

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HUANG ZHEN HUA AND JOGY LEE, APPELLANTS.*G.R. No. 139301. September 29, 2004*

Ponente: CALLEJO, SR., J.

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This is an appeal from the Decision[1] of the Regional Trial Court (RTC) of Parañaque City, Metro Manila, Branch 259, convicting the appellants of violation of Section 16, Article III of Republic Act No. 6425, as amended.

The Case for the Prosecution

Police operatives of the Public Assistance and Reaction Against Crime (PARAC) under the Department of Interior and Local Government received word from their confidential informant that Peter Chan and Henry Lao,[2] and appellants Jogy Lee and Huang Zhen Hua were engaged in illegal drug trafficking. The policemen also learned that appellant Lee was handling the payments and accounting of the proceeds of the illegal drug trafficking activities of Lao and Chan.[3] PO3 Belliardo Anciro, Jr. and other police operatives conducted surveillance operations and were able to verify that Lao and appellant Lee were living together as husband and wife. They once spotted Chan, Lao, the appellants and two others, in a seafood restaurant in Bocobo Street, Ermita, Manila, late in the evening. On another occasion, the policemen saw Chan, Lao, and the appellants, at the Celicious Restaurant along R. Sanchez Street, Ermita, Manila, at about 8:30 p.m. They were spotted the third time at the Midtown Hotel at about 7:00 p.m. to 8:00 p.m.[4] The police operatives also verified that Chan and Lao resided at Room Nos. 1245 and 1247, Cityland Condominium, De la Rosa Street, Makati City, and in a two-storey condominium unit at No. 19 Atlantic Drive, Pacific Grand Villa, Sto. Niño, Parañaque, Metro Manila.[5]

On October 25, 1996, SPO2 Cesar N. Teneros of the PARAC secured Search Warrant No. 96-801 for violation of Presidential Decree (P.D.) No. 1866 (illegal possession of firearms and explosives) and Search Warrant No. 96-802, for violation of Sections 12, 14 and 16 of Rep. Act No. 6425, as amended, from Judge William M. Bayhon, Executive Judge of the RTC of Manila.[6] Senior Police Inspector Lucio Margallo supervised the enforcement of Search Warrant No. 96-801 at the Cityland Condominium at about 11:00 p.m. on October 29, 1996. With him were PO3 Anciro, Jr., PO3 Wilhelm Castillo, SPO3 Roger Ferias and seven other policemen of the PARAC, who were all in uniform, as well as a Cantonese interpreter by the name of Chuang. While no persons were found inside, the policemen found two kilos of methamphetamine hydrochloride, popularly known as shabu, paraphernalia for its production, and machines and tools apparently used for the production of fake credit cards.[7]

Thereafter, the police operatives received information that Lao and Chan would be delivering shabu at the Furama Laser Karaoke Restaurant at the corner of Dasmariñas and Mancha Streets, Manila. The policemen rushed to the area on board their vehicles. It was 2:00 a.m. of October 26, 1996. The policemen saw Chan and Lao on board the latter's Honda Civic car. As the two men alighted, one of the men approached them and introduced himself, but

Chan and Lao fired shots. Thus, a shoot-out ensued between the members of the raiding team and the two suspects. Chan and Lao were shot to death during the encounter. The policemen found two plastic bags, each containing one kilo of shabu, in Lao's car.

The policemen then proceeded to No. 19 Atlantic Drive, Pacific Grand Villa, to enforce Search Warrant No. 96-802. When the policemen arrived at the place, they coordinated with Antonio Pangan, the officer in charge of security in the building.[8] The men found that the Condominium Unit No. 19 was leased to Lao under the name Henry Kao Tsung. The policemen, Pangan and two security guards of the Pacific Grand Villa proceeded to the condominium unit. Anciro, Jr. knocked repeatedly on the front door, but no one responded. Pangan, likewise, knocked on the door.[9] Appellant Lee peeped through the window beside the front door.[10] The men introduced themselves as policemen,[11] but the appellant could not understand them as she could not speak English.[12] The policemen allowed Pangan to communicate with appellant Lee by sign language and pointed their uniforms to her to show that they were policemen. The appellant then opened the door and allowed the policemen, Pangan and the security guards into the condominium unit.[13] The policemen brought appellant Lee to the second floor where there were three bedrooms – a master's bedroom and two other rooms. When asked where she and Lao slept, appellant Lee pointed to the master's bedroom.[14] Anciro, Jr., Margallo and PO3 Wilhelm Castillo then searched the master's bedroom, while Ferias and Pangan went to the other bedroom where appellant Zhen Hua was sleeping.[15] Ferias awakened appellant Zhen Hua and identified himself as a policeman. Appellant Zhen Hua was surprised.[16]

