

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGARDO CASTRO, BOY CORTEZ, ARNOLD OLMOS AND ROBERTO VINOZA @ “ROBERTO VIOZA,” ACCUSED. EDGARDO CASTRO AND ROBERTO VINOZA, ACC...

G.R. No. 122671. November 18, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This case was originally an appeal brought to the Court of Appeals pursuant to Section 9(3) of the Judiciary Reorganization Act of 1980 (B.P. Blg. 129) as the trial court, upon convicting accused-appellants of murder, sentenced them to seventeen years and one day to twenty years of reclusion temporal.[1] In its decision[2] of 14 June 1995, the Court of Appeals affirmed the conviction but imposed the penalty of reclusion perpetua. In light of the third paragraph of Section 13(2) of Rule 124 of the Rules of Court, however, the Court of Appeals refrained from entering judgment and certified the case to us.

Accused-appellants Edgardo Castro and Roberto Vinoza, together with Boy Cortez and Arnold Olmos, were indicted for murder in Criminal Case No. 2323-M-90 of Branch 14 of the Regional Trial Court of Bulacan. The accusatory portion of the information reads as follows:

That on or about the 25th day of October, 1990 in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an ice-pick and bladed instrument with intent to kill one Luis Cabantog conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault, hit with the said ice-pick and stab with the said bladed instrument the said Luis Cabantog, hitting the latter on his body thereby causing him serious physical injuries which directly caused his death.[3]

Only appellants Castro and Vinoza were arrested. Their co-accused, Boy Cortez and Arnold Olmos, have remained at large.

Upon arraignment,[4] the appellants pleaded not guilty, and trial on the merits proceeded only as against them only.

The witnesses presented by the prosecution were Valentino Fernandez, Dr. Alberto Bondoc, Sotero Cabantog and SPO1 Conrado Umali. On the other hand, the defense presented appellants Edgardo Castro and Roberto Vinoza, Ligaya Magdirila Caparas and Maria Gilda Gonzales.

Prosecution witness Valentino Fernandez testified that in the afternoon of 25 October 1990, he and his gangmates Edgardo Castro, Roberto Vinoza Boy Cortez, and Arnold Olmos were having a drinking spree at a small store.[5] At around 7:00 p.m., Vinoza invited them to accompany him to the house of on Jasmin Fellas whom he was courting at the time. [6]

The group then proceeded to Jasmin's house, which was located at San Felipe Subdivision, Mojon, Malolos, Bulacan. Upon reaching the place, they saw Jasmin having conversation with Luis Cabantog at the terrace.[7]

Later, Jasmin stood up and went inside the house. Luis also stood up and headed towards the concrete fence. At this point, he was met by the appellants and their co-accused, who had entered the yard by scaling the fence. Without much ado, Roberto repeatedly stabbed Luis with an ice pick; Boy followed suit, using a fan knife. All the while, Edgardo and Arnold were holding Luis' hands. As the victim fell down, the four assailants fled towards different directions.[8]

Valentino, who was then outside the concrete fence, about two arms length away, allegedly witnessed this incident. But he never told it to anyone. He was, however, bothered by his conscience; hence, on 11 July 1991, he surrendered to the police authorities and executed a sworn statement[9] pointing to the appellants and their co-accused as the persons responsible for the death of Luis.[10]

Dr. Alberto Bondoc, the Municipal Health Officer of Malolos, Bulacan, who conducted an autopsy on the cadaver of Luis, declared that the cause of the victim's death was "Cardiorespiratory Arrest due to Hemorrhagic Shock due to Multiple Stab Wounds, Chest." [11]

Sotero Cabantog, father of the victim, testified that as a result of the death of his son, he spent about P100,000 for funeral services, memorial lot, and other miscellaneous expenses.[12]

Conrado Umali, a Police Investigator of the INP, Malolos Bulacan, testified that after receiving a report about a stabbing incident in San Felipe Subdivision, Mojon, Bulacan, he and some other policemen went there immediately. When they arrived, the victim was no longer there, but they saw bloodstains at the terrace and near the gate of the house of Jasmin Fellas. They inquired from people at that place whether they knew the assailants, but no one could tell. It was only on 11 July 1991 when Valentino Fernandez, who was suspected of being a drug-user, was brought by another policeman to the station that the names of the suspects were known. There, Valentino executed a sworn statement narrating the incident that happened in the evening of 25 October 1991 and pointing to the appellants and their co-accused as the killers. This led to the arrest of herein appellants.[13]

