

ROBIN CARIÑO PADILLA @ ROBINHOOD PADILLA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 121917. March 12, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

On October 26, 1992, high-powered firearms with live ammunitions were found in the possession of petitioner Robin Padilla @ Robinhood Padilla, i.e.:

"(1) One .357 Caliber revolver, Smith and Wesson, SN-32919 with six (6) live ammunitions;

"(2) One M-16 Baby Armalite rifle, SN-RP 131120 with four (4) long and one (1) short magazine with ammunitions;

"(3) One .380 Pietro Beretta, SN-A 35723 Y with clip and eight (8) ammunitions; and

"(4) Six additional live double action ammunitions of .38 caliber revolver." [1]

Petitioner was correspondingly charged on December 3, 1992, before the Regional Trial Court (RTC) of Angeles City with illegal possession of firearms and ammunitions under P.D. 1866 [2] thru the following Information: [3]

"That on or about the 26th day of October, 1992, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) M-16 Baby Armalite rifle, SN-RP 131120 with four (4) long and one (1) short magazines with ammunitions, one (1) .357 caliber revolver Smith and Wesson, SN-32919 with six (6) live ammunitions and one (1) .380 Pietro Beretta, SN-A35723Y with clip and eight (8) ammunitions, without having the necessary authority and permit to carry and possess the same.

ALL CONTRARY TO LAW." [4]

The lower court then ordered the arrest of petitioner, [5] but granted his application for bail. [6] During the arraignment on January 20, 1993, a plea of not guilty was entered for petitioner after he refused, [7] upon advice of counsel, [8] to make any plea. [9] Petitioner waived in writing his right to be present in any and all stages of the case. [10]

After trial, Angeles City RTC Judge David Rosete rendered judgment dated April 25, 1994 convicting petitioner of the crime charged and sentenced him to an "indeterminate penalty from 17 years, 4 months and 1 day of reclusion temporal as minimum, to 21 years of reclusion perpetua, as maximum". [11] Petitioner filed his notice of appeal on April 28, 1994. [12] Pending the appeal in the respondent Court of Appeals, [13] the Solicitor-General, convinced that the conviction shows strong evidence of guilt, filed on December 2, 1994 a motion to cancel petitioner's bail bond. The resolution of this motion was incorporated in the now assailed respondent court's decision sustaining petitioner's conviction, [14] the dispositive portion of which reads:

"WHEREFORE, the foregoing circumstances considered, the appealed decision is hereby AFFIRMED, and furthermore, the P200,000.00 bailbond posted by accused-appellant for his provisional liberty, FGU Insurance Corporation Bond No. JCR (2) 6523, is hereby cancelled. The Regional Trial Court, Branch 61, Angeles City, is directed to issue the Order of Arrest of accused-appellant and thereafter his transmittal to the National Bureau of Prisons thru the Philippine National Police where the said accused-appellant shall remain under confinement pending resolution of his appeal, should he appeal to the Supreme Court. This shall be immediately executory. The Regional Trial Court is further directed to submit a report of compliance herewith.

SO ORDERED."[15]

Petitioner received a copy of this decision on July 26, 1995.[16] On August 9, 1995 he filed a "motion for reconsideration (and to recall the warrant of arrest)"[17] but the same was denied by respondent court in its September 20, 1995 Resolution,[18] copy of which was received by petitioner on September 27, 1995. The next day, September 28, petitioner filed the instant petition for review on certiorari with application for bail[19] followed by two "supplemental petitions" filed by different counsels,[20] a "second supplemental petition"[21] and an urgent motion for the separate resolution of his application for bail. Again, the Solicitor-General[22] sought the denial of the application for bail, to which the Court agreed in a Resolution promulgated on July 31, 1996.[23] The Court also granted the Solicitor-General's motion to file a consolidated comment on the petitions and thereafter required the petitioner to file his reply.[24] However, after his vigorous resistance and success on the intramural of bail (both in the respondent court and this Court) and thorough exposition of petitioner's guilt in his 55-page Brief in the respondent court, the Solicitor-General now makes a complete turnabout by filing a "Manifestation In Lieu Of Comment" praying for petitioner's acquittal.[25]

The People's detailed narration of facts, well-supported by evidence on record and given credence by respondent court, is as follows:[26]

"At about 8:00 o'clock in the evening of October 26, 1992, Enrique Manarang and his compadre Danny Perez were inside the Manukan sa Highway Restaurant in Sto. Kristo, Angeles City where they took shelter from the heavy downpour (pp. 5-6, TSN, February 15, 1993) that had interrupted their ride on motorcycles (pp. 5-6, *ibid.*) along McArthur Highway (*ibid.*). While inside the restaurant, Manarang noticed a vehicle, a Mitsubishi Pajero, running fast down the highway prompting him to remark that the vehicle might get into an accident considering the inclement weather. (p. 7, *Ibid*) In the local vernacular, he said thus: 'Ka bilis na, mumuran pa naman pota makaaksidente ya.' (p. 7, *ibid.*) True enough, immediately after the vehicle had passed the restaurant, Manarang and Perez heard a screeching sound produced by the sudden and hard braking of a vehicle running very fast (pp. 7-8, *ibid*) followed by a sickening sound of the vehicle hitting something (p. 8, *ibid*). Danny Cruz, quite sure of what had happened, remarked 'oy ta na' signifying that Manarang had been right in his observation (pp. 8-9, *ibid*).

"Manarang and Cruz went out to investigate and immediately saw the vehicle occupying the edge or shoulder of the highway giving it a slight tilt to its side (pp. 9-10, *ibid*). Manarang, being a member of both the Spectrum, a civic group and the Barangay Disaster Coordinating Council, decided to report the incident to the Philippine National Police of Angeles City (p. 10, *ibid*). He took out his radio and called the Viper, the radio controller of the Philippine National Police of Angeles City (p. 10, *ibid*). By the time Manarang completed the call, the vehicle had started to leave the place of the accident taking the general direction to the north (p. 11, *ibid*).

"Manarang went to the location of the accident and found out that the vehicle had hit somebody (p. 11, *ibid*).