Anciro, Jr. saw a small cabinet inside the master's bedroom about six feet high. He stood on a chair, opened the cabinet and found two transparent plastic bags each containing one kilo of shabu,[17] a feeding bottle, a plastic canister[18] and assorted paraphernalia.[19] Inside the drawer of the bed's headboard, Anciro, Jr. also found assorted documents, pictures, bank passbooks issued by the Allied Banking Corporation, credit cards, passports and identification cards of Lao and Lee.[20] Anciro, Jr. asked appellant Lee who was the owner of the crystalline substance, but the latter did not respond because she did not know English.[21] Anciro, Jr. asked Margallo for instructions on what to do with the things he had found, and the latter told him to keep the same for future reference,[22] and as evidence against any other suspect for illegal drug transactions.[23] Anciro, Jr., Pangan and Margallo later showed the seized articles to the other members of the team.[24]

Anciro, Jr. told appellant Lee to bring some of her clothes because they were bringing her to the PARAC headquarters. Appellant Lee did as she was told and took some clothes from the cabinet in the master's bedroom where Anciro, Jr. had earlier found the shabu.[25]

The policemen brought the appellants to the PARAC headquarters. The following articles were found and confiscated by the policemen in the condominium unit:

- TWO (2) Big Transparent Plastic Bags containing about one (1) Kilo each of white crystalline granules later tested to be Methamphetamine Hydrochloride or Shabu, a regulated drug;
- ONE (1) Transparent Plastic Baby Feeding Bottle containing an undetermined quantity of suspected Shabu;
- ONE (1) Small Plastic Cannister also containing undetermined amount of suspected Shabu
- Assorted Pieces of Shabu Paraphernalia consisting of Improvised Tooters used for sniffing shabu, Improvised Burners used for burning Shabu, aluminum foils, etc.:[26]

Anciro, Jr. placed the articles he found in the cabinet inside a box.[27] The appellants were then brought to the PARAC headquarters where they were detained. Pangan signed a Certification[28] that the search conducted by the policemen had been orderly and peaceful. Anciro, Jr. affixed his initials on the transparent plastic bags and

their contents, the transparent baby feeding bottle and the plastic cannister and their contents. On October 26, 1996, he and Ferias[29] brought the seized items to the PNP Crime Laboratory for laboratory examination[30] along with the letter-request[31] thereon.

On the same day, Forensic Chemist Officer Isidro L. Cariño signed Chemistry Report No. D-1243-96 which contained his findings on the laboratory examination of the items which were marked as Exhibits “A” to “A-4,” viz:

SPECIMEN SUBMITTED:

Exh. “A” – One (1) “must de Cartier Paris” carton containing the following: Exh. “A-1” – One (1) heat-sealed transparent plastic bag containing 1,000.40 grams of white crystalline substance.

Exh. “A-2” – One (1) heat-sealed transparent plastic bag containing 998.10 grams of white crystalline substance.

Exh. “A-3” – One (1) transparent plastic “Babyflo Nurser” feeding bottle with pink cover containing 18.52 grams of white crystalline substance.

Exh. “A-4” – One (1) transparent plastic container with white cover containing 3.28 grams of white crystalline substance.