On the other hand, the appellants raised the defense of alibi. Edgardo Castro declared that at about 6:00 p.m. of 25 October 1990, he arrived at the house of Ligaya Magdirila Caparas in San Jose Subdivision, Mojon, Malolos, Bulacan. He watched television there until about 8:00 p.m. He professed his innocence and explained that witness Valentino Fernandez falsely implicated him out of anger; however, Castro did not know the cause or reason for Valentino's anger.[14]

On cross-examination, Edgardo admitted that he and his co-accused Roberto Vinoza, Boy Cortez, and Arnold Olmos were friends and would drink liquor or beer together, at times with Valentino Fernandez joining them.[15] Edgardo further admitted that the distance between the residence of Ligaya and the house of Jasmin could be negotiated by walking in six minutes.[16]

Ligaya Magdirila Caparas, a teacher, corroborated Edgardo's testimony that he was in her house the evening of 25 October 1990.[17]

Appellant Roberto Vinoza testified that on 25 October 1990, he was in the house of his brother-in-law Chito Gonzales in San Felipe, Malolos, Bulacan. He had been residing there for some time and had known Valentino Fernandez for five years. He sought to discredit Valentino by alleging that according to Patok, Valentino's brother, Valentino came from a mental institution and that Valentino was indecent and unusual in his manner of dressing as he "doubled" his clothes and socks and wore different necklaces.[18]

On cross-examination, Roberto admitted that he, his co-accused, and Valentino were friends ; and they used to drink beer together. [19] He knew of one Jasmin, who also resided in San Felipe Subdivision.[20] He admitted that the house of his brother-in-law was located in the same subdivision as Jasmin's residence.[21]

Maria Gilda Gonzales, the sister of Chito Gonzales, corroborated Roberto's testimony that he was in their house in the evening of 25 October 1990.[22]

The trial court gave full credence to Valentino's testimony and discredited the defense of alibi, as the appellants were positively identified by Valentino. It likewise debunked their attempt to discredit Valentino because no evidence was presented that he was in fact confined in a mental institution or that he was abnormal on the date of the incident. It opined that Valentino's use of "double socks" was not a sign of insanity. The court also observed that during his testimony, Valentino "did not display any strange or unusual act of a person of unsound mind that would imply he is not credible." [23]

In convicting appellants of murder, the trial court appreciated the qualifying circumstance of treachery because of the suddenness of the attack upon the victim and lack of opportunity on the part of the victim to defend himself. It likewise considered against the appellants the aggravating circumstances of abuse of superior strength and nighttime.

In its decision[24] dated 18 May 1993 but promulgated one month later, the trial court rendered judgment convicting the appellants of murder and sentencing them to suffer the penalty of seventeen years and one day to twenty years of reclusion temporal and to pay the following amounts: (1) P70,000.00 moral damages; (2) P20,000 for funeral services; and (3) P18,000.00 for the memorial lot.

The appellants forthwith appealed to the Court of Appeals contending that the trial court erred:

I

... IN CONVICTING [THEM] OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II

... IN FINDING THE EXISTENCE OF TREACHERY AND ABUSE OF SUPERIOR STRENGTH UNDER THE FACTS AND CIRCUMSTANCES HEREIN OBTAINING.

As to the first error, they alleged that the testimony of Valentino Fernandez left much to be desired, as he: (1) did not actually see who stabbed Luis Cabantog to death; (2) had the tendency to exaggerate; (3) did not immediately report the incident; (4) was apparently ill-motivated; and (5) appeared more as a coached or rehearsed witness. Besides, his testimony on the instruments used did not tally with the physical evidence.

In their second assigned error, the appellants argued that even conceding *ex gratia* that they participated in the killing of Luis Cabantog, the crime committed could only be homicide as treachery and abuse of superior strength were not proven.

In the Appellee's Brief[25] filed with the Court of Appeals, the Office of the Solicitor General (OSG) agreed with the trial court's favorable assessment of Valentino's credibility as he was honest and forthright in answering questions, clear and coherent in his narration of the facts. His version was in accord with ordinary human experience in light of his long association and familiarity with the accused before the commission of the crime. Darkness did not prevent him from seeing the accused attack the victim since there was light coming from the house of Jasmin which illuminated the terrace. That Valentino was outside the fence was inconsequential since

the fence was only five feet high while Valentino was five feet and five inches tall. Moreover, he was only two-arms lengths away, and as shown in the pictures taken of the scene of the crime (Exhs. "C" to "C-3," inclusive), the concrete fence, steel gate and the terrace were situated in such a way that it was not impossible for Valentino to witness what was happening inside the yard of Jasmin's house.

