

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMAN MENESES Y MARIN, ACCUSED-APPELLANT.

G.R. No. 111742. March 26, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Eyewitness identification is vital evidence and, in most cases, decisive of the success or failure of the prosecution.[1] Subject of the Court's scrutiny in the instant criminal case is the credibility of a child's alleged eyewitness account on which the appellant's conviction by the trial court was solely anchored.

At around three o'clock in the early morning of December 15, 1991, thirty-three year old Cesar Victoria was stabbed to death while sleeping by his seven-year old son Christopher in a rented makeshift room in Tondo, Manila.

Appellant Roman Meneses was charged with the murder of Cesar Victoria, in an Information dated December 27, 1991, which reads:

That on or about December 15, 1991, in the City of Manila, Philippines, the said accused, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and use personal violence upon one CESAR VICTORIA y FERNANDEZ, by then and there stabbing the latter with a fan knife (balisong) on the different parts of his body, thereby inflicting upon the said CESAR VICTORIA y FERNANDEZ mortal wounds which were the direct and immediate cause of his death immediately.[2]

The prosecution presented the following witnesses: Christopher R. Victoria, SPO3 Jaime Mendoza, SPO3 Eduardo Gonzales and Medico-Legal Officer Florante Baltazar.

Christopher R. Victoria testified that he witnessed the stabbing of his father. He testified that while he lived with his Kuya Odeng on Kasipagan Street, Tondo, on the night of December 14, 1991, he went to his father's rented makeshift room to sleep after he (Christopher) was whipped by his brother. Christopher's other siblings lived elsewhere in Tondo and his mother was living in Quezon. He further testified that he was awakened from sleep and saw his father being stabbed in the heart with a "veinte nueve." After the assailant ran away, Christopher cried.

SPO3 Jaime Mendoza, a police investigator of the Western Police District testified that on December 15, 1991, a kagawad of Barangay 123, Zone 9, Tondo, Manila called the precinct informing him that Cesar Victoria was found stabbed to death. With three policemen, Mendoza immediately went to the crime scene, arriving there at around three o'clock in the morning. Mendoza described the scene as a makeshift room about three by five square meters. The room was connected by a divider with a door to a house owned by the Spouses Ardiete, the victim's landlord. The policemen saw the victim's bloodied body, with several stab wounds, lying on a wooden bed.

Mendoza testified that when he questioned Christopher, who was then in the house, Christopher could not identify

nor describe the attacker, but that the child said he could identify him because he knew his face. On re-direct examination however, Mendoza said that Christopher identified the assailant as appellant.

Mendoza and the policemen brought Christopher to the precinct where his statement was taken.[3] After the appellant was arrested and turned over to the investigators on December 26, 1991, Christopher was again brought to the precinct where, during a confrontation with appellant, Christopher identified appellant as the person who stabbed his father.[4]

SPO3 Eduardo C. Gonzales testified that at about two o'clock in the morning of December 25, 1991, he arrested appellant. The arrest was based on the report of Angelina Victoria, appellant's wife, who implicated appellant in the crime. The policemen found appellant at the place pointed to by Angelina, which was a flower box at the corner of Tuazon and Mithi Streets. Frisked, appellant yielded a balisong. After announcing that they were policemen and that appellant was being arrested as the suspect in the stabbing of Cesar Victoria, Gonzales and his companions brought appellant to Police Station No. 2. Appellant was later transferred to the Homicide Section.

On cross-examination, Gonzales stated that he and his companions merely "invited" appellant to go with them to the police station for investigation, but that at the police station, appellant verbally admitted to stabbing Cesar Victoria.[5]

Medico-Legal Officer Florante P. Baltazar of the Philippine National Police Crime Laboratory conducted the autopsy on the victim. He testified in court that the cause of death of the victim, as stated in his Autopsy Report, was "cardio-respiratory arrest due to shock and hemorrhage secondary to stab wounds," and that the victim sustained five external injuries, two of which were fatal.[6] He opined that based on the direction of the stab wounds, the victim was not lying down when stabbed, but could have been standing or sitting when stabbed by the attacker who could have also been standing.[7]

The lone witness for the defense was the appellant himself, Roman Meneses. He interposed the defense of denial and alibi. Appellant testified that the victim, who was his brother-in-law, and Christopher used to live with him and his wife Angelina, the victim's sister, in their house at A. Tuazon Street, Tondo, Manila. On the day of the crime, appellant alleged that he was in San Isidro, Mexico, Pampanga, and had been there since the tenth or eleventh of that month, after he had a misunderstanding with Angelina.