NOTE: The above-stated specimen were allegedly taken from the residence of the above-named subjects. xxx

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimens, Exhs. “A-1” through “A-4” gave POSITIVE result to the test for Methamphetamine hydrochloride, a regulated drug. xxx[32]

The police officers executed an affidavit of arrest.[33] Pangan and the two security guards signed a certification stating that nothing was destroyed in the condominium unit and that the search was orderly and peaceful.[34] The policemen also accomplished an inventory of the articles seized during the search.[35]

The appellants were charged of violation of Section 16, Rep. Act No. 6425, as amended, in an Information filed in the RTC of Parañaque, Metro Manila, the accusatory portion of which reads:

That on or about the 26[th] day of October 1996, in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized to possess or otherwise use any regulated drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have, in their possession and under their control and custody, the following to wit:

- One (1) heat-sealed transparent plastic bag containing 1,000.40 grams of white crystalline substance;
- One (1) heat-sealed transparent plastic bag containing 998.1 grams of white crystalline substance;
- One (1) transparent plastic “Babyflo Nurser” feeding bottle with pink cover containing 18.52 grams of white crystalline substance;
- One (1) transparent plastic container with white cover containing 3.28 grams of white crystalline substance

which when examined were found to be positive for Methamphetamine Hydrochloride (Shabu), a regulated drug.

CONTRARY TO LAW.[36]

Both appellants, assisted by counsel, were duly arraigned on November 29, 1992, and pleaded not guilty to the charge.

The Case for the Appellants

Appellant Jogy Lee denied the charge. She testified that she was a resident of Kwantong, China, a college graduate who could not speak nor understand English. She was once employed in a real estate firm. One of her co-employees was Huang Zhen Hua.[37] She met Henry Lao in China sometime in 1995,[38] and he brought her to Belgium that same year. Lao also helped her procure a Belgium passport, for he explained that if she only had a Chinese passport, it would be difficult to secure visas from countries she wanted to go to and visit; whereas many countries did not require a Belgian passport holder to secure visas before allowing entry therein. In the process, he and Lao fell in love and became lovers.

Upon Lao's invitation, appellant Lee visited the Philippines as a tourist for the first time in April 1996. Lao met her at the airport, and she was, thereafter, brought to a hotel in Manila where she stayed for less than a month.[39] She returned to the Philippines a second time and was again billeted in a hotel in Manila. All her expenses were shouldered by Lao, who was engaged in the garlic business.[40] As far as she knew, Lao was not engaged in any other business.[41] In June 1996, she invited her friend, appellant Huang Zhen Hua to visit the Philippines to enjoy the tourist spots.[42] They were then in China.

In the evening of October 1, 1996, appellant Lee returned to the Philippines on a tourist visa. She was fetched by Lao, and she was brought to his condominium unit at No. 19, Atlantic Drive, Pacific Grand Villa, Sto. Niño, Parañaque. She had been residing there since then. She and Lao used to go to the shopping malls[43] and she even saw Chan once when he cleaned his Nissan car in Lao's garage.

On October 22, 1996, appellant Zhen Hua arrived from China at the NAIA and was met by Lao at the airport. He tried to check in at the Diamond Hotel but Lee told him that he could stay in the condominium unit. Zhen Hua was brought to the Villa where he had been staying since then. The appellants had made plans to visit Cebu.

At about 6:00 a.m. on October 26, 1996, appellant Lee was sleeping in the master's bedroom at the condominium unit. She had closed all the windows because she had turned the air conditioning unit on. Zhen Hua was sleeping in the other bedroom in the second floor beside the master's bedroom. Lao's Honda Civic car and Chan's Nissan car were in the garage beside the condominium unit. Momentarily, Lee heard someone knocking on the bedroom door. When she opened it, three (3) policemen barged into the bedroom and at the room where appellant Zhen Hua was sleeping. Anciro, Jr. was not among the men. Lee did not hear the policemen knock at the main door before they entered.[44] The policemen were accompanied by Chuang, a Cantonese interpreter, who told her that the policemen were going to search the house.[45] Appellant Lee saw a policeman holding two papers, but no search warrant was shown to her.[46] She was so frightened.