"He asked Cruz to look after the victim while he went back to the restaurant, rode on his motorcycle and chased the vehicle (p. 11 *ibid*). During the chase he was able to make out the plate number of the vehicle as PMA 777 (p. 33, TSN, February 15, 1993). He called the Viper through the radio once again (p. 34, *ibid*)

reporting that a vehicle heading north with plate number PMA 777 was involved in a hit and run accident (p. 20, TSN, June 8, 1993). The Viper, in the person of SPO2 Ruby Buan, upon receipt of the second radio call flashed the message to all units of PNP Angeles City with the order to apprehend the vehicle (p. 20, *ibid*). One of the units of the PNP Angeles City reached by the alarm was its Patrol Division at Jake Gonzales Street near the Traffic Division (pp. 5-7, TSN, February 23, 1993). SPO2 Juan C. Borja III and SPO2 Emerlito Miranda immediately boarded a mobile patrol vehicle (Mobile No. 3) and positioned themselves near the south approach of Abacan bridge since it was the only passable way going to the north (pp. 8-9, *ibid*). It took them about ten (10) seconds to cover the distance between their office and the Abacan bridge (p. 9, *ibid*).

"Another PNP mobile patrol vehicle that responded to the flash message from SPO2 Buan was Mobile No. 7 of the Pulongmaragal Detachment which was then conducting patrol along Don Juico Avenue (pp. 8-9, TSN, March 8, 1993). On board were SPO Ruben Mercado and SPO3 Tan and SPO2 Odejar (p. 8, *ibid*). SPO Ruben Mercado immediately told SPO3 Tan to proceed to the MacArthur Highway to intercept the vehicle with plate number PMA 777 (p. 10, *ibid*).

"In the meantime, Manarang continued to chase the vehicle which figured in the hit and run incident, even passing through a flooded portion of the MacArthur Highway two (2) feet deep in front of the Iglesia ni Kristo church but he could not catch up with the same vehicle (pp. 11-12, February 15, 1993). When he saw that the car he was chasing went towards Magalang, he proceeded to Abacan bridge because he knew Pulongmaragal was not passable (pp. 12-14, *ibid*). When he reached the Abacan bridge, he found Mobile No. 3 and SPO2 Borja and SPO2 Miranda watching all vehicles coming their way (p. 10, TSN, February 23, 1993). He approached them and informed them that there was a hit and run incident (p. 10, *ibid*). Upon learning that the two police officers already knew about the incident, Manarang went back to where he came from (pp. 10-11; *ibid*). When Manarang was in front of Tina's Restaurant, he saw the vehicle that had figured in the hit and run incident emerging from the corner adjoining Tina's Restaurant (p. 15, TSN, February 15, 1993). He saw that the license plate hanging in front of the vehicle bore the identifying number PMA 777 and he followed it (p. 15, *ibid*) towards the Abacan bridge.

"Soon the vehicle was within sight of SPO2 Borja and SPO2 Miranda of Mobile No. 3 (p. 10, TSN, February 23, 1993). When the vehicle was about twelve (12) meters away from their position, the two police officers boarded their Mobile car, switched on the engine, operated the siren and strobe light and drove out to intercept the vehicle (p. 11, *ibid*). They cut into the path of the vehicle forcing it to stop (p. 11, *ibid*).

"SPO2 Borja and SPO2 Miranda alighted from Mobile No. 3 (P. 12, TSN, February 23, 1993). SPO2 Miranda went to the vehicle with plate number PMA 777 and instructed its driver to alight (p. 12, *ibid*). The driver rolled down the window and put his head out while raising both his hands. They recognized the driver as Robin C. Padilla, appellant in this case (p. 13, *ibid*). There was no one else with him inside the vehicle (p. 24). At that moment, Borja noticed that Manarang arrived and stopped his motorcycle behind the vehicle of appellant (p. 14, *ibid*). SPO2 Miranda told appellant to alight to which appellant complied. Appellant was wearing a short leather jacket (p. 16, TSN, March 8, 1993) such that when he alighted with both his hands raised, a gun (Exhibit 'C') tucked on the left side of his waist was revealed (p. 15, TSN, February 23, 1993), its butt protruding (p. 15, *ibid*). SPO2 Borja made the move to confiscate the gun but appellant held the former's hand alleging that the gun was covered by legal papers (p. 16, *ibid*). SPO2 Borja, however, insisted that if the gun really was covered by legal papers, it would have to be shown in the office (p. 16, *ibid*). After disarming appellant, SPO2 Borja told him about the hit and run incident which was angrily denied by appellant (p. 17, *ibid*). By that time, a crowd had formed at the place (p. 19, *ibid*). SPO2 Borja checked the cylinder of the gun and find six (6) live bullets inside (p. 20, *ibid*).

"While SPO2 Borja and appellant were arguing, Mobile No. 7 with SPO Ruben Mercado, SPO3 Tan and SPO2 Odejar on board arrived (pp. 11-12, TSN, March 8, 1993). As the most senior police officer in the group, SPO Mercado took over the matter and informed appellant that he was being arrested for the hit and run incident (p. 13, *ibid*). He pointed out to appellant the fact that the plate number of his vehicle was dangling and the railing

and the hood were dented (p. 12, *ibid*). Appellant, however, arrogantly denied his misdeed and, instead, played with the crowd by holding their hands with one hand and pointing to SPO3 Borja with his right hand saying 'iyan, kinuha ang baril ko' (pp. 13-15, *ibid*). Because appellant's jacket was short, his gesture exposed a long magazine of an armalite rifle tucked in appellant's back right pocket (p. 16, *ibid*). SPO Mercado saw this and so when appellant turned around as he was talking and proceeding to his vehicle, Mercado confiscated the magazine from appellant (pp. 16-17, *ibid*). Suspecting that appellant could also be carrying a rifle inside the vehicle since he had a magazine, SPO2 Mercado prevented appellant from going back to his vehicle by opening himself the door of appellant's vehicle (16-17, *ibid*). He saw a baby armalite rifle (Exhibit D) lying horizontally at the front by the driver's seat. It had a long magazine filled with live bullets in a semi-automatic mode (pp. 17-21, *ibid*). He asked appellant for the papers covering the rifle and appellant answered angrily that they were at his home (pp. 26-27, *ibid*). SPO Mercado modified the arrest of appellant by including as its ground illegal possession of firearms (p. 28, *ibid*). SPO Mercado then read to appellant his constitutional rights (pp. 28-29, *ibid*).

