSE OF ACCUSED AND OBSTRUCTING THE VIEW ASIDE FROM THE CHICKEN PENS.

ERROR NO. TWO

THAT THE TRIAL COURT ERRED IN NOT GIVING FULL CREDIT TO THE TESTIMONIES OF ALL THE WITNESSES OF THE ACCUSED, CONSIDERING THAT THE DISTANCE FROM CEBU CITY TO MANTALONGON IS AROUND EIGHTY [80] KILOMETERS AND IS A FACT THAT TRANSPORTATION IN THE TOWNS OR IN THE PROVINCES IS VERY HARD FOR MOST OF THE BUSES ARE HEAVY LOADED WITH PASSENGERS AND ONE IS LUCKY IF HE CAN RIDE IMMEDIATELY ON THE FIRST BUS THAT PASSED BY.

ERROR NO. THREE

THAT THE TRIAL COURT ERRED IN NOT ANALIZING [sic] THE ARREST MADE ON ACCUSED ON MAY 10, 1990, IN COURT, DURING THE HEARING OF THE HABEAS CORPUS CASE FILED BY JOAQUINA NAVAJA, MOTHER OF THE ACCUSED, AS THE MOTIVE BEHIND THE CASE IN ORDER TO DEFEAT OR WEAKEN THE HABEAS CORPUS CASE, CONSIDERING THAT THE CASE WAS FILED IN COURT ON OCTOBER 23, 1989, YET AND THE ACCUSED [sic] RESIDENCE IS ONLY IN TAMBISAN, LABANGON, CEBU CITY, YET NO ARREST WAS MADE AFTER OCTOBER 23, 1989, BUT ONLY ON MAY 10, 1990, DURING THE TRIAL OF THE HABEAS CORPUS CASE, DUE TO THE FACT THAT THE REAL ALEXANDER SINDAC WHO IS THE ONE ENGAGED IN THIS MARIJUANA BUSINESS IS DEAD AND IN ORDER TO WEAKEN THE HABEAS CORPUS CASE.

ERROR NO. FOUR

THAT THE ACCUSED WAS NOT PROPERLY IDENTIFIED.

ERROR NO. FIVE

THAT THE ACCUSED WAS CONVICTED DUE TO THE MERIT OF THE PROSECUTING FISCAL, ATTY. VIRGINIA P. SANTIAGO, AND NOT BECAUSE OF THE EVIDENCE PRESENTED."[15]

We shall take up these errors in the order they are presented.

In support of the first assigned error, accused contends that while prosecution witness Ranulfo Espina had five (5) other companions, none of them was presented as a witness; moreover, their non-presentation was not sufficiently explained. He concludes that the companions' testimonies would have been adverse if they had been presented in court. He also faults the trial court for relying on *People vs. Ardiza*;^[16] he claims that the said case is not applicable because two (2) peace officers had testified therein. Besides, he argues that Ranulfo Espina, who was eight (8) to ten (10) meters away, could not have fully seen the accused and the poseur-buyers because the accused's house is surrounded by a fence and chicken pens which supposedly obstructed Espina's line of sight.

We are unable to agree. There is no rule of evidence which requires the presentation of a specific or minimum number of witnesses to sustain a conviction for any of the offenses described in the Dangerous Drugs Act. It is the prosecuting fiscal's prerogative to determine who or how many witnesses are to be presented^[17] in order to establish the quantum of proof necessary for conviction. In this case, the prosecution deemed it sufficient to present Pfc. Espina alone since any other testimony which would have been given by the other members of the buy-bust team would be merely corroborative in nature. The non-presentation of corroborative witnesses does not constitute suppression of evidence and would not be fatal to the prosecution's case.^[18] Besides, there is no showing that the other peace officers were not available to the accused for the latter to present as his own witnesses. The rule is settled that the adverse presumption from a suppression of evidence is not applicable when (1) the suppression is not willful, (2) the evidence suppressed or withheld is merely corroborative or cumulative, (3) the evidence is at the disposal of both parties and (4) the suppression is an exercise of a privilege.^[19]