He further testified that he was arrested on December 24, 1991, without a warrant after being implicated in the crime by his wife. He was brought to the police station where he was mauled by policemen; he never admitted though to killing Cesar Victoria, his brother-in-law.

Appellant also denied that there was animosity between him and his brother-in-law. In fact, when Cesar was stabbed after he (Cesar) got out of prison, appellant even brought him to the hospital and paid for his medical expenses. Appellant even sent his nephew Christopher to school.[8]

In a Decision dated July 26, 1993, the trial found appellant guilty, thus:

WHEREFORE, judgment is hereby rendered convicting the accused of the crime of Murder, and he is hereby sentenced with the penalty of Reclusion Perpetua.

The accused is hereby ordered to indemnify and pay the heirs of the victim Cesar Victoria the sum of P50,000.00 as damages sustained by them on account of the victim's death.[9]

In this appeal, appellant assigns to the trial court the following errors:

I

THE TRIAL COURT ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE EVIDENCE ADDUCED BY THE DEFENSE.

II

THE TRIAL COURT ERRED IN CONVICTING APPELLANT OF THE CRIME CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

ON THE ASSUMPTION THAT APPELLANT IS GUILTY, THE TRIAL COURT ERRED IN CONVICTING HIM OF MURDER INSTEAD OF HOMICIDE ONLY.[10]

The issue in the instant case is credibility. The judgment of appellant's conviction is anchored entirely on the testimony of the single eyewitness, Christopher Victoria, who identified appellant as the one who he allegedly saw stab his father.

We find that the trustworthiness of the identification of appellant by Christopher is dubious, raising reasonable doubt in the mind of the Court as to appellant's culpability.

It was established that the crime took place in the wee hours of the morning, before the crack of dawn, at around three o'clock.[11] The court can take judicial notice of the "laws of nature,"[12] such as in the instant case, that at around three in the morning during the Christmas season, it is still quite dark and that daylight comes rather late in this time of year.[13] Nowhere in the description of the crime scene by witness SPO3 Mendoza in his testimony was it established that there was light or illumination of any sort by which Christopher could see the attacker. SPO3 Mendoza testified thus:

Q - You said you found the body of the victim, what (sic) did you found (sic) at the body of the victim?

A - We found the body of the victim on adjacent makeshift of the No. 1324.

Q - The makeshift room which was adjacent to the house, whose house of that makeshift was adjacent?

A - It was owned by Cesar Victoria and his son Christopher.

Q - You said you interviewed a couple named Ardiete, where did you see this couple?

A - Inside the house, sir.

Q - How far is that house to the house of the victim?

A - Only a division within that house, only division separate.

COURT:

Q - You said that the makeshift was adjacent to the house, does the Court understand from you that the makeshift was attach to the house?

A - Part of the house, Your Honor.

Q - Is there an opening on it?

A - Yes, Your Honor.

Q - How wide?

A - The main door going to the house.

Q - Did you come to know, what that makeshift was for?

A - It was occupied intended for the victim Cesar Victoria and his son, they actually rented the space.

Q - So the place where you found the victim is a place which can be used for living purposes?

A - Yes, sir.

Q - How did you come to that conclusion?

A - Because that portion, there was a door, there was a door before you can get inside.

FISCAL SULLA:

Q - How big is that room more or less?

A - More or less about three meters or five meters.

Q - Now who occupied the room adjacent to the room occupied by the victim?

A - The spouses Ardiete, sir.[14]

The crime took place in a makeshift room measuring about three by five square meters. While the room had a door, there was no mention of a window which could have allowed entry of some kind of light from the outside. It is highly improbable that a young boy, just roused from sleep and his eyes adjusting to the unlit room, could identify the attacker, much less identify the knife used, as Christopher did, as a “veinte nueve.”

The prosecution failed to paint a crystal-clear picture of the environ by which Christopher could have made an accurate and reliable identification of the attacker. Christopher’s testimony being improbable, is not credible. Evidence is credible when it is “such as the common experience of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation, and experience.”[15]

We now consider the identification itself. We note a glaring discrepancy, not inconsequential, in the testimony of SPO3 Mendoza regarding Christopher’s identification of appellant. SPO3 Mendoza testified thus:

Q - Where was the son of the victim when you arrived?

A - Inside the house, sir.