"The police officers brought appellant to the Traffic Division at Jake Gonzales Boulevard (pp. 31-32, *ibid*) where appellant voluntarily surrendered a third firearm, a Pietro Beretta pistol (Exhibit 'L') with a single round in its chamber and a magazine (pp. 33-35, *ibid*) loaded with seven (7) other live bullets. Appellant also voluntarily surrendered a black bag containing two additional long magazines and one short magazine (Exhibits M, N, and O, pp. 36-37, *ibid*). After appellant had been interrogated by the Chief of the Traffic Division, he was transferred to the Police Investigation Division at Sto. Rosario Street beside the City Hall Building where he and the firearms and ammunitions were turned over to SPO2 Rene Jesus Gregorio (pp. 5-10, TSN, July 13, 1993). During the investigation, appellant admitted possession of the firearms stating that he used them for shooting (p. 14, *ibid*). He was not able to produce any permit to carry or memorandum receipt to cover the three firearms (pp. 16-18, TSN, January 25, 1994).

"On November 28, 1992, a certification (Exhibit 'F') was issued by Captain, Senior Inspector Mario Espino, PNP, Chief, Record Branch of the Firearms and Explosives Office (pp. 7-8, TSN, March 4, 1993). The Certification stated that the three firearms confiscated from appellant, an M-16 Baby armalite rifle SN-RP 131280, a .357 caliber revolver Smith and Wesson SN 32919 and a .380 Pietro Beretta SN-A35720, were not registered in the name of Robin C. Padilla (p. 6, *ibid*). A second Certification dated December 11, 1992 issued by Captain Espino stated that the three firearms were not also registered in the name of Robinhood C. Padilla (p. 10, *ibid*)."

Petitioner's defenses are as follows: (1) that his arrest was illegal and consequently, the firearms and ammunitions taken in the course thereof are inadmissible in evidence under the exclusionary rule; (2) that he is a confidential agent authorized, under a Mission Order and Memorandum Receipt, to carry the subject firearms; and (3) that the penalty for simple illegal possession constitutes excessive and cruel punishment proscribed by the 1987 Constitution.

After a careful review of the records^[27] of this case, the Court is convinced that petitioner's guilt of the crime charged stands on terra firma, notwithstanding the Solicitor-General's change of heart.

Anent the first defense, petitioner questions the legality of his arrest. There is no dispute that no warrant was issued for the arrest of petitioner, but that per se did not make his apprehension at the Abacan bridge illegal.

Warrantless arrests are sanctioned in the following instances:^[28]

"Sec. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it.

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

Paragraph (a) requires that the person be arrested (i) after he has committed or while he is actually committing or is at least attempting to commit an offense, (ii) in the presence of the arresting officer or private person.[29] Both elements concurred here, as it has been established that petitioner's vehicle figured in a hit and run - an offense committed in the "presence" of Manarang, a private person, who then sought to arrest petitioner. It must be stressed at this point that "presence" does not only require that the arresting person sees the offense, but also when he "hears the disturbance created thereby AND proceeds at once to the scene." [30] As testified to by Manarang, he heard the screeching of tires followed by a thud, saw the sideswiped victim (balut vendor), reported the incident to the police and thereafter gave chase to the erring Pajero vehicle using his motorcycle in order to apprehend its driver. After having sent a radio report to the PNP for assistance, Manarang proceeded to the Abacan bridge where he found responding policemen SPO2 Borja and SPO2 Miranda already positioned near the bridge who effected the actual arrest of petitioner.[31]

Petitioner would nonetheless insist on the illegality of his arrest by arguing that the policemen who actually arrested him were not at the scene of the hit and run.[32] We beg to disagree. That Manarang decided to seek the aid of the policemen (who admittedly were nowhere in the vicinity of the hit and run) in effecting petitioner's arrest, did not in any way affect the propriety of the apprehension. It was in fact the most prudent action Manarang could have taken rather than collaring petitioner by himself, inasmuch as policemen are unquestionably better trained and well-equipped in effecting an arrest of a suspect (like herein petitioner) who, in all probability, could have put up a degree of resistance which an untrained civilian may not be able to contain without endangering his own life. Moreover, it is a reality that curbing lawlessness gains more success when law enforcers function in collaboration with private citizens. It is precisely through this cooperation, that the offense herein involved fortunately did not become an additional entry to the long list of unreported and unsolved crimes.

It is appropriate to state at this juncture that a suspect, like petitioner herein, cannot defeat the arrest which has been set in motion in a public place for want of a warrant as the police was confronted by an urgent need to render aid or take action.[33] The exigent circumstances of - hot pursuit,[34] a fleeing suspect, a moving vehicle, the public place and the raining nighttime - all created a situation in which speed is essential and delay improvident.[35] The Court acknowledges police authority to make the forcible stop since they had more than mere "reasonable and articulable" suspicion that the occupant of the vehicle has been engaged in criminal activity.[36] Moreover, when caught in flagrante delicto with possession of an unlicensed firearm (Smith & Wesson) and ammunition (M-16 magazine), petitioner's warrantless arrest was proper as he was again actually committing another offense (illegal possession of firearm and ammunitions) and this time in the presence of a peace officer.[37]

Besides, the policemen's warrantless arrest of petitioner could likewise be justified under paragraph (b) as he had in fact just committed an offense. There was no supervening event or a considerable lapse of time between the hit and run and the actual apprehension. Moreover, after having stationed themselves at the Abacan bridge in response to Manarang's report, the policemen saw for themselves the fast approaching Pajero of petitioner,[38] its dangling plate number (PMA 777 as reported by Manarang), and the dented hood and railings thereof.[39] These formed part of the arresting police officer's personal knowledge of the facts indicating that petitioner's Pajero was indeed the vehicle involved in the hit and run incident. Verily then, the arresting police officers acted upon

verified personal knowledge and not on unreliable hearsay information.[40]

Furthermore, in accordance with settled jurisprudence, any objection, defect or irregularity attending an arrest must be made before the accused enters his plea.[41] Petitioner's belated challenge thereto aside from his failure to quash the information, his participation in the trial and by presenting his evidence, placed him in estoppel to assail the legality of his arrest.[42] Likewise, by applying for bail, petitioner patently waived such irregularities and defects.[43]

We now go to the firearms and ammunitions seized from petitioner without a search warrant, the admissibility in evidence of which, we uphold.

The five (5) well-settled instances when a warrantless search and seizure of property is valid,[44] are as follows:

1. warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court[45] and by prevailing jurisprudence[46],
2. Seizure of evidence in "plain view", the elements of which are:[47]
 - (a). a prior valid intrusion based on the valid warrantless arrest in which the police are legally present in the pursuit of their official duties;
 - (b). the evidence was inadvertently discovered by the police who had the right to be where they are;
 - (c). the evidence must be immediately apparent, and
 - (d). "plain view" justified mere seizure of evidence without further search.[48]
3. search of a moving vehicle.[49] Highly regulated by the government, the vehicle's inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity.[50]
4. consented warrantless search, and
5. customs search.