The court, for its part, is not precluded from rendering a judgment of conviction based solely on the testimony of a single witness as long as such testimony is found to be credible and satisfies the court that the accused is guilty beyond any reasonable doubt of the crime charged.^[20]

The accused was seen -- not caught as he had escaped -- -in flagrante as a result of the buy-bust operation. In such an operation, what is important is the fact that the poseur-buyer received the marijuana from the accused and that the same was presented as evidence in court.[21] This Court has consistently held in drug cases that absent any proof to the contrary, law enforcers are presumed to have regularly performed their duty.[22] In the instant case, there exists no such contrary proof. Accused has not presented evidence of any ulterior motive that could have moved Ranulfo Espina to testify against him. The rule is also settled that in the absence of evidence that would show why the prosecution witness would testify falsely, the logical conclusion is that no improper motive existed and that such testimony is worthy of full faith and credit.[23]

Accused has misunderstood the case of *Andiza* wherein We held that in a buy-bust operation where the peace officers had witnessed the transaction between the seller and poseur-buyer, the latter's testimony is not indispensable; the testimonies of the peace officers who had witnessed the transaction would be sufficient for conviction and would not constitute hearsay. That two (2) peace officers testified in *Andiza* and only one (1) took the witness stand in the instant case is of no moment since one witness would be enough if he is credible and if his testimony satisfies the mind of the court as to the guilt of the accused with moral certainty.

The allegation that Ranulfo Espina could not have seen both the accused and the poseur-buyers as they transacted business because of the fence and the chicken pens, is not convincing at all.

We have carefully read the transcript of the stenographic notes of Pfc. Espina's testimony and find no reason to doubt his positive identification of the accused. Although he was eight (8) to ten (10) meters away from the spot where the transaction took place, considering that the incident occurred in broad daylight (1:00 o'clock in the afternoon) and, as admitted by the accused in his Appellant's Brief, the said fence is a wire fence,[24] it could not have been impossible for Pfc. Espina to see and recognize the accused as the person with whom the poseur-buyers transacted business. During the cross-examination of Pfc. Espina, counsel for the accused did not even endeavor to show the impossibility of the former's having been able to observe or witness the transaction because of the alleged obstructions. Said counsel only realized too well the risks of such further inquiry. As regards the name of the person who sold marijuana leaves to the poseur-buyers, Pfc. Espina also testified that after the operation, they inquired from the neighbors and were informed that the complete name of the person who had just escaped is Alexander Navaja alias "Sindak." [25]

The second assigned error is wholly unacceptable. Firstly, the rule is well-settled that the issue of the witnesses' credibility is to be resolved primarily by the trial court because it is in a better position to decide the question, having heard such witnesses and observed their deportment and manner of testifying during the trial. Accordingly, the trial court's findings on the matter of the credibility of the witnesses are entitled to the highest degree of respect and would not be disturbed on appeal in the absence of any showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[26] In the instant case, We find no reason -- and the accused himself has not shown any -- to depart from the said rule. Secondly, the accused failed, either deliberately or through his counsel's sheer neglect, to propound the appropriate questions to corroborate Seno Cañedo's testimony that on the date and hour of the alleged illegal transaction, both he and the accused were in Mantalongon, Dalaguete, Cebu, a place which is eighty (80) kilometers from Cebu City. We find the failure of the accused, the principal party involved in the case, to personally claim the defense of alibi -- which Cañedo testified on -- rather strange. Thirdly, it was not shown by Cañedo that the distance of eighty (80) kilometers is such that it would have been impossible for the accused to be at the scene of the buy-bust operation at the time the same was conducted. It is a fundamental juridical dictum that the defense of alibi cannot prevail over the positive identification of the accused.[27] Furthermore, for this defense to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed;

it must likewise be demonstrated that it was physically impossible for him to have been at the scene of the crime at the time of its commission.[28]