COURT:

Q - Did you talked (sic) to the son of the victim?

A - Yes, sir.

Q - What did he tell you?

A - He told me he can remember the suspect whenever he sees him again.

Q - Then he can identify him?

A - Yes, Your Honor.

ATTY. SARMIENTO:

Q - So at the time that you were there, the son of the victim was not able to tell you who the suspect was?

A - Yes, sir.

x x x

Q - Neither the wife nor the husband [referring to the spouses Ardiete, nor the son tell you that they saw the killing?

A - The son of the victim said that he can identified (sic) the suspect.

Q - Did you asked (sic) him if he can identify?

A - Yes, sir.

Q - And what did he tell you?

A - He knows the face of the suspect.

Q - Did you ask him the name of the suspect, if he knows him at that time?

A - He can't tell the name.

Q - Did he tell you the description of the suspect?

A - He can't tell the description of the suspect but he insist (sic) that if he can see him again, he can identify.[16]

During his direct and cross-examination, SPO3 Mendoza asserted that Christopher could not name his father's attacker nor give a description; however, in his re-direct examination he said that Christopher mentioned categorically appellant's name, Roman Meneses, thus:

Q - When you responded to the scene of the crime, and talking to Christopher Victoria who can identify the suspect, did you asked [sic] him why he can identify the suspect?

A - Yes, sir.

Q - What did he say?

A - He remember [sic] the face.

Q - And did you ask him why he can remember the face?

A - Yes, sir. Because he openly sees the face, sice (sic) he was his uncle.

Q - Did you asked [sic] the son what is the name of his uncle?

A - Yes, sir.

x x x .

Q - What is the name?

A - Roman Meneses.[17]

This inconsistency in the testimony of SPO3 Mendoza not only tolls on his credibility as well as the credibility of his testimony, but more significantly, casts doubt on the trustworthiness, veracity and reliability of the alleged identification itself. Significantly, this inconsistency was noted by the trial court with vexation, but the Court merely glossed over the same, stating that the identification of appellant by Christopher during the subsequent

confrontation rendered such inconsistency unimportant.

Even in the Advance Information[18] prepared by SPO3 Mendoza on December 15, 1991, no mention was made regarding an identification made by Christopher when questioned immediately after the crime. Mendoza wrote:

CHRISTOPHER VICTORIA, 8 years old, son of victim, who was sleeping beside the latter during the commission of the crime when interviewed stated that he was awakened while his father was being stabbed by suspect, whom he claimed he can identify if he can see him again.

Case to be further investigated and follow-up to determine the motive behind the knife-slaying and efforts will be exerted to establish the identity of suspect.[19]

Indeed, it taxes the credibility of Christopher's testimony that while he knew appellant prior to the crime, being his uncle, who for some time he was staying with, he failed to point to appellant as the attacker when questioned by the police immediately after the incident. Wall[20] in his work on eyewitness identification expound on the danger signals which a trial court judge and the appellate courts should watch out for when considering identifications in criminal cases, thus:

When a person has been the victim of a crime committed by a friend, acquaintance, relative, or other person previously familiar to him, and decides to make a complaint to the police, it is to be expected that he would immediately inform them of the name (or if that be unknown, then at least the identity) of the person whom they should arrest. The victim would normally tell the police that he had been hit by John Smith, or that her purse had been snatched by the grocer's delivery boy. Of course, some crimes are never reported, for one reason or another. But once the victim decides to make a criminal complaint, then he will almost invariably name or designate the perpetrator of the crime immediately, if he is able to do so. The occasional failure of a complainant to do this is a danger signal of which the courts have sometimes taken note.

In an Idaho prosecution for rape, for example, the complaining witness identified the defendant at the trial, but had not accused him when making her original complaint to the police, even though he was previously known to her. As an explanation, she testified that she had not recognized him during the commission of the crime. The ensuing conviction was reversed on the ground that the evidence of identification was insufficient. In an Iowa prosecution for assault with intent to commit rape, the complainant was a young married woman who had known the defendant prior to the commission of the alleged crime. She identified him at the trial, but admitted that she had not recognized him during the assault, for he had a veil covering his face. It was after he left, she testified that it came to her mind that he assaulted, and on the same day, she became afraid to stay alone at home while waiting for her husband to return, and asked none other than the defendant to wait with her – a course of action which was commented upon by the appellate court which reversed the conviction on grounds which included the insufficiency of the evidence of identification.