In conformity with respondent court's observation, it indeed appears that the authorities stumbled upon petitioner's firearms and ammunitions without even undertaking any active search which, as it is commonly understood, is a prying into hidden places for that which is concealed.[51] The seizure of the Smith & Wesson revolver and an M-16 rifle magazine was justified for they came within "plain view" of the policemen who inadvertently discovered the revolver and magazine tucked in petitioner's waist and back pocket respectively, when he raised his hands after alighting from his Pajero. The same justification applies to the confiscation of the M-16 armalite rifle which was immediately apparent to the policemen as they took a casual glance at the Pajero and saw said rifle lying horizontally near the driver's seat.[52] Thus it has been held that:

"(W)hen in pursuing an illegal action or in the commission of a criminal offense, the . . . police officers should happen to discover a criminal offense being committed by any person, they are not precluded from performing their duties as police officers for the apprehension of the guilty person and the taking of the corpus delicti."[53]

"Objects whose possession are prohibited by law inadvertently found in plain view are subject to seizure even without a warrant."[54]

With respect to the Berreta pistol and a black bag containing assorted magazines, petitioner voluntarily surrendered them to the police.[55] This latter gesture of petitioner indicated a waiver of his right against the alleged search and seizure[56], and that his failure to quash the information estopped him from assailing any

purported defect.[57]

Even assuming that the firearms and ammunitions were products of an active search done by the authorities on the person and vehicle of petitioner, their seizure without a search warrant nonetheless can still be justified under a search incidental to a lawful arrest (first instance). Once the lawful arrest was effected, the police may undertake a protective search[58] of the passenger compartment and containers in the vehicle[59] which are within petitioner's grabbing distance regardless of the nature of the offense.[60] This satisfied the two-tiered test of an incidental search: (i) the item to be searched (vehicle) was within the arrestee's custody or area of immediate control[61] and (ii) the search was contemporaneous with the arrest.[62] The products of that search are admissible evidence not excluded by the exclusionary rule. Another justification is a search of a moving vehicle (third instance). In connection therewith, a warrantless search is constitutionally permissible when, as in this case, the officers conducting the search have reasonable or probable cause to believe, before the search, that either the motorist is a law-offender (like herein petitioner with respect to the hit and run) or the contents or cargo of the vehicle are or have been instruments or the subject matter or the proceeds of some criminal offense.[63]

Anent his second defense, petitioner contends that he could not be convicted of violating P.D. 1866 because he is an appointed civilian agent authorized to possess and carry the subject firearms and ammunition as evidenced by a Mission Order[64] and Memorandum Receipt duly issued by PNP Supt. Rodialo Gumtang, the deputy commander of Task Force Aguila, Lianga, Surigao del Sur. The contention lacks merit.

In crimes involving illegal possession of firearm, two requisites must be established, viz.: (1) the existence of the subject firearm and, (2) the fact that the accused who owned or possessed the firearm does not have the corresponding license or permit to possess.[65] The first element is beyond dispute as the subject firearms and ammunitions[66] were seized from petitioner's possession via a valid warrantless search, identified and offered in evidence during trial. As to the second element, the same was convincingly proven by the prosecution. Indeed, petitioner's purported Mission Order and Memorandum Receipt are inferior in the face of the more formidable evidence for the prosecution as our meticulous review of the records reveals that the Mission Order and Memorandum Receipt were mere afterthoughts contrived and issued under suspicious circumstances. On this score, we lift from respondent court's incisive observation. Thus:

"Appellant's contention is predicated on the assumption that the Memorandum Receipts and Mission Order were issued before the subject firearms were seized and confiscated from him by the police officers in Angeles City. That is not so. The evidence adduced indicate that the Memorandum Receipts and Mission Order were prepared and executed long after appellant had been apprehended on October 26, 1992.

"Appellant, when apprehended, could not show any document as proof of his authority to possess and carry the subject firearms. During the preliminary investigation of the charge against him for illegal possession of firearms and ammunitions he could not, despite the ample time given him, present any proper document showing his authority. If he had, in actuality, the Memorandum Receipts and Missions Order, he could have produced those documents easily, if not at the time of apprehension, at least during the preliminary investigation. But neither appellant nor his counsel inform the prosecutor that appellant is authorized to possess and carry the subject firearms under Memorandum Receipt and Mission Order. At the initial presentation of his evidence in court, appellant could have produced these documents to belie the charged against him. Appellant did not. He did not even take the witness stand to explain his possession of the subject firearms.

"Even in appellant's Demurrer to Evidence filed after the prosecution rested contain no allegation of a Memorandum Receipts and Mission Order authorizing appellant to possess and carry the subject firearms.

"At the initial presentation of appellant's evidence, the witness cited was one James Neneng to whom a subpoena was issued. Superintendent Gumtang was not even mentioned. James Neneng appeared in court but

was not presented by the defense. Subsequent hearings were reset until the defense found Superintendent Gumtang who appeared in court without subpoena on January 13, 1994."[67]

The Court is baffled why petitioner failed to produce and present the Mission Order and Memorandum Receipt if they were really issued and existing before his apprehension. Petitioner's alternative excuses that the subject firearms were intended for theatrical purposes, or that they were owned by the Presidential Security Group, or that his Mission Order and Memorandum Receipt were left at home, further compound their irregularity. As to be reasonably expected, an accused claiming innocence, like herein petitioner, would grab the earliest opportunity to present the Mission Order and Memorandum Receipt in question and save himself from the long and agonizing public trial and spare him from proffering inconsistent excuses. In fact, the Mission Order itself, as well as the Letter-Directive of the AFP Chief of Staff, is explicit in providing that:

"VIII. c. When a Mission Order is requested for verification by enforcement units/personnels such as PNP, Military Brigade and other Military Police Units of AFP, the Mission Order should be shown without resentment to avoid embarrassment and/or misunderstanding.

"IX. d. Implicit to this Mission Order is the injunction that the confidential instruction will be carried out through all legal means and do not cover an actuation in violation of laws. In the latter event, this Mission Order is rendered inoperative in respect to such violation."[68] which directive petitioner failed to heed without cogent explanation.