The trial court correctly brushed aside the accused's allegation that he was only prosecuted for the offense subject of this appeal to weaken the habeas corpus case which his mother had filed against certain policemen.[29] The records readily disclose that the Information in this case was filed long before the accused was arrested for the charge of illegal possession of firearms on 4 May 1990; it was this May arrest which brought about the filing by the accused's mother of the habeas corpus case against the police officers responsible therefor. As stated earlier, the Information in this case was prepared on 23 October 1989 and was filed in court on 13 November 1989. Thereupon, the case was archived in the meantime because despite efforts to arrest the accused, the latter always managed to elude his would-be captors. Espina testified that they tried three (3) to four (4) times to arrest the accused but were always informed that the latter could no longer be found in that place.[30]

As his fourth assigned error, accused claims that he is not the Alexander Navaja, nicknamed "Sindak," who sold the prohibited drugs to the buy-bust team on 30 August 1989, but a mere namesake of the said drug-pusher. Accused avers that he is known in the neighborhood as "Alex." He further relies on the testimony of Seno Cañedo that his (accused's) nickname is "Alex" and not "Sindak." [31] This contention is absolutely without merit. The party named as accused in the caption of the Information in this case is "ALEXANDER NAVAJA @ SINDAK." The opening paragraph of the body thereof reads:

"The undersigned 4th Assistant City Prosecutor of Cebu accuses ALEXANDER NAVAJA @ SINDAK, of the crime of VIOLATION OF SECTION 4, ARTICLE II, RA 6425, AS AMENDED, committed as follows:" [32] (underscoring supplied for emphasis).

At his arraignment, he voluntarily entered his plea without any protest as to his alias or nickname. By failing to object thereto, he thus admitted that his alias or nickname is, indeed, "SINDAK."

Moreover, whether or not there lived another person with the same name in the area where the buy-bust operation was conducted is immaterial to the case at bar. The identity of the accused as the person who sold marijuana to the poseur-buyers was established by Pfc. Espina, a member of the buy-bust team who saw the face of the seller. Espina positively identified the appellant in court as the man who sold marijuana that day. Thus:

"Q.

What happened to the two marked money [sic] the P100 and the P50 bill?

A.

We were not able to recover it because the pusher managed to escape.

Q.

By the way, what is the name of the seller whom [sic] you have conducted a buy bust operation?

A.

Alexander Navaja alias Sindak.

Q.

When for the first time did you know his complete name?

A.

After the operation.

Q.

How did you come to know his complete name?

A.

We asked from the neighbors during the incident.

Q.

At the time the buy bust operation was conducted wherein your poseur buyers was [sic] approached by a person, how far were you from the poseur buyers and the seller?

A.

I was about 8 to 10 meters.

Q.

What was your position in relation to the poseur buyers?

A.

I was fronting on [sic] his direction.

Q.

How about the seller?

A.

The same.

Q.

With this position, you saw clearly the face of the pusher?

A.

Yes.

x x x

Q.

How far were you from the two other members of your group?

A.

Three or four arms length.

Q.

If Alexander Navaja alias Sindak is present before this court, will you please point him out?

A.

(witness pointing to a man who answered the name Alexander Navaja.)"[33]

The last assigned error is unworthy of any consideration. The trial court did not render a judgment of conviction "due to the merit of the prosecuting fiscal," but on the basis of the evidence against the accused. It is evident that

the latter, in raising the last error, misread or misinterpreted the following statement in the appealed decision:

"Parenthetically, it may be worth to mention in passing, that Asst. City Prosecutor Virginia P. Santiago, the public prosecutor regularly assigned of [sic] this branch of the court, is observed to be objective in the prosecution of cases. She adheres to the two--fold function [sic] of a public prosecutor; she would not hesitate to stand up before this court to ask for the dismissal of a case if on the basis of what she found or discovered, further prosecution would result to injustice to the accused. But she and this court are not persuaded by the version of the accused in his defense." [34]

Prescinding from all the foregoing, the challenged decision must, therefore, be affirmed.