As to Valentino's delay in reporting the crime, the OSG claimed that it was due to his fear, however, his conscience eventually prevailed upon him to reveal what he had witnessed. In any event, no ill-motive could be imputed to him to falsely testify against the appellants. It debunked appellants' defense of alibi in view of their positive identification as the perpetrators of the crime. It also maintained that treachery was present by reason of the swift and unexpected attack on the defenseless victim.

The Court of Appeals agreed with both the trial court and the OSG in finding that Valentino Fernandez saw the killing and positively identified appellants and their co-accused as the assailants. It rejected appellants' claim that Valentino's testimony on the weapons used did not tally with the physical evidence, because while Dr. Bondoc confirmed the possibility that the wounds sustained by the victim were caused by a single bladed instrument, he did not discount the possibility that the wounds were inflicted by more than one bladed weapon.[26] As regards the delay in reporting the incident, the same did not impair Valentino's credibility, for it was his fear caused by the threat to his life made by the appellants.[27]

Anent the second assigned error, the Court of Appeals held that treachery attended the commission of the crime in view of "the suddenness or ferocity of the assault." The aggravating circumstances of abuse of superior strength and nocturnity were absorbed by treachery and should not, therefore, be treated separately.

Accordingly, Court of Appeals affirmed appellant's conviction but sentenced them to reclusion perpetua. It deleted the award of P70,000.00 for moral damages for not having been mentioned in the body of the decision of the trial court. It, instead, ordered the appellants to pay the heirs of the victim amount of P50,000 as civil indemnity.

In their Supplemental Brief filed with this Court by the Public Attorney's Office, in compliance with the Resolution of 4 March 1996, the appellants contended that the prosecution failed to prove their guilt beyond reasonable doubt. Thereafter, appellant Castro, through his counsel, the Linzag, Arcilla & Associates Law Offices, filed a separate Supplemental Briefs imputing to the trial court the commission of the following errors:

1. IN NOT APPRECIATING THE EVIDENCE OF THE ACCUSED;

2. IN RELYING MERELY IN (sic) THE TESTIMONY OF A LONE REHEARSED AND INCREDIBLE WITNESS WITHOUT CORROBORATING EVIDENCE;

3. IN DISREGARDING THE CLEAR REASONABLE DOUBT BASED ON THE FOLLOWING CIRCUMSTANCES:

xxx

4. IN CONVICTING THE ACCUSED ON THE BASIS OF A CONFESSION OF VALENTINO FERNANDEZ WITHOUT ANY PROOF OF CONSPIRACY WHICH WAS NOT CORROBORATED BY ANY WITNESS;

5. IN DISREGARDING THE SUPPRESSION OF EVIDENCE BY THE PROSECUTION AND IN NOT ALLOWING THE PRESENTATION OF THE EYE-WITNESS MS. JASMIN FELLAS WHO WAS WITH THE VICTIM AT THE TIME OF MURDER;

6. THERE IS NO PROOF OF COURTSHIP BY THE APPELLANT CASTRO, WHICH WAS DENIED BY

THE APPELLANTS, EXCEPT THE CONFESSION OF A THIRD PERSON, AND DOES NOT BIND THE ACCUSED;

7. THERE WAS NO PROOF NOR WITNESS WHO TESTIFIED THAT ALL THE ACCUSED TOGETHER WITH THE DECLARANT VALENTINO FERNANDEZ WERE TOGETHER ON A DRINKING SPREE JUST BEFORE THE INCIDENT HAPPENED, NOR WAS THERE ANY PROOF THAT THE ACCUSED PLANNED TO KILL THE VICTIM;

8. NO EVIDENCE NOR ANY WITNESS PRESENTED TO TESTIFY ON THE CIRCUMSTANCES BOTH OF THE PLACE AND OF THE VICTIM AT THE TIME OF THE COMMISSION OF THE OFFENSE;

9. FINALLY, THE COURT'S FINDINGS WERE NOT SUPPORTED BY EVIDENCE.

In an Additional Supplemental Brief, appellant Castro asserted that "[t]he decision of this case convicting the accused was based solely on the admission and confession of Valentino Fernandez without any proof of conspiracy other than the declaration itself."

In a Supplemental Appellee's Brief, the Office of the Solicitor General argued that, in accordance with well-established jurisprudence, the factual findings of both the trial and appellate courts should be accorded great weight and respect. It also contended that prosecution witness Valentino Fernandez was not a co-conspirator; hence, the rule pertaining to an admission by a co-conspirator would not apply.