In a New York murder prosecution, the victim's widow identified the defendant prior to her husband's killers. Although she knew the defendant prior to her husband's death, she admitted that she had not named him to the police on the night of the crime, and admitted also that she had told the coroner that she had never before seen her husband's murderers. A conviction for murder in the first degree was reversed because the trial judge had failed to charge the jury that they should consider those facts in determining the accuracy of the identification. And in a recent New York robbery prosecution, it was brought out that the two women who had identified the defendant at the trial had not immediately named him to the police, even though they had known him previously, since he was the son of an acquaintance of one of them. The conviction was reversed on appeal, the court stating, with respect to the identifying witnesses, that:

If we give credence to their testimony, it appears that they were able to and did observe fully the fact and general appearance of one of the three alleged robbers who was identified by them 17 months later as the defendant Certainly, if, at the time of the incident, they had recognized the particular individual as one whom they knew or

as resembling one with whom they were acquainted, it is reasonable to expect that they would have given this information promptly to the police.... On the state of this record, there was no plausible explanation for the failure of the two women, or one of them, to recognize the defendant at the time of the robbery or, in any event, to pass along to the police within a reasonable time information which would have led them to identify the defendant as one of the robbers. We realize.... That the issue is one of credibility and that, generally speaking, such issue is for the trier of the facts. Here, however, on the whole record, we have concluded that the finding of the jury as to the guilt of the defendant... is contrary to the weight of the evidence; and that, in any event, a new trial should be had in the interests of justice.

These four cases should suffice to illustrate how the courts react to this danger signal on the rather rare occasions when it is in the record before them. Those occasions are rare, it is submitted, because when the point actually arises in a case, it usually produces that reasonable doubt which causes a jury to acquit. It may also be of some significance that when a jury convicts despite such a glaring weakness in the identification, it is usually in the type of case that stirs up the greatest emotions – sex crimes and crimes of violence. Common sense, however, dictates that when this danger signal is present in a case, and the failure of the witness or complainant to do what would normally be done, i.e., to name or designate the perpetrator of the crime immediately, is not satisfactorily explained, no conviction should occur or should be allowed to stand in the absence of independent and persuasive evidence of the defendant's guilt.

The prosecution did not endeavor to explain Christopher's failure to name the attacker at the time he was questioned immediately after the crime. From SPO3 Mendoza's testimony, Christopher was at that time coherent and answering clearly questions from the police.

We further find objectionable Christopher's identification of appellant during a "show-up" at the police station. As testified to by SPO3 Mendoza, "I made confrontation between them," referring to Christopher and appellant SPO3. Mendoza testified on the circumstances surrounding the "confrontation" between Christopher and appellant, thus:

Q - Who was able to arrest the suspect?

A - PO Eddie Gonzales sir.

Q - And what did you do when you informed about this?

A - I invited again the eye witness, the son of the victim.

Q - And what did you do when you invited the eye witness?

A - We make confrontation between the suspect and him.

Q - Where?

A - Inside the room sir.

Q - When was that?

A - Right after the suspect was arrested.

Q - When was he arrested?

A - December 25, 1991

x x x

Q - And then in the confrontation between the suspect and the eye witness, what happened?

A - The eye witness positively identified the suspect as the one who stabbed the victim.

COURT:

Who identified?

A - The eye witness Your Honor.

x x x

FISCAL SULLA:

Q - Exactly, where was the suspect when he was identified by the witness?

A - Inside the office.

Q - In what particular place inside your office?

A - Crime against person, homicide.[21]

x x x

Q - So, when the accused was arrested and you were informed about it, what did you do?

A - I investigated again, after I made a confrontation between the son of the victim and the suspect.

Q - Son of the victim alone?

A - Together with Angelina?[22]

x x x

Q - So the suspect was turn-over (sic) over to you?

A - Yes, sir.

Q - When was that?

A - Day after December 25, 1992.

Q - And when the suspect was turned-over to your office, who were there?

A - The night shift in charge.

Q - How about the son of the victim, were (sic) he there?

A - I just saw him (there) when I arrive (sic).

Q - What happened when they arrived.

A - I took immediately the statement of the son of the victim.

Q - Did you point them the suspect?

A - No, sir.

Q - Was there confrontation between the suspect and the son together with Angelina?

A - Yes, sir.

Q - What happened during the confrontation?

A - He pin-pointed the suspect.

Q - Who pin-pointed the suspect?

A - The son of the victim.

Q - How about Angelina?

A - She did not.[23]

xxx.

Q - And from that time how long did it take? When they arrive (sic), how long (did) this Christopher Victoria identify the suspect?

A - Immediately during my investigation I made a confrontation with the suspect and the victim, and he pin-pointed to me that the suspect was really the one.

Q - You said that the suspect was inside the jail, when you made the investigation in your office, how far is your office to the detention cell?

A - About three meters.

Q - When did the confrontation exactly took (sic) place?

A - I let the son of the victim to go (sic) nearer the detention cell.

COURT:

Did you tell something, did you asked (sic) did you tell anything to the son before the confrontation?

A - Yes, sir.

COURT:

What did the son told (sic) you?

A - He told me he can.

Q - And after he told you he can, what did you do?

A - I made confrontation between them.

COURT:

And during the confrontation, what did the son tell you?

A - He is Roman Meneses.

COURT:

Did you asked (sic) him where did he saw (sic) the person pointed to?

A - Yes, he told me that he saw him in the room they rented at Alinia.[24]

In *Tuason v. Court of Appeals*,[25] the Court stated that an identification of the accused during a “show-up” or where the suspect alone is brought face to face with the witness for identification,[26] is seriously flawed. We stated thus:

x x x the mode of identification other than an identification parade is a show-up, the presentation of a single

suspect to a witness for purposes of identification. Together with its aggravated forms, it constitutes the most grossly suggestive identification procedure now or ever used by the police (See Louisell, David W., Kaplan, John, and Waltz, Jon R., Cases and Materials on Evidence; Wall, Eyewitness Identification in Criminal Cases, 1968 ed., p. 1263)

In the Tuason case, during a first encounter in the National Bureau of Investigation (NBI) headquarters, the accused therein was pointed to by the alleged eyewitnesses after an NBI agent first pointed him out to them. The Court said that “[the eyewitnesses’] identification of [petitioner] from a [subsequent] line-up at the NBI was not spontaneous and independent. An NBI agent improperly suggested to them petitioner’s person.”[27]

From Mendoza’s testimony we can gather that appellant was presented as the suspect in the crime to Christopher inside Mendoza’s office in the Homicide Section of the police station, or later in the detention cell the boy was made to approach. While Mendoza did not literally point to appellant as in the Tuason case, equally pervasive in the “confrontation” in the instant case is what Wigmore calls “the suggestion of guilty identity.”[28]

Even applying the totality of circumstances test set in *People v. Teehankee, Jr.*[29] formulated and used by courts in resolving the admissibility and reliability of out-of-court identifications, we must hold the identification of appellant by Christopher to be seriously flawed. The test lists three factors to consider:

x x x (1) the witness’ opportunity to view the criminal at the time of the crime; (2) the witness’ degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification process. (See *Neil v. Biggers*, 409 US 188 (1973); *Manson v. Brathwaite*, 432 US 98 (1977); *Del Carmen*, Criminal Procedure, Law and Practice, 3rd Edition., p. 346)

Indeed, we cannot discount the angle that young Christopher was influenced by prior prompting or manipulation by an adult, his aunt Angelina. Rather than reinforce the identification, the circumstances pointed out by the trial court plants in mind the plausibility that appellant’s wife Angelina could have coached the young impressionable Christopher. These circumstances are:

First, was the insistence of [appellant’s] wife as testified by the accused himself, that he was the one who killed the victim, and was pointed to by her as the assailant, thus, he was arrested. Another was the resentment of the accused against his brother-in-law-victim brought about by the latter’s intervention in that serious quarrel between him and his wife. Thirdly, that the accused no doubt disliked the financial support and subsistence being given by his wife to the victim.

Quite revealingly, Angelina was the one who went to the police to implicate appellant in the crime and who directed the police to where he could be found. She later herded Christopher to the police station for the boy to give his statement. She was also with the boy when he was made to identify appellant during the “confrontation.” We see Angelina’s actuations as suspect, especially when we consider that per SPO3 Mendoza’s testimony, when he questioned Christopher immediately after the crime, the boy could not simply name the attacker.