WHEREFORE, the Decision of Branch 5 of the Regional Trial Court of Cebu in Criminal Case No. CBU-16994 convicting the accused ALEXANDER NAVAJA @ "SINDAK" of the crime charged, is hereby AFFIRMED in toto.

Costs against the accused.

SO ORDERED.

Feliciano, (Acting Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Original Records (OR), 41-53; Rollo, 13-25. Per Judge Celso M. Gimenez.

[2] Id., 53; Id., 25.

[3] Original Records, 55.

[4] Id., 56.

[5] Id., 5.

[6] Id., 1.

[7] Id., 8.

[8] TSN, 10 December 1990, 12.

[9] Original Records, 11.

[10] Original Records, 42-44; Rollo, 14-16.

[11] TSN, 26 November, 1990, 3; TSN, 10 December 1990, 3, 15.

[12] Id., 15-16.

[13] TSN, 26 November 1990 3; TSN, 10 December 1990, 3, 15.

[14] Rollo, 18-20.

[15] Rollo, 36-37.

[16] 164 SCRA 642 [1988].

[17] People vs. Ruedas, 194 SCRA 553 [1991]; People vs. Gadiana, 195 SCRA 211 [1991]; People vs. Mandapat, 196 SCRA 157 [1991].

- [18] *People vs. Capulong*, 160 SCRA 533 [1988]; *People vs. Tangliben*, 184 SCRA 220 [1990].
- [19] *People vs. De Jesus*, 205 SCRA 383, 391 [1992].
- [20] *People vs. Rumeral*, 200 SCRA 194 [1991]; *People vs. Javier*, 182 SCRA 830 [1990], cited in *People vs. Babac*, 204 SCRA 968 [1991].
- [21] *People vs. Catan*, 205 SCRA 235 [1992].
- [22] *People vs. De Jesus*, 145 SCRA 521 [1986]; *People vs. Claudio*, 160 SCRA 646 [1988]; *People vs. Khan*, 161 SCRA 406 [1988]; *People vs. Bati*, 189 SCRA 97 [1990]; *People vs. Fernandez*, 209 SCRA 1 [1992].
- [23] *People vs. Macalindong*, 76 Phil. 719 [1946]; *People vs. Borbano*, 76 Phil. 702 [1946]; *People vs. Araja*, 105 SCRA 133 [1981]; *People vs. Campana*, 124 SCRA 271 [1983]; *People vs. Patog*, 144 SCRA 429 [1986]; *People vs. Simon*, 209 SCRA 148 [1992].
- [24] *Rollo*, 40.
- [25] TSN, 18 September 1990, 8.
- [26] *People vs. Demecillo*, 186 SCRA 161 [1990]; *People vs. Payumo*, 187 SCRA 64 [1990]; *People vs. Manalansan*, 189 SCRA 619 [1990]; *People vs. Gupo*, 190 SCRA 7 [1990]; *People vs. Toring*, 191 SCRA 38 [1990]; *People vs. Felipe*, 191 SCRA 176 [1990]; *People vs. Tismo*, 204 SCRA 535 [1991].
- [27] *People vs. Mercado*, 97 SCRA 232 [1980]; *People vs. Clores*, 184 SCRA 638 [1990]; *People vs. Arceo*, 187 SCRA 265 [1990]; *People vs. Beringuel*, 192 SCRA 561 [1990].
- [28] *People vs. Esmael*, 37 SCRA 601 [1971]; *People vs. Diaz*, 55 SCRA 178 [1974]; *People vs. Turalba*, 55 SCRA 697 [1974]; *People vs. Baylon*, 57 SCRA 114 [1974]; *People vs. Dueño*, 90 SCRA 23 [1979]; *People vs. Mercado*, 97 SCRA 232 [1980].
- [29] TSN, 10 December 1990, 7.
- [30] TSN, 18 September 1990, 14-15.
- [31] TSN, 26 November 1990, 3; TSN, 10 December 1990, 15.
- [32] Original Records, 1.
- [33] TSN, 18 September 1990, 8-9.
- [34] *Rollo*, 23.

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