The culpability of the appellants is entirely dependent upon the testimony of Valentino Fernandez, the lone eyewitness for the prosecution. His credibility then is at the heart of this appeal.

Deeply entrenched in our jurisprudence is the rule that when the credibility of witnesses is in issue, appellate courts will generally not disturb the findings of the trial court. The reason therefor is obvious: the trial court is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during trial. Among the exceptions are when certain facts of substance and value have been plainly overlooked which, if considered, might affect the result of the case, or where its findings on the credibility of the witnesses is clearly shown to be arbitrary.[28]

After a painstaking review of the records of this case and assessment of the testimony of Valentino Fernandez, we find significant, material, and relevant facts or circumstances which were overlooked by the courts below which, if properly considered, would have altered the result of this case. These will show, at most, that Valentino was not anywhere near the scene of the crime; or even if he were, he could not have seen the killing. Or, at the very least, these circumstances will create reasonable doubt on his alleged eyewitness account.

The scene of the crime could not have been visible to Valentino. The locus criminis was the fenced yard of Jasmin Fellas' house, which lay adjacent to a road, which in turn, was lower in elevation than the yard. The perimeter wall or fence separating the yard and the road was five (5) feet high, made of concrete, and as shown in Exhibits "C," "C-1," and "C-2," was solid in appearance. Valentino, on the other hand, was about five feet five inches (5'5") tall and stood on the road, approximately two arms-length away from the perimeter wall or fence. Moreover, the scene of the crime was dark (madilim), with only residual light from inside Jasmin's house reaching the terrace; the electric light at the terrace itself was not switched on. Notably, when asked how he was able to see what transpired, considering the dismal lighting condition, Valentino was unable to answer despite having been afforded reasonable time to do so.

Certain exchanges between Valentino and defense counsel on cross-examination and the prosecutor on redirect examination indubitably support the foregoing observations. On cross-examination, Valentino answered; thus:

ATTY. ARICHETA:

Q You said you were outside the fence of the house of Jasmin when the incident happened, that is correct?

A Yes, sir.

Q How tall was that fence?

WITNESS STANDING AND PLACING HIS RIGHT ARM ALMOST ON HIS NECK. WHICH BY AGREEMENT OF THE PROSECUTION AND THE DEFENSE IS ABOUT 1 ½ METERS.

FISCAL:

In view of the answer of the witness that his height is around 5'5" perhaps the height of the concrete wall can be estimated as at around 5 feet.

ATTY. ARICHETA:

Q This [sic] accused according to you at the time of the incident were inside the fence?

A Yes, sir.

Q Is this fence concrete?

A Yes, sir.

Q And from the fence, how far were you then?

A As I have stated two (2) arms length[s] away, sir.[29]

While on redirect, Valentino revealed:

Q Mr. Fernandez, as you claim that the concrete fence of the residence of Jasmin is indeed concrete and its height is about 5 ft., will you please tell us why you were able to see this incident when according to you the incident happened inside the yard of Jasmin while you were outside the yard and about two (2) arms length[s] away?

A I was outside of the fence, sir.

Q How were you able to see the incident that took place inside the yard of Jasmin when according to you you were outside and you were separated with [sic] a concrete fence?

A I could see, sir.

Q Are you saying that the inside of the yard of Jasmin is very visible from the place where you were standing at the time?

A Yes, sir.

Q Will you please tell us the elevation of the yard of Jasmin and the elevation of the front space where you were then standing?

A The road or the street is lower in elevation than the yard of Jasmin, sir.

Q Are you saying that the place where you were then standing in front of the house of Jasmin is a road or a street, when the incident happened?

A Yes, sir it is a road at that time.

Q You said that the fence of Jasmin is concrete, what do you mean by concrete?

A Hollow blocks, sir.

Q Was [sic] there no openings in this concrete wall made of hollow blocks?

A There are portions, sir.

Q What are [sic] these openings consist of?

A Yes, is [sic] it was actually made as a decorations [sic].

Q How far was the place where the incident happened from the main gate of the fence of Jasmin's residence?

A I can no longer recall, sir.

Q Was there a gate in the yard of Jasmin?

A Yes, sir it is a steel gate, sir.

Q Was it a solid steel [sic] or made of iron bars or iron grills?

A Solid, sir.

Q Was the gate opened or closed at the time?

A Yes, sir but they scaled the fence, sir.