The authenticity and validity of the Mission Order and Memorandum Receipt, moreover, were ably controverted. Witness for the prosecution Police Supt. Durendes denied under oath his signature on the dorsal side of the Mission Order and declared further that he did not authorize anyone to sign in his behalf.[69] His surname thereon, we note, was glaringly misspelled as "Durembes." [70] In addition, only Unit Commanders and Chief of Offices have the authority to issue Mission Orders and Memorandum Receipts under the Guidelines on the Issuance of MOs, MRs, & PCFORs.[71] PNP Supt. Rodialo Gumtang who issued petitioner's Mission Order and Memorandum Receipt is neither a Unit Commander nor the Chief of Office, but a mere deputy commander. Having emanated from an unauthorized source, petitioner's Mission Order and Memorandum Receipt are infirm and lacking in force and effect. Besides, the Mission Order covers "Recom 1-12-Baguio City," [72] areas outside Supt. Gumtang's area of responsibility thereby needing prior approval "by next higher Headquarters" [73] which is absent in this case. The Memorandum Receipt is also unsupported by a certification as required by the March 5, 1988 Memorandum of the Secretary of Defense which pertinently provides that:

"No memorandum receipt shall be issued for a CCS firearms without corresponding certification from the corresponding Responsible Supply Officer of the appropriate AFP unit that such firearm has been officially taken up in that unit's property book, and that report of such action has been reported to higher AFP authority."

Had petitioner's Memorandum Receipt been authentic, we see no reason why he cannot present the corresponding certification as well.

What is even more peculiar is that petitioner's name, as certified to by the Director for Personnel of the PNP, does not even appear in the Plantilla of Non-Uniform Personnel or in the list of Civilian Agents or Employees of the PNP which could justify the issuance of a Mission Order, a fact admitted by petitioner's counsel.[74] The implementing rules of P.D. 1866 issued by the then PC-INP Chief and Director-General Lt. Gen. Fidel V. Ramos are clear and unambiguous, thus:

"No Mission Order shall be issued to any civilian agent authorizing the same to carry firearms outside residence unless he/she is included in the regular plantilla of the government agency involved in law enforcement and is receiving regular compensation for the services he/she is rendering in the agency. Further, the civilian agent must be included in a specific law enforcement/police/intelligence project proposal or special

project which specifically required the use of firearms(s) to insure its accomplishment and that the project is duly approved at the PC Regional Command level or its equivalent level in other major services of the AFP, INP and NBI, or at higher levels of command." [75]

Circular No. 1, dated January 6, 1986, of the then Ministry of Justice likewise provides as follows:

"If mission orders are issued to civilians (not members of the uniformed service), they must be civilian agents included in the regular plantilla of the government agency involved in law enforcement and are receiving regular compensation for the service they are rendering."

That petitioner's Mission Order and Memorandum Receipt were fabricated pieces of evidence is accentuated all the more by the testimony and certification of the Chief of the Records Branch of the firearms and Explosives Office of the PNP declaring that petitioner's confiscated firearms are not licensed or registered in the name of the petitioner. [76] Thus:

"Q. In all these files that you have just mentioned Mr. Witness, what did you find, if any?

"A. I found that a certain Robin C. Padilla is a licensed registered owner of one 9 mm pistol, Smith and Wesson with Serial No. TCT 8214 and the following firearms being asked whether it is registered or not, I did not find any records, the M-16 and the caliber .357 and the caliber .380 but there is a firearm with the same serial number which is the same as that licensed and/or registered in the name of one Albert Villanueva Fallorina.

"Q. So in short, the only licensed firearms in the name of accused Robin C. Padilla is a pistol, Smith and Wesson, caliber 9 mm with Serial No. TCT 8214?

"A. Yes, sir.

"Q. And the firearms that were the subject of this case are not listed in the names of the accused in this case?

"A. Yes, sir. [77]

xxx xxx xxx

And the certification which provides as follows:

Republic of the Philippines

Department of the Interior and Local Government

GENERAL HEADQUARTERS PHILIPPINE NATIONAL POLICE

FIREARMS AND EXPLOSIVES OFFICE

Camp Crame, Quezon City

"PNPFEO5 28 November 1992

"CERTIFICATION

"TO WHOM IT MAY CONCERN:

"THIS IS TO CERTIFY that Robin C. Padilla of 59 Labo St., Quezon City is a licensed/registered holder of Pistol Smith and Wesson Cal 9mm with serial number TCT8214 covered by License No. RL M76C4476687.

"Further certify that the following firearms are not registered with this Office per verification from available records on file this Office as of this date:

M16 Baby Armalite SN-RP131120

Revolver Cal 357 SN-3219

Pistol Cal 380 Pietro Beretta SN-35723

"However, we have on file one Pistol Cal 380, Beretta with serial number 35723Y, licensed/registered to one Albert Villanueva Fallorina of 29 San Juan St., Capitol Pasig, MM under Re-Registered License.

"This certification is issued pursuant to Subpoena from City of Angeles.

"FOR THE CHIEF, FEO:

(Sgd.)

JOSE MARIO M. ESPINO

Sr. Inspector, PNP

Chief, Records Branch" [78]

In several occasions, the Court has ruled that either the testimony of a representative of, or a certification from, the PNP Firearms and Explosives Office (FEO) attesting that a person is not a licensee of any firearm would suffice to prove beyond reasonable doubt the second element of illegal possession of firearm.[79] In *People vs. Tobias*, [80] we reiterated that such certification is sufficient to show that a person has in fact no license. From the foregoing discussion, the fact that petitioner does not have the license or permit to possess was overwhelmingly proven by the prosecution. The certification may even be dispensed with in the light of the evidence [81] that an M-16 rifle and any short firearm higher than a .38 caliber pistol, akin to the confiscated firearms, cannot be licensed to a civilian, [82] as in the case of petitioner. The Court, therefore, entertains no doubt in affirming petitioner's conviction especially as we find no plausible reason, and none was presented, to depart from the factual findings of both the trial court and respondent court which, as a rule, are accorded by the Court with respect and finality. [83]

Anent his third defense, petitioner faults respondent court "in applying P.D. 1866 in a democratic ambience (sic) and a non-subversive context" and adds that respondent court should have applied instead the previous laws on illegal possession of firearms since the reason for the penalty imposed under P.D. 1866 no longer exists. [84] He stresses that the penalty of 17 years and 4 months to 21 years for simple illegal possession of firearm is cruel and excessive in contravention of the Constitution. [85]

The contentions do not merit serious consideration. The trial court and the respondent court are bound to apply the governing law at the time of appellant's commission of the offense for it is a rule that laws are repealed only by subsequent ones. [86] Indeed, it is the duty of judicial officers to respect and apply the law as it stands. [87] And until its repeal, respondent court can not be faulted for applying P.D. 1866 which abrogated the previous statutes adverted to by petitioner.

Equally lacking in merit is appellant's allegation that the penalty for simple illegal possession is unconstitutional. The penalty for simple possession of firearm, it should be stressed, ranges from reclusion temporal maximum to reclusion perpetua contrary to appellant's erroneous averment. The severity of a penalty does not ipso facto make the same cruel and excessive.

"It takes more than merely being harsh, excessive, out of proportion, or severe for a penalty to be obnoxious to the Constitution. The fact that the punishment authorized by the statute is severe does not make it cruel and

unusual.' (24 C.J.S., 1187-1188). Expressed in other terms, it has been held that to come under the ban, the punishment must be 'flagrantly and plainly oppressive', 'wholly disproportionate to the nature of the offense as to shock the moral sense of the community' "[88]

It is well-settled that as far as the constitutional prohibition goes, it is not so much the extent as the nature of the punishment that determines whether it is, or is not, cruel and unusual and that sentences of imprisonment, though perceived to be harsh, are not cruel or unusual if within statutory limits.[89]

Moreover, every law has in its favor the presumption of constitutionality. The burden of proving the invalidity of the statute in question lies with the appellant which burden, we note, was not convincingly discharged. To justify nullification of the law, there must be a clear and unequivocal breach of the Constitution, not a doubtful and argumentative implication,[90]as in this case. In fact, the constitutionality of P.D. 1866 has been upheld twice by this Court.[91] Just recently, the Court declared that "the pertinent laws on illegal possession of firearms [are not] contrary to any provision of the Constitution. . ."[92] Appellant's grievance on the wisdom of the prescribed penalty should not be addressed to us. Courts are not concerned with the wisdom, efficacy or morality of laws. That question falls exclusively within the province of Congress which enacts them and the Chief Executive who approves or vetoes them. The only function of the courts, we reiterate, is to interpret and apply the laws.

With respect to the penalty imposed by the trial court as affirmed by respondent court (17 years 4 months and 1 day of reclusion temporal, as minimum, to 21 years of reclusion perpetua, as maximum), we reduce the same in line with the fairly recent case of *People v. Lian*[93] where the Court en banc provided that the indeterminate penalty imposable for simple illegal possession of firearm, without any mitigating or aggravating circumstance, should be within the range of ten (10) years and one (1) day to twelve years (12) of prision mayor, as minimum, to eighteen (18) years, eight (8) months and one (1) day to twenty (20) of reclusion temporal, as maximum. This is discernible from the following explanation by the Court:

"In the case at bar, no mitigating or aggravating circumstances have been alleged or proved, In accordance with the doctrine regarding special laws explained in *People v. Simon*,[94] although Presidential Decree No. 1866 is a special law, the penalties therein were taken from the Revised Penal Code, hence the rules in said Code for graduating by degrees or determining the proper period should be applied. Consequently, the penalty for the offense of simple illegal possession of firearm is the medium period of the complex penalty in said Section 1, that is, 18 years, 8 months and 1 day to 20 years.

"This penalty, being that which is to be actually imposed in accordance with the rules therefor and not merely imposable as a general prescription under the law, shall be the maximum of the range of the indeterminate sentence. The minimum thereof shall be taken, as aforesaid, from any period of the penalty next lower in degree, which is, prision mayor in its maximum period to reclusion temporal in its medium period.[95]

WHEREFORE, premises considered, the decision of the Court of Appeals sustaining petitioner's conviction by the lower court of the crime of simple illegal possession of firearms and ammunitions is **AFFIRMED EXCEPT** that petitioner's indeterminate penalty is **MODIFIED** to ten (10) years and one (1) day, as minimum, to eighteen (18) years, eight (8) months and one (1) day, as maximum.

SO ORDERED

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Panganiban, concur.

[1] Investigation Report dated October 26, 1992 of SPO1 Rene Jesus T. Gregorio of the Angeles City, Philippine National Police (PNP), (RTC Records, Vol. 1, p. 9).

[2] CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN,

ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES; AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES.

[3] The information was filed by Special Counsel Irin Zenaida S. Buan and was docketed as Criminal Case No. 92-1083 of Branch 61 of the Angeles City R.T.C. presided by Judge David R. Rosete.

[4] RTC Records, Vol. I, p. 1.

[5] The warrant of arrest dated December 8, 1992 was issued by Judge Rosete. Later, an order recalling all warrant of arrest against petitioner was issued by Judge Maximiano Asuncion of RTC Quezon City. (RTC Records, Vol. I, p. 34).

[6] Petitioner posted a personal bail bond of P200,000.00 furnished by FGU Insurance Corporation (RTC Records, Vol. I, p. 37).

[7] Rule 116, Section 1(c) "If the accused refuses to plead, or makes a conditional plea of guilty, a plea of not guilty shall be entered for him."

[8] Petitioner was assisted by his then lead counsel Dean Antonio Coronel (appearance withdrawn April, 1993 to serve his suspension by the Supreme Court, RTC Records, Vol. I, p. 260) and Atty. Philip Jurado. The prosecution was represented by Angeles City Prosecutor Antonio G.P. Fausto and his Assistant, Rufino Antonio.

[9] Order dated January 20, 1993, RTC Records, Vol. I, pp. 59 and 75.

[10] RTC Records, Vol. I, p. 57.

[11] RTC Decision, p. 6; Rollo, p. 48.

[12] RTC Records, vol. II, p. 828.

[13] The appeal was docketed as CA-G.R. No. CR-16040. Atty Jurado withdrew his appearance as petitioner's counsel on October, 1994 when the appeal was pending for the CA. His signature, however still appeared on some pleadings for petitioner (CA Rollo, p. 429). Rene A.V. Saguisag and Associates entered their appearance as new counsel (CA Rollo, p. 58). Appellant's brief, however, was also signed by his brother Robert A. Padilla and Gina C. Garcia (CA Rollo, p. 146).

[14] The 23-page CA (Special Tenth Division) decision promulgated on July 21, 1995 was penned by Justice Antonio P. Solano with Justices Ricardo P. Galvez and Conchita Carpio-Morales, concurring. (Rollo, pp. 50-72).

[15] CA Decision, p. 23; Rollo, p. 50.

[16] Registry Return Receipt, attached to p. 343 of the CA Rollo.

[17] Registry Receipt stamped August 9, 1995. See CA Rollo, pp. 403-430.

[18] CA Rollo, pp. 463-464.

[19] The petition was signed by the Raval Suplico and Lokin Law Office.

[20] One supplemental petition was filed on October 9, 1995 signed by Padilla, Jurado and Saguisag. The other supplemental petition was filed on October 11, 1995 and signed by the Raval Suplico and Lokin Office.

[21] Signed by Padilla, Jurado and Saguisag.

[22] Solicitor-General's Comment on the application for bail.

- [23] Padilla vs. CA and People, (Resolution), G.R. No.121917, July 31, 1996.
- [24] Rollo, pp. 258, 282.
- [25] Rollo, pp 312-339.
- [26] Counterstatement of Facts, Appellee's Brief filed with the CA by the Solicitor-General (CA Rollo, pp. 230-240).
- [27] Consisting of about 4,000 pages.
- [28] Section 5, Rule 113 of the Revised Rules of Criminal Procedure.
- [29] People v. Cuison, G.R. No. 109287, April 18, 1996.
- [30] US v. Samonte, 16 Phil. 516, 519, citing 3 Cyc., 886; Ramsey v. State, 17 S. E., 613; Dilger v. Com., 11 S. W., 651; State v. McAfee, 12 S. E., 435; State v. Williams, 15 S. E., 554; and Hawkins v. Lutton, 70 N. W., 483.
- [31] TSN, February 13, 1993, Enrique Manarang, pp. 5-11.
- [32] This hit and run incident was the subject of a different complaint against petitioner.
- [33] United States v. Gordils, 982 F2d 64, 69 (1992).
- [34] See People v. de Lara, 55 SCAD 190, 196, 236 SCRA 291, 297 (1994).
- [35] United States v. Lopez, 989 F2d 24, 26 (1993); United States v. Ross, 456 U.S. 798, 806-807 (1982); Warden v. Hayden, 387 U.S. 294, 298-9 (1967).
- [36] United States v. King, 990 F2d 1552, 1557 (1993); United States v. Place, 456 U.S. 696, 702 (1983); Reid v. Georgia, 448 U.S. 438, 440 (1980).
- [37] See People v. Fernandez, 57 SCAD 481 (1994); Higbee v. City of San Diego, 911 F2d 377, 379 (1990).
- [38] Eighty km/hr or higher. (TSN, Ibid., p.3).
- [39] Exh. "B and its sub-markings - Picture of the vehicle driven by petitioner which showed the dangling plate number and the damaged hood and railings.
- [40] See People v. Woolcock, 314 Phil. 81 (1995).
- [41] People v. Rivera, 315 Phil. 454; People v. de Guzman, 231 SCRA 737; People v. De Guia, 227 SCRA 614; People v. Codilla, 224 SCRA 104 (1993); People v. de Guzman, 224 SCRA 93 (1993); People v. Rabang, 187 SCRA 682 (1990).
- [42] People vs. Lopez, 315 Phil. 59 citing de Asis v. Romero, 41 SCRA 235 (1971); See also People v. Nitcha, 310 Phil. 287 (1995) citing People v. Hubilo, 220 SCRA 389 (1993); People v. Samson, 244 SCRA 146; Zacarias v. Cruz, 141 Phil. 417 (1969), citing U.S. v. Grant, 18, Phil. 122, 147; Doce v. Branch II of the CFI of Quezon, 22 SCRA 1028, 1031, citing Carington v. Peterson, 4 Phil. 134 and US v. Grant, Supra.
- [43] In Re Letter of Freddie Manuel, 54 SCAD 97, 99, 235 SCRA 5 (1994); People v. Dural, 42 SCAD 213, 223 SCRA 201 (1993); Palanca v. Querubin, 141 Phil. 432 (1969).
- [44] Mustang Lumber, Inc. v. CA, et al., G.R. No. 104988, June 18, 1996. The fifth being customs search.
- [45] Search incident to lawful arrest. - A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of the offense, without a search warrant.

[46] *People v. Salazar*, G.R. No. 98060, January 27, 1997; *People v. Figueroa*, 248 SCRA 679 (1995); *People v. Gerente*, 219 SCRA 756; *People v. Malmstedt*, 198 SCRA 401; *People v. Sucro*, 195 SCRA 388; *People v. Tangliben*, 184 SCRA 220; *People v. Lo Ho Wing*, 193 SCRA 122; *People v. Paco*, 170 SCRA 681; *Manipon v. Sandiganbayan*, 143 SCRA 267.

[47] *Mapp v. Warden*, 531 F2d 1167; *United States v. Griffin*, 530 F2d 739; *United States v. Hilstrom*, 533 F2d 209, 429 U.S. 982, 97 S Ct 498; *US v. Pacelli*, 470 F2d 67, 415 U.S. 983, 93 S Ct 1501; *Coolidge v. New Hampshire*, 403 U.S. 443, 91 S Ct 2022; *Ker v. California*, 374 U.S. 443, 465, 91 S Ct 2022, 2037-38;

[48] *Harris v. US*, 390 US 234; *People v. Evaristo*, 216 SCRA 431.

[49] *People vs. Balingan*, 241 SCRA 277 (1995); *People v. Fernandez*, supra. citing *People v. CFI of Rizal*, 101 SCRA 86 (1980); *People v. Lo Ho wing*, 193 SCRA 122; *Roldan v. Arca*, 65 SCRA 336.

[50] *United v. Rem*, 984 F2d 806, 812 (1993); *United States v. Diaz-Lizaraza*, supra. at p. 1220; *United States v. McCoy*, 977 F2d 706, 710 (1992); *United States v. Rusher*, 966 F2d 868, 874 (1992); *United States v. Parker*, 928 F2d 365-69 (1991).

[51] *Black's Law Dictionary*, Revised Fourth Edition, citing *People v. Exum*, 382 I11. 204, 47 N.E. 2d 56, 59.

[52] TSN, SPO Mercado, July 1, 1993, p. 5.

[53] Concurring opinion of Justice Perfecto in *Magoncia v. Palacio*, 80 Phil. 770, 776 cited in *People v. Cruz*, *ibid.* at 141 and *People v. Acol*, *ibid.*

[54] *People v. Evaristo*, supra.

[55] TSN, March 8, 1993, SPO Ruben Mercado, pp. 32-35.