The policemen placed two plastic bags on the bed before they searched the master's bedroom. Appellant Lee went to the room of appellant Zhen Hua and when she returned to the master's bedroom, she saw shabu on the bed.[47] The policemen took her ring, watch and the P600,000 owned by Lao which had earlier been placed in the cabinet, her papers and documents, and those of Lao's as well. She had never seen any shabu in the room before the incident. Thereafter, she and appellant Zhen Hua were brought to the PARAC headquarters where they were detained. Chuang, the cantonese interpreter, informed her that shabu had been found in the condominium unit and that the policemen were demanding P5,000,000 for her release. She was also told that if she did not pay the

amount, she would be charged with drug trafficking, and that the leader of the group who arrested her would be promoted. However, she told Chuang that she had no money. Since she could not pay the amount, she was boarded on a PARAC owner-type jeep and returned to the condominium unit where the policemen took all the household appliances, such as the television, compact discs, washing machine, including laundry detergent. Only the sofa and the bed were not taken. About ten (10) days later, the appellants secured the services of counsel.

Antonio Pangan testified that he and the policemen knocked on the door to the condominium unit but that no one responded. He shouted, "Sir Henry," referring to Lao, but there was no response from inside the condominium. After about three (3) to five (5) minutes, a policeman kicked the door open and they entered the house. They went to the second floor and saw the appellants sleeping.

Pangan testified that he did not see any shabu that was seized by the policemen. He learned that shabu had been found and taken from the condominium unit only when he saw someone holding up the substance on television during the daily news program TV Patrol.[48]

Appellant Zhen Hua also denied the charge. He corroborated the testimony of appellant Lee that upon her invitation, he arrived in the Philippines on a tourist visa on October 22, 1996. He claimed that he did not see Anciro, Jr. in the condominium unit when policemen arrived and searched the house. He testified that aside from the PARAC policemen, he was also investigated by policemen from Taiwan.

After trial, the court rendered judgment on January 10, 1999, convicting both appellants of the crime charged. The decretal portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, finding accused Jogy Lee and Huang Zhen Hua GUILTY beyond reasonable doubt for violation of Sec. 16, Art. III, RA 6425, as amended by RA 7659, and considering the absence of any aggravating circumstances, this Court hereby sentences both accused to suffer the penalty of Reclusion Perpetua and to pay a fine of P500,000.00 each. The properties seized in accordance with the search warrants issued relative to this case are hereby ordered confiscated in favor of the government and the Clerk of Court of this Court is directed to turn over to the Dangerous Drugs Board, the drugs and paraphernalia subject hereof for proper disposition.

The Clerk of Court is also directed to prepare the Mittimus for the immediate transfer of both accused Jogy Lee and Huang Zhen Hua from the Parañaque City Jail to the Bureau of Correccions (sic) in Muntinlupa City.

SO ORDERED.[49]

The Present Appeal

On appeal to this Court, appellant Zhen Hua, asserts that:

First. The evidence for the prosecution, as a whole, is so far as self-contradictory, inherently improbable and palpably false to be accepted as a faithful reflection of the true facts of the case;

Second. Appellant Huang Zhen Hua's conviction was based merely on the trial court's conclusion that he "is not an epitome of first class tourist and that he appeared nonchalant throughout the proceedings;"

Third. In convicting said appellant, the court below completely disregarded the glaring facts and admissions of the prosecution's principal witnesses that no regulated drug was ever found in his possession;

Fourth. The trial court, likewise, ignored the fact that the appellant's arrest was illegal and in violation of his constitutional and basic rights against arrest without probable cause as determined by a Judge and that his arraignment did not constitute a waiver of such right;

Fifth. The trial court failed to consider the fact that the presumption of regularity of performance of the police

officers who took part in the search had been overcome by prosecution's own evidence, thereby wrongly giving such presumption substance over and above the constitutional presumption of innocence of the appellant.[50]

For her part, appellant Lee contends that:

1.01 THE ALLEGED TWO KILOS OF SHABU FOUND INSIDE ONE OF THE ROOMS IN THE TOWNHOUSE RENTED BY HENRY LAU WERE MERELY PLANTED BY PARAC OPERATIVES;

1.02 THE IMPLEMENTATION OF THE SEARCH WARRANT WAS HIGHLY IRREGULAR, DUBIOUS AND UNREASONABLE AS THE SEARCH WARRANT DID NOT CONTAIN ANY PARTICULAR DESCRIPTION OF THE ROOM TO BE SEARCHED, NOR WAS THERE ANY INTERPRETER TO ASSIