

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO MENDOZA, ACCUSED-APPELLANT.

G.R. No. 113791. February 22, 1996

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Maria Gina Avila Mendoza, a mother of three young children, was put to fire in her home in Balasing, Sta. Maria, Bulacan, on 22 November 1989. She suffered extensive second to fourth degree burns and died of hypostatic pneumonia and infected fourth degree burns on 30 November 1989. Her husband, accused-appellant Rolando Mendoza, was charged with the crime of parricide in an information filed on 29 June 1990 with Branch 8 of the Regional Trial Court (RTC) of Malolos, Bulacan. The accusatory portion thereof read:

That on or about the 22nd day of November, 1989, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rolando Mendoza, armed with a kerosene gas [sic] and with intent to kill his wife Maria Gina Mendoza, with whom he was united in lawful wedlock, did then and there wilfully, unlawfully and feloniously attack, assault and burn with the kerosene gas he was then provided, the said Maria Gina Mendoza which directly caused her death.

Contrary to law.[1]

Trial on the merits was had after accused-appellant entered a plea of not guilty at his arraignment.[2]

The prosecution presented as its witnesses Paul Michael Mendoza, a five-year old child of the victim and the accused-appellant; Jhun Avila, Teofisto Avila, and Rodora Avila, the victim's brother, father, and sister, respectively; and Dr. Nieto M. Salvador, the Medico-Legal Officer of the National Bureau of Investigation (NBI). On its part, the defense presented the accused-appellant himself and Erlinda Porciuncula, a childhood friend.

The testimonies of the witnesses for the prosecution established the following facts:

The accused-appellant and the victim were married on 30 January 1985 at the Sto. Cristo Parish Church in Bocaue, Bulacan and lived in Balasing, Sta. Maria, Bulacan.[3] Their union bore three children: Paul Michael, the eldest, who was born on 7 June 1985,[4] John-John, and Paula, the youngest.[5]

In the evening of 22 November 1989, the accused-appellant and his wife were in their residence with their children. At around 4:00 a.m. the next morning, relatives of the accused-appellant went to the house of Jhun Avila (the victim's brother) in Wawa, Balagtas, Bulacan, and informed him that his sister Gina "got burned." Two hours later, Jhun and his father Teofisto Avila went to the house of Gina and her husband, only to discover that the latter were not there. They found the things inside the house in disarray; saw a Coke bottle which smelled of kerosene, hair strands and burned human flesh in the comfort room; and the burned clothes of Gina outside the house. They also noticed that the branches and leaves of the atienza tree in front of the house were likewise somewhat burned. They proceeded to a neighbor's house where Paul Michael, John-John, and Paula were temporarily sheltered. Paul Michael was sitting in a corner and somewhat "tulala," while Paula was sleeping. Jhun

then brought the children to his house.[6]

As Erlinda Porciuncula informed the Avila family that Gina had been brought to the Manila Sanitarium Hospital in Pasay City, Teofisto, Jhun, and Rodora proceeded there.⁷ According to Jhun, however, they were not able to talk to Gina that day as she was inside the operating room. It was only after two days that Jhun was able to see Gina, who lay "naked with all the hospital gadget[s] in the mouth and at the head and she was completely bald and her body was burned." [8] Jhun likewise testified that Gina was unable to talk to her sister Rodora nor her father Teofisto. [9]

Gina died on 30 November 1989. Dr. Noel Minay, Medico-Legal Officer of the NBI,, conducted the autopsy and determined the cause of death to be "hypostatic pneumonia; infected 4th degree burns"; [10] and in his Autopsy Report, [11] he entered the following post-mortem findings:

Burns, extensive, second to fourth degree, with skin grafts, excepting the back of the neck and head, pelvic area, buttocks, whole of the back, posterior aspect of the right leg, and lower anterior third of the leg and foot, left side.

Lungs, with foci of consolidations at the bases; transections shows (sic) yellowish mucoid material in the lower part of the tracheo-bronchial tree.

Brain and other visceral organs, marked congestion.

Stomach contains small amount of yellowish fluid material.

This report also indicated that the cause of death was "HYPOSTATIC PNEUMONIA; INFECTED FOURTH DEGREE BURNS."

Dr. Nieto M. Salvador testified on the certification and autopsy report, in view of Dr. Minay's resignation from the NBI sometime after he examined the cadaver of the victim. [12]

In the evening of 30 November 1989, Jhun told Paul Michael that his mother Gina had died. Paul Michael then narrated to him what actually happened to his mother that fateful evening. Because of these revelations and the findings of the doctor, Jhun reported the matter to the police authorities in Sta. Maria, Bulacan. [13]

Jhun Avila had gone five times to the residence of Gina and the accused-appellant from 23 November 1989 to 30 November 1989, yet he did not see the accused-appellant; in fact, the latter never showed up during the wake nor burial of Gina. It was only when the accused-appellant was arrested in the house of a woman in Longos, Balagtas, Bulacan, [14] that Jhun saw him for the first time after the incident.

The medical expenses incurred for the hospitalization of Gina amounted to P88,750.00, of which, her parents were able to pay only P18,000.00. For the balance, Teofisto had to sign a promissory note to be paid on installments. [15]

As to how Gina was burned, only five-year old Paul Michael could testify thereon.

In his testimony during the presentation of the evidence in chief on 18 February 1991, Paul Michael declared that one evening inside their house, his father boxed his mother on her mouth and then tied her up. However, the witness did not answer succeeding questions which sought to elicit what happened thereafter, although he kept on looking at his father throughout this period. He later revealed that he saw matches and kerosene in their house. He likewise declared that his mother was now in heaven because she was dead. [16] During his rebuttal testimony on 12 October 1992, Paul Michael categorically declared that it was his father who "burned" his mother. The accused-appellant, who was drunk at that time, first tied the victim's hands behind her back, then "poured

kerosene" on the front of her body and set her aflame. Paul Michael further declared that his father tied-up his mother because they quarreled when his mother wanted him (Paul Michael) to go with the accused-appellant to the street corner, but his father refused. Finally, many times before, his parents quarreled because his father was always drunk.[17] Pertinent portions of Paul Michael's testimony on rebuttal are as follows:

Q

When your father Rolando Mendoza testified on direct examination, he stated that when he returned to your house in Balasing, Sta. Maria, Bulacan on November 22, 1989, he saw your mother was jumping up and down while her dress was already burning. What can you say about that?

A

It is not true, Sir.

Q

Why do you say that it is not true?

A

Because it was he who burned my mother, Sir.

COURT:

How did he burn your mother?

A

At first he tied up my mother, then he poured kerosine [sic] upon my mother, Sir.

Q

What was tied, the hands or the feet of your mother? -

A

The hands, Your Honor.

Q

How was it tied?

A

At the back, Your Honor.

Q

Do you know the reason why she was tied up?

A

Yes Your Honor. They were quarreling because my mother wanted me to go with my father to [sic] street corner.

Q

Then what happened next?

A

Because of that they quarreled already.

Q

What you mean is that your mother was objecting you to go [sic] with your father?

A

My mother wanted me to go with my father but my father refused me [sic] to go with him, Your Hon or.

Q

What would you do at the street corner with your father?

A

She just wanted me to accompany my father.

Q

And because of that quarrel, your father tied the hands of your mother?

A

Yes, Your Honor.

Q

Then he put kerosine [sic] at the front body [sic] of your mother?

A

Yes, Your Honor.

Q

And after putting kerosine [sic], what did he do next?

A

He lighted it, Your Honor.

Q

Was that the first time that you[r] mother and your father quarreled?

A

Many times, Your Honor.

Q

What was the cause of their quarrel?

A

Because my father was always drunk, Your Honor.

Q

At the time when your mother was tied and then kerosine [sic] was poured upon her dress, was your father drunk?

A

Yes, Your Honor.

Q

Your father always went out and when he returned he was always drunk?

A

Yes, Your Honor.[18]

The defense, of course, had a different story to tell.

Erlinda Porciuncula, who grew up with the accused-appellant and was like a sister to him, testified that at around 8:30 p.m. of 22 November 1989, Rolando Mendoza came to her house asking for help because his wife burned herself. Together with the accused-appellant, she borrowed the owner-type jeep of her neighbor so they could bring his wife to the hospital. They proceeded to St. Mary's Hospital, but the attending physician advised them to bring the victim to the Philippine General Hospital (PGH). At the hospital, the staff could not admit the victim due to the unavailability of rooms. On the way to the PGH, the victim, who was lying in the front seat of the jeep, told Porciuncula that she was fed up with her life and was entrusting her children to her. They then went to the Manila Sanitarium Hospital where the victim was immediately given first aid and transferred to "the isolated Room No. 328." The accused-appellant requested the witness to buy medicine and inform the relatives of the victim of what had happened, which she acceded to. She was able to visit the victim three more times before the victim died on 30 November 1989, and on two of these occasions, she saw the accused-appellant at the hospital.[19]

Accused-appellant Rolando Mendoza testified that on 22 November 1989, between 5:00 to 6:00 p.m., three persons who wanted to befriend him visited him in his house. These three persons, of whom the accused-appellant could only name one, brought a bottle of liquor and had a drinking session with him, which lasted about an hour or two. As these three persons were leaving, the accused-appellant offered to accompany them to the road. After doing so, he returned home, whereupon he saw his wife jumping up and down and removing her burning clothes. He saw a pail of water which he then used to douse out the flames. At this time, his wife cursed him and said: "Putang-ina mo, sawang-sawa na ako sa buhay na ito," and "Huwag mo akong pakialaman." [20] The accused-appellant did not mind her, merely proceeded to remove her dress and cried for help. The neighbors came over and he entrusted the children to them. Several others arrived and he asked one of them who owned a vehicle to help him bring his wife to the hospital. They were able to bring her to St. Mary's Hospital, but since the hospital did not have a burns specialist, they were advised to bring the victim to a hospital in Manila. The driver of the jeep, however, refused to bring them to Manila as he had neither a driver's license nor gas. The accused-appellant was instead brought to Bocaue, Bulacan, and there he was able to procure another vehicle and borrow some money. Eventually, his wife was brought to the Manila Sanitarium Hospital after the PGH refused to admit the victim. He stayed with his wife from the time she was admitted up to the time she died, and even bought the needed medicines. He did not attend her wake nor burial because of the threats his brother-in-law made. When asked if he knew why his wife burned herself, he surmised that she was "aburido" [21] from all their financial difficulties.[22]

In giving full credence to the testimony of eyewitness Paul Michael,[23] the trial court observed that:

As provided by Section 20, Rule 130 of the Rules of Court, a person who can perceive, and perceiving, can make known his perception to others, may be a witness. A four-year old boy can already speak clearly, can understand things happening around him, and ready to study, to read and to write. For families who can afford, a four-year old child is already sent to the nursery to begin his/her studies. An intelligent boy is undoubtedly the best observer to be found. He is little influenced by the suggestion of others and describes objects and occurrences as he has really seen them (Pp. vs. Bustos, 45 Phil. 9). Paul Michael was five months over four years when the incident happened. He could perceive things happening around him. This was the reason why when his grandfather and an uncle found him in the house of a neighbor, he was in a state of shock, or at least dumbfounded (tulala). Because he knew the implication of what had happened to his mother. He knew that the burning of his mother might cause her death. If, indeed, he could not yet perceive things, such happening would pass unnoticed and without impact on him. Unless a child's testimony is punctured with serious inconsistencies as to lead one to believe that he was coached, if he can perceive and make known his perception, he is considered a competent witness (Pp. vs. Cidro, et al., 56 O.G. 3547).

The first time Paul Michael was presented as [a] witness, the only thing substantial he testified on was that his father boxed his mother in the mouth and tied her. On further questions, he refused to answer anymore. The Court noticed the reason for such adamant attitude of the witness. His father, the accused, was directly in his sight and whenever their eyes met, the child could speak no more. The second time the witness was presented, the private prosecutor covered the child from the accused. The Court likewise directed the accused to sit farther away thereby placing the accused out of the direct sight of the witness. As a result, the child was able to testify freely and extensively without hesitation.[24]

The trial court rejected the version of the accused-appellant, stating that:

Accused Rolando Mendoza made the defense that his wife Maria Gina Avila-Mendoza burned herself. He, however, lost courage when Gina died. After Gina's death, he left the hospital and never returned. He failed to visit her during the wake and even during the burial. He was forced to come out only when arrested in a house of a woman in Longos, Balagtas, Bulacan. Against such behaviour of his may be applied an interpretation of flight in criminal law - that flight of the accused is an evidence of guilt and a guilty conscience (U.S. vs. Alegado, 25 Phil. 310). Accused gave as a reason for his failure to attend the wake and burial of his wife the threat of his brother-in-law to kill him if anything would happen to Gina. It is said that the wicked flee even when no man pursueth, whereas the righteous are as brave as a lion (U.S. vs. Sarikala, 37 Phil. 486). If, indeed, accused was not guilty and nothing bothered his conscience, he would be brave as a lion to meet his brother-in-law and face any and all consequences. In the same way that if his conscience is clear, no threat, real or imaginary, in the whole world would prevent him from staying by the side of his wife during her last moments on earth. The fact that he went into hiding, ashamed or fearful of the death of his wife is an indication of his guilt. Further, the burning in the dress and body of Gina gives support to the claim of the prosecution that she was burned. Paul Michael testified that the hands of his mother were tied at the back. Jhun Avila testified that the branches and leaves of the atienza tree were burned. They tend to show that Gina was tied at the back, placed near the trunk of a tree and burned. Being tied, only the front portion of her body would naturally be burned. The tendency of one who burns himself is to burn his whole body and not stay stationary in one position so that both his front and back portions of his body would be burned. In this case, however, only the front portion of Gina's dress and body were burned as well as the branches and leaves of the atienza tree. That indicates that while the victim was burning, she remained stationary in the place where she was tied.[25]

Accordingly, the trial court convicted the accused-appellant as follows:

WHEREFORE, the Court finds the accused Rolando Mendoza guilty beyond reasonable doubt of the crime of Parricide, defined and penalized under Article 246 of the Revised Penal Code and hereby sentences him to a penalty of reclusion perpetua, and to indemnify the parents of the victim Maria Gina Avila-Mendoza the sum of P88,000.00 representing the amount of hospital bills of the victim. No cost.

SO ORDERED.[26]

In this appeal, the accused-appellant prays for a reversal of the lower court's decision, maintaining that if his evidence is considered in its entirety, it would show his innocence. The accused-appellant underscores the fact that:

[A]fter November 22, 1989, the date of the incident, the child Paul Michael Mendoza had been and remains under the custody and care of the parents and brothers and sisters of the late Maria Gina Mendoza, who in full and unwavering anger, hatred, hostility, resentment, revenge and spite against the accused, pursued the charge against the accused and the ones who brought the child to the court to testify.[27]

He thus asks this Court to disregard the testimony of Paul Michael for being "open to serious question and consideration" as it was "often attended [by] unintelligible answers and punctuated by contrary answers to previously given answers"; "[b]esides the child's tender age, he suffer[s] from [a] lack or inadequacy of sense of duty to tell the truth." He further claims that per the findings of the Medico-Legal Officer, the victim did not die of burns but of hypostatic pneumonia.[28]

After a thorough examination of the records and scrutiny of the evidence, we find no merit in this appeal. The accused-appellant's seven-page Brief miserably fails to present convincing grounds why the challenged decision should be overturned.

The lower court convicted the accused-appellant primarily on the basis of the testimony of eyewitness Paul Michael Mendoza, and it is obvious that the pith of the present appeal is the child's competency to testify and the credibility of his testimony.

Section 20, Rule 130 of the Rules of Court provides:

Except as provided in the next succeeding section, all persons who can perceive, and perceiving, can make known their perception to others, may be witnesses. xxx

With respect to the disqualification of children to be witnesses, Section 21(b) of the abovementioned rule reads:

The following persons cannot be witnesses:

xxx

(b) Children whose mental maturity is such as to render them incapable of perceiving the facts respecting which they are examined and of relating them truthfully.

It is thus clear that any child, regardless of age, can be a competent witness if he can perceive, and perceiving, can make known his perception to others and of relating truthfully facts respecting which he is examined. In the 1913 decision in *United States vs. Buncad*,[29] this Court stated:

Professor Wigmore, after referring to the common-law precedents upon this point, says: "But this much may be taken as settled, that no rule defines any particular age as conclusive of incapacity; in each instance the capacity of the particular child is to be investigated." (Wigmore on Evidence, vol. I, p. 638)[30]

While on the same subject, Underhill declares:

§257. Children on the witness stand. - Under the common law, competency of a child under the age of fourteen years to testify must be shown to the satisfaction of the court. He is presumptively incompetent, but if he is shown to be competent it is immaterial how young he may be when he testifies. He is competent if he possesses mental capacity and memory sufficient to enable him to give a reasonable and intelligible account of the transaction he has seen, if he understands and has a just appreciation of the difference between right and

wrong, and comprehends the character, meaning and obligation of an oath. If the witness fulfills these requirements, it is immaterial as bearing upon his competency that he is unable to define the oath or to define testimony. In the wise discretion of the court, a child four, five, six and for such ages as seven, eight, nine, ten, eleven, twelve, thirteen or fifteen years of age may be shown competent to testify. It may not be said that there is any particular age at which as a matter of law all children are competent or incompetent. x x x[31]

The requirements then of a child's competency as a witness are the: (a) capacity of observation, (b) capacity of recollection, and (c) capacity of communication.[32] And in ascertaining whether a child is of sufficient intelligence according to the foregoing requirements, it is settled that the trial court is called upon to make such determination.[33] As held in *United States vs. Buncad*,[34] quoting from *Wheeler vs. United States*,[35] and reiterated in *People vs. Raptus*[36] and *People vs. Libungan*:[37]

The decision of this question rests primarily with the trial judge, who sees the proposed witness, notices his manner, his apparent possession or lack of intelligence, and may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligations of an oath. As many of these matters cannot be photographed into the record, the decision of the trial judge will not be disturbed on review unless from that which is preserved it is clear that it was erroneous.[38]

The trial court has adjudged Paul Michael competent to testify. We agree. A close and careful examination of the testimony of Paul Michael shows that at the time he testified, he could be deemed a child of above average intelligence, i.e., capable of giving responsive answers to the questions asked of him by the trial judge, as well as recalling events and relating them to such recollections. The initial hesitancy of Paul Michael to name his father as the author of the crime was sufficiently explained by the trial court as follows:

The first time Paul Michael was presented as [a] witness, the only thing substantial he testified on was that his father boxed his mother in the mouth and tied her. On further questions, he refused to answer anymore. The Court noticed the reason for such adamant attitude of the witness. His father, the accused, was directly in his sight and whenever their eyes met, the child could speak no more. The second time the witness was presented, the private prosecutor covered the child from the accused. The Court likewise directed the accused to sit farther away thereby placing the accused out of the direct sight of the witness. As a result, the child was able to testify freely and extensively without hesitation.[39]

We defer to such observation and explanation. Indeed, there are certain matters that aid the trial court in assessing the credibility of a witness which are not available to the appellate court, such as emphasis, gesture, and the inflection of the voice of the witness. The trial court had the distinct opportunity to make such observations and to avail of such aids while Paul Michael was on the witness stand,[40] thusly, we find no reason to disregard the assessment made by the trial court.

The accused-appellant's contention that Paul Michael's testimony could have been influenced by the relatives of Gina, who were full of "unwavering anger, hatred, hostility, resentment, revenge," more so since the child had been in their custody since after 22 November 1989, is unacceptable. The charge is nothing but unmitigated speculation as not a shred of evidence was offered in support thereof. Not even the rigorous cross-examination Paul Michael underwent dented the probative force of his testimony; on the contrary, it merely added strength thereto as it elicited nothing less than the boy's adherence to truth.

We realize how extremely painful it was for Paul Michael to reveal that it was his father who burned his mother. He knew that such a revelation could send his father to jail and thus brand him a son of a killer or a convict. If he did, nevertheless, it was to expose the truth and give justice to his mother who met an excruciatingly painful death. Verily, "from the mouths of children we get the truth." [41]

Neither are we persuaded by the accused-appellant's claim that the cause of death of his wife was hypostatic

pneumonia and not due to the burns she sustained. Such a claim borders on misrepresentation, for as earlier shown, both the Autopsy Report (Exhibit "H-1") and the Certificate of Post-Mortem Examination (Exhibit "H") indicated the cause of death to be "hypostatic pneumonia; infected fourth degree burns." Moreover, as testified to by Dr. Nieto Salvador, the proximate cause of the hypostatic pneumonia was Gina's recumbent position due to the fourth degree burns she suffered. Thus:

COURT:

What could have caused hypostatic pneumonia?

A

The victim was recumbent because of her intensive infections in front of her body and therefore she was always lying down which could have caused the hypostatic pneumonia.

Q

What you mean [is] it [was] because of the fourth degree burns the victim sustained in front that's why she was always lying down and unable to change her position?

A

Yes, Your Honor.

Q

Do you mean that hypostatic pneumonia can be acquire[d] by merely always lying down?

A

Yes, Your Honor.

Q

Is that the only cause?

A

That's why it is called hypostatic because hypostatic means that the assumed position of the patient is recumbent and the recumbent position of the patient would greatly affect the fluids in the lungs as it can't flow down.

xxx

Q

Would you say that hypostatic pneumonia may also be caused by fourth degree burns?

A

Yes, Sir.[42]

It goes without saying that an accused is liable for all the consequences of his felonious act.[43]

Finally, the accused-appellant was never seen after the death of his wife - neither during her wake nor at her burial. His whereabouts were unknown. He did not even bother to visit his children or inform them where to find him in case they needed him, knowing all too well that he was the only parent left to them. In short, he was even

afraid to see his children; he could not trust them. In a manner of speaking, he was afraid of his own shadow. All his protestations of innocence are thus belied by his flight as indicative of guilt on his part, or of his guilty mind. It has been said that the wicked man flees though no man pursueth, but the righteous are as bold as a lion.[44] The explanation proffered for his flight is lame and feeble, moreover, he offered no credible proof that indeed the family of his wife had threatened him bodily harm.

The trial court correctly appreciated in favor of the accused-appellant the mitigating circumstance of intoxication. The accused-appellant committed the felony in question in a state of intoxication and there was no sufficient proof that it was habitual nor subsequent to the plan to commit the felony.[45] It failed, however, to award civil indemnity to the children of the victim. Conformably with current case law, they should be awarded the sum of P50,000.00.

WHEREFORE, the instant appeal is hereby DISMISSED. Being in accordance with the facts and the law, the challenged decision of Branch 8 of the Regional Trial Court of Bulacan in Criminal Case No. 1414-M-90 is AFFIRMED, subject to the above modification on the additional award of P50,000.00, as civil indemnity, to the heirs of the victim, Gina Avila Mendoza.

Costs against the accused-appellant.

SO ORDERED.

Narvasa, C.J (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Original Records (OR). 1; Rollo, 7.

[2] OR. 5.

[3] Exhibit "B"; TSN, 25 March 1991, 4.

[4] TSN, 18 February 1991, 4.

[5] Id., 9.

[6] TSN, 25 March 1991, 6-13.

[7] TSN, 7 June 1991, 4.

[8] TSN, 25 March 1991, 13.

[9] TSN, 25 March 1991, 14. Rodora however testified that Gina whispered to them that the accused-appellant, who was drunk, tied her, doused her with kerosene, and lit her up (TSN, 2 August 1991, 8), but the trial court did not believe the said testimony.

[10] Exhibit "H" (Certificate of Post-Mortem Examination).

[11] Exhibit "H-1".

[12] TSN, 20 December 1991, 1-13.

[13] TSN, 25 March 1991, 17-19

[14] Id., 19-20.

[15] Exhibit "F"; Id., 15-16.

[16] TSN, 18 February 1991, 11, 13-21.

[17] TSN, 12 October 1992, 2-5.

[18] TSN, 12 October 1992, 3-5.

[19] TSN, 9 March 1992, 2-12.

[20] These translate to: “Child of a prostitute, I’m sick and tired of this life” and “Don’t mind me.”

[21] This translates to “fed up with.”

[22] TSN, 10 July 1992, 2-20; TSN, 3 August 1992, 2-5.

[23] Who was only 4 years 5 months and 15 days old when the incident occurred; and 5 years, 8 months and 11 days old when he initially testified.

[24] Rollo, 26-27.

[25] Rollo, 27-28.

[26] Id., 29.

[27] Appellant’s Brief, 3; Rollo, 51.

[28] Id., 4-6; Id., 52-54.

[29] 25 Phil. 530, 536 [1913].

[30] This is now § 505, vol. 2 [1940 ed.], 595, Wigmore’s treatise.

[31] Underhill’s Criminal Evidence, vol. 1, Fifth ed. [1956], Section 257, 646-651.

[32] Wigmore on Evidence, vol. 2 [1940 ed.], § 506, 596

[33] Id., § 507, 597. See also Underhill, op. cit, 651.

[34] Supra note 29

[35] 159 U.S. 523 [1895].

[36] 198 SCRA 425, 433 [1991].

[37] 220 SCRA 315, 323 [1993].

[38] Supra note 29 at 536-537

[39] Rollo, 26-27.

[40] People vs. Lagrosa, Jr., 230 SCRA 298, 306 [1994].

[41] People vs. Pedrosa, 169 SCRA 545, 556 [1989].

[42] TSN, 20 December 1991, 11-12.

[43] Article 4(1), Revised Penal Code; RAMON C. AQUINO, The Revised Penal Code, vol. 1, 1987 ed., 68.

[44] Proverbs, 28:1; U.S. vs. Alegado, 25 Phil. 510, 512 [1913]; U.S. vs. Sarikala, 37 Phil. 486,487 [1918]; People vs. Garcia, 209 SCRA 164, 177 [1992]; People vs. Castor, 216 SCRA 410,420 [1992]; People vs. Enciso,

223 SCRA 675,688 [1993]; People vs. Alvero, 224 SCRA 16, 33 [1993].

[45] Article 15, Revised Penal Code.

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