[56] In *People v. Doro*, 223 SCRA 19 the Court said that the accused therein waived his right against the warrantless search when he voluntarily opened the package containing illegal drugs. See also *People v. Kagui Malasugui*, 63 Phil. 221.

[57] *People v. Compil*, 244 SCRA 135 (1944).

[58] *United States v. Saffuels*, 982 F2d 1199, 1206 (1992); *Michigan v. Long*, 463 U.S. 1032, 1034-5 (1983).

[59] *United States v. Diaz-Lizaraza*, 981 F2d 1216, 1222 (1993); *United States v. Franco*, 981 F2d 470, 473 (1992); *New York v. Belton*, 453 U.S. 454, 460-1 (1981).

[60] *United States v. \$639,558.00 in United States Currency*, 955 F2d 712, 715-16 (1992); *United Staes v. Holifield*, 956 F2d 665, 669 (1992); *United States v. Arango*, 879 F2d 1501, 1505 (1989).

[61] *United States v. Tarazon*, 989 F2d 1045, 1051 (1993).

[62] *Shipley v. California*, 395 U.S. 818, 819 (1969).

[63] *People v. Barros*, 231 SCRA 557, 566.

[64] Exhibit "1" - Alleged Mission Order of Petitioner contains the following:

Republic of the Philippines

Department of Interior and Local Government

Headquarters Philippine National Police

Lianga, Surigao del Sur

Septemzber 1992

Mission Order

Number 29-9-92-B

To: PSUPT GREGORIO DUREMBES

SO ROBIN PADILLA

- P O S T -

I. PROCEED TO: Camp Crame, NCR, Recom 1-12-Baguio City

II. PURPOSE: To intensify Int'l coverage and to negotiate the imdte. surrender of Father Frank Navarro (rebel priest), believed attending conference in Baguio City. (CPP/NPA).

III.DURATION: FROM: 29 Sept to 31 Oct 1992.

IV. AUTHORIZE TO WEAR THE FOLLOWING UNIFORM/ATTIRE:

(x) KHAKI () HBT (x) CIVILIAN

V. AUTHORIZED TO CARRY THE FOLLOWING FIREARMS:

LIC OR MR MAKE KIND CAL SER. NO. AMMO

LIC or MR issued Firearms & Ammos

-x-x-x-x-x Nothing Follows x-x-x-x-x-x-x-x

RECOMMENDED BY: APPROVED BY:

Sgd. RODALIO A. GUMTANG

SUPT (CSP) PNP

Deputy & S-4

[65] People vs. Solayao, G.R. No. 119220, September 20, 1996; People vs. Lualhati, 234 SCRA 325 (1994); People vs. Damaso, 212 SCRA 547 (1992).

[66] Exh. "C" - 357 Smith and Wesson with bullets; Exh. "D" - M-16 armalite with magazine; Exh."K" - M-16 magazine; Exh. "L" - Peitro Berreta; Exh. "N" - 2 long magazines; Exh. "O" - 1 short magazine.

[67] Decision of the Court of Appeals, pp. 18-19; Rollo, pp. 67-68.

[68] Exhibit "1"; Exhibit "Y".

[69] TSN, Supt. Gregorio Durendes, February 10, 1994, p. 11.

[70] Exhibit "1" for the Defense; Exhibit "U" (Rebuttal) for the Prosecution.

[71] Issued by PNP Director-General Cesar Nazareno, March 21, 1991. Its pertinent provision states as follows:

"3.a. Only unit Commanders/Chiefs of Offices are authorized to issue Mission Orders to their respective personnel while in the official performance of duties. Such Mos shall be valid only within the area of responsibility (AOR) of the Unit Commander / Chief of Office concerned.

"c. MOs of PNP personnel performing mission outside AOR must be approved by next higher Headquarters."

[72] Exhibit "1".

[73] See Note 71, *supra*.

[74] Ether Ignacio, Chief of the Non-Uniform Personnel Section of the PNP, testified that petitioner's name is not in the Plantilla of Personnel. Counsel for petitioner admitted that the latter is "not in the plantilla." (Rollo, p. 357; CA Decision, p. 14; TSN, Ethel Ignacio, July 25, 1994, pp. 4-6).

[75] April 28, 1984 Amendments to the Rules and Regulations Implementing P. D. 1866 issued by the PC-INP Chief and Director-General.

[76] Sr. Inspector Jose Mario Espino, of the PNP Headquarters in Camp Crame, Quezon City issued the certification dated November 28, 1992 and December 11, 1992. (Exhibits "F" and "G"; TSN March 4, 1993, Jose Mario Espino, pp. 7, 9, 14-17).

[77] TSN, Sr. Inspector Jose Mario Espino, March 4, 1993, p. 14.

[78] Exhibit "F". In exhibit "G", petitioner's alias, "Robinhood C. Padilla," was checked and yielded the same information found in Exhibit "F" quoted above.

[79] *Mallari vs. CA and People of the Philippines*, G.R. No. 110569, December 9, 1996 citing *People vs. Solayao*, G.R. No. 119220, September 20, 1996. Such and similar certifications were declared adequate by the Court in *Rosales vs. Ca*, 255 SCRA 123 (1996), *People vs. Orehuela*, 232 SCRA 82, 97 (1994).

[80] G.R. No. 114185, January 30, 1997.

[81] *People vs. Mesal*, 313 Phil. 888.

[82] TSN, Jose Mario Espino, March 4, 1993, p. 20.

[83] *People vs. Cahindo*, G.R. No. 121178, January 27, 1997; *People vs. Bracamonte*, G.R. No. 95939, June 17, 1996; *People vs. Angeles*, 315 Phil. 23; *People vs. Remoto*, 314 Phil. 432.

[84] Supplemental petition, pp. 1-3; Rollo, pp. 84-86.

[85] Article III, Section 19(1), 1987 Constitution.

[86] Article 7, Civil Code.

[87] See: *People v. Limaco*, 88 Phil. 36; *People v. Venaracion*, 249 SCRA 244.

[88] *People v. Estoista*, 93 Phil. 647.

[89] *Baylosis v. Chavez, Jr.*, 202 SCRA 405, 417.

[90] *Peralta v. COMELEC*, 82 SCRA 30, 55.

[91] *Misolas v. Panga*, 181 SCRA 648; *Baylosis v. Chavez, Jr.* 202 SCRA 405.

[92] *People v. Morato*, 224 SCRA 361, 367-368.

[93] 255 SCRA 532 (1996).

[94] 234 SCRA 555.

[95] *People v. Jian* , 255 SCRA 532, 542.

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