And while the above circumstances, particularly, the supposed resentment of appellant against the victim, who was his wife Angelina’s brother, and envy proceeding from Angelina’s giving financial support to the victim may constitute motive, motive alone, without credible positive identification, cannot be a basis for conviction.[30]

The People points out that appellant had verbally admitted having committed the crime at the time of his arrest and later during the conduct of the investigation.[31] The appellant however during the trial denied having made such verbal admissions of guilt. Granting arguendo that appellant indeed made such verbal admissions, the same would not be admissible in evidence against him because the constitutional preconditions for its admission were

not complied with. The mere assertion by a police office that after an accused was informed of his constitutional right to remain silent and to counsel he readily admitted his guilt, does not make the supposed confession admissible against the purported confessant.[32] Here, it was not even shown that appellant's supposed admissions of guilt were made with benefit of counsel.[33]

It is conceded that appellant's defense of alibi is weak.[34] The settled rule however is that conviction should rest on the strength of the prosecution and not on the weakness of the defense.[35] The onus is on the prosecution to prove the accused guilty beyond reasonable doubt, in view of the constitutional presumption of the innocence of the accused.[36] We must rule that the prosecution failed to so discharge its burden.

WHEREFORE, in view of the foregoing, the Decision dated July 26, 1993 of the Regional Trial Court of Manila, National Capital Judicial Region, Branch 34 in Criminal Case No. 91-101878 convicting appellant ROMAN MENESES y MARIN is REVERSED and appellant is ACQUITTED of the crime charged on the ground of reasonable doubt. The Court orders his RELEASE from commitment unless he is held for some other legal cause or ground. Costs de oficio.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, and Purisima, JJ., concur.

[1] *People v. Teehankee, Jr.*, 319 Phil. 128, 179 (1995).

[2] Record, p. 1.

[3] Referred to as Exhibit "A." Note that Christopher Victoria's Salaysay is dated December 26, 1991.

[4] TSN, May 26, 1992, pp. 3-22.

[5] TSN, July 6, 1992, pp. 3-14.

[6] Exhibit "D-3."

[7] TSN, October 27, 1992, pp. 3-13.

[8] TSN, November 12, 1991, pp. 2-24.

[9] Rollo, p. 21.

[10] Rollo, p. 26.

[11] TSN, SPO3 Jaime Mendoza, May 26, 1992, p. 4; Advance Information dated December 15, 1991 (Exhibit "B"); Additional Information dated December 26, 1991 (Exhibit "C").

[12] Section 1, Rule 129, Revised Rules of Court.

[13] *People v. Madera*, 57 SCRA 349 (1974), where the Court took judicial notice of the time when the moon rises or sets on a particular day. Cites Francisco's Evidence, Vol. VII, Part I, p. 80.

[14] TSN, SPO3 Jaime Mendoza, May 26, 1992, pp. 4-6.

[15] *People v. Abellanos*, 264 SCRA 722, 735 (1996) citing *People v. Escalante*, 238 SCRA 554 (1994).

[16] TSN, May 26, 1992, pp. 12-14, underscoring supplied.

[17] *Id.*, at 19, underscoring ours.

[18] Records, p. 5.

[19] Records, p. 5.

[20] Wall, *Eyewitness Identification in Criminal Cases*, 1968 ed., pp. 95-97.

[21] TSN, May 26, 1992, pp. 8- 10.

[22] *Id.*, at 16.

[23] TSN, May 26, 1992, pp. 17-18, underscoring supplied.

[24] TSN, May 26, 1992, pp. 21-22.

[25] 311 Phil. 812 (1995).

[26] See note 1, at p. 180.

[27] *Id.*, at 827.

[28] Wall, *supra* note 20, citing Wigmore, *Corroboration by Witness' Identification of an Accused on Arrest*, 25 Ill. L. Rev. 550, 55, (1991).

[29] See note 1, p. 180.

[30] *People v. Mallari*, 241 SCRA 113 (1995); *People v. Dayson*, 242 SCRA 113 (1995).

[31] Brief for Appellee, p. 14-15; Rollo, pp. 93– 94.

[32] *People v. Duhan*, 142 SCRA 100 (1986).

[33] *People v. Cabintoy*, 317 Phil. 528 (1995).

[34] See *People v. Tallla*, 181 SCRA 133 (1990) citing *People v. Anquillano*, 149 SCRA 442 (1987); *People v. Acelajado*, 148 SCRA 142 (1987).

[35] See *Duran v. Court of Appeals*, 71 SCRA 68 (1976); *People v. Solis*, 182 SCRA 182 (1990).citing *People v. Hora*, 153 SCRA 21 (1987).

[36] Sec. 14 (2), Art. III of the 1987 Philippine Constitution.

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