Q Considering that it was already 7:00 o'clock in the evening, how did you describe the place where the incident happened, was it bright, was it clear or was it dark?

A Dark, sir. (madilim).

Q If it was dark at the place where the stabbing of Luis happened, why were you able to see the incident?

A Because I was outside of the fence but I have seen [sic] what they did.

Q The question is how were you able to see what they did when according to you the place where the stabbing incident happened was dark (madilim).

At the count of ten (10) the witness did not answer.

Q Was there light in the house of Jasmin at the time?

COURT:

Reform the question. Leading.

FISCAL:

Q How were you able to see Jasmin and Luis while they were talking in the terrace?

A When that happened, there was light, sir.

Q Where was the light came [sic] from?

A From the house, sir.

Q Was there light at the terrace where Jasmin and Luis were talking at the time?

A There was but at the time it was not on, sir.

COURT:

Q It was just a bulb?

A Yes, your Honor.

FISCAL:

Q You said that there was light in the house of Jasmin, where was that light located?

A From inside their house because the windows were opened then, sir.

Q Can you tell us the extent of the light illuminated by this light coming from inside the house of Jasmin?

A Up to the terrace, sir.

Q How about the yard?

A No, sir. [30] (underscoring supplied)

Other circumstances immeasurably contribute to our doubts that Valentino was at the scene of the crime; or that if

he was, he saw what actually transpired. For one, although the incident took place on 25 October 1990, he talked about it for the first time only on 11 July 1991, or after the lapse of nearly nine months. It is true that the reluctance of witnesses to testify does not detract from their credibility, as we have taken judicial notice that many are unwilling to be involved in, or dragged into, criminal investigations.[31] Nevertheless, where the witness seeks to justify his delay, his credibility must necessarily be affected by the truth or sufficiency of the proffered justification. In the instant case, Valentino attempted to justify his delay in reporting the crime by claiming that there was a threat to his life made by the appellants; thus:

Q Why did you not report the incident immediately after October 25, 1990?

A Because they were threatening my life, your Honor. (witness pointing to two (2) accused in the court room)
[32]

But accused-appellants could not have so threatened Valentino because, as he admitted, he never saw them after the incident. Consider the following answer he gave during direct examination, to wit:

FISCAL VICENTE:

Q After the incident, did you have occasion to see any member of this group referring to Edgardo Castro, Vinoza, Olmos and Cortez?

A No more, sir. [33] (underscoring supplied)

Furthermore, there is absolutely no evidence that a threat was conveyed by some other means such as by an emissary, a letter, or a telephone. Oddly, the prosecution chose not to elaborate on this matter.

Even more telling for the prosecution was that even Valentino's deportment while on the witness stand cannot but instill doubt as to his sincerity. The trial court noted his deportment during cross-examination, thus:

COURT:

Q The court notice (sic) that you are uneasy, you can not see straight and you can not sit straight, why?[34]

Although Valentino answered that it was but natural on his part, we are unable to accept his explanation since he behaved differently during direct examination, as evidenced by the absence of any comment by the trial court as to Valentino's deportment or demeanor. Verily, this abrupt behavioral shift should have alerted the courts below.

Neither may we gloss over Valentino's declaration that there were "openings"[35] in the concrete fence of Jasmin's house, a claim which was obviously made to suggest that the "openings" aided him in viewing what transpired that night. The pictures (Exhibits "C," "C-1," to "C-3," inclusive) show beyond doubt that the fence has no such "openings," but appears solid.

In light of the foregoing, the conclusion is inevitable that the prosecution has failed to prove the guilt of the appellants with moral certainty or beyond reasonable doubt as required by the Rules on Evidence.[36] Accordingly, the presumption of innocence afforded by the Constitution must prevail.[37] The appellants are, as a matter of right, entitled to an acquittal. That they invoke the defense of alibi, the weakest of all defenses,[38] is entirely irrelevant; for, when the prosecution fails to discharge its burden, an accused need not even offer evidence in his behalf.[39]

This discourse thus renders unnecessary a discussion on the other grievances of appellants. Nevertheless, a word is in order anent appellants' claim that they were arrested without a warrant. Since they did not raise this issue before the trial court nor the Court of Appeals, but only Castro's Supplemental Brief, they have thus effectively waived their right to challenge the infirmity, if any, of the arrest.[40]

Likewise in order are certain observations on the decision of the trial court. The trial court appreciated against

appellants the generic aggravating circumstances of abuse of superior strength and nighttime. Granting arguendo that they existed, they were, as correctly held by the Court of Appeals, absorbed in the qualifying circumstance of treachery and should not be appreciated separately.[41]

The trial court further erred in imposing the penalty of “seventeen (17) years, one (1) day to twenty (20) years of Reclusion Temporal” -- which is the duration of reclusion temporal maximum – despite its appreciation of two generic aggravating circumstances. The penalty prescribed for murder at the time the felony in question was committed, i.e., before the effectivity of R.A. No. 7659,[42] was reclusion temporal maximum to death. Pursuant to Article 64 of the Revised Penal Code, the imposable penalty, considering the two generic aggravating circumstances which the trial court appreciated, should have been the maximum period of the prescribed penalty, which was death. Such penalty could not, however, be imposed then in view of the constitutional proscription;[43] hence the imposable penalty should have been reclusion perpetua.

Finally, the trial court erred in awarding P70,000.00 in the dispositive portion of its decision without making a finding thereon in the body of the decision.[44] Nevertheless, we disagree with the Court of Appeals when it deleted the award solely because of the absence of such finding. In criminal cases, an appeal opens the whole case for review, and this includes a review of the indemnity and damages involved.[45]

WHEREFORE, judgment is hereby rendered (1) REVERSING the decision of 18 May 1993 of the Regional Trial Court of Bulacan, Branch 14, in Criminal Case No. 2323-M-90, and that of 14 June 1995 of the Court of Appeals in CA-G.R. CR No. 14903; (2) ACQUITTING accused-appellants EDGARDO CASTRO and ROBERTO VINOZA on ground of reasonable doubt; and (3) DIRECTING their immediate release from detention, unless their further detention is warranted due to some other legal cause.

Costs de officio.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.

[1] Per Judge Felix N. Villanueva, Court of Appeals (CA) Rollo, 26-33.

[2] Per Consuelo Ynares-Santiago, J., with Martinez, A. and Reyes, R., JJ., concurring; Id., 70-83.

[3] Original Record (OR), 2.

[4] Id., 15.

[5] TSN, 28 February 1992, 30-31.

[6] Id., 4, 6-7.

[7] TSN, 28 February 1992, 7-8.

[8] Id., 8-12.

[9] Exhibit “A,” Folder of Exhibits for the Prosecution; OR, 113-114.

[10] TSN, 28 February 1992, 10, 13-14.

[11] Exh. “F”; OR, 124.

[12] TSN, 16 March 1992, 13-14.

[13] TSN, 1 June 1992, 4-14.

[14] TSN, 31 August 1992, 4-8.

[15] TSN, 31 August 1992, 19, 21-23.

[16] TSN, 31 August 1992, 19.

[17] TSN, 30 September 1992, 8-10.

[18] TSN, 13 November 1992, 5-6; 15-19.

[19] Id., 22-26.

[20] Id., 26.

[21] Ibid.

[22] TSN, 25 November 1992, 4-8.

[23] OR, 108.

[24] Supra note 1.

[25] Rollo, CA-G.R. CR No. 14903, 37-65.

[26] Citing TSN, 20 July 1992, 9.

[27] Citing TSN, 28 February 1993, 22-23.

[28] People v. Quejada, 223 SCRA 77, 86 [1993].

[29] TSN, 28 February 1992, 34-35.

[30] TSN, 28 February 1992, 36-41.

[31] See People v. Lase, 219 SCRA 584, 594-595 [1993].

[32] TSN, 28 February 1992, 22.

[33] TSN, 28 February 1992, 13.

[34] Id., 26.

[35] TSN, 28 February 1992, 38.

[36] Section 2, Rule 133.

[37] Section 14(2) Article III.

[38] People v. De la Cruz, 217 SCRA 283, 293 [1993]; People v. Kyamko, 222 SCRA 183, 194 [1993].

[39] People v. Sulit, 233 SCRA 117, 125 [1994].

[40] Joaquin G. Bernas, The 1987 Constitution of the Republic of the Philippines: A Commentary 181 (1996), citations omitted.

[41] I Ramon C. Aquino, The Revised Penal Code, 376 (1987).

[42] Entitled An Act To Impose the Death Penalty on Certain Heinous Crimes, etc., which took effect on 31 December 1993, in People v. Simon, 234 SCRA 555, 569 [1994].

[43] Section 19(1) Article III.

[44] Scott Consultants & Resource Dev. Corp. v. Court of Appeals, 242 SCRA 393, 404-405 [1995].

[45] People v. Tiozon, 198 SCRA 368, 387 [1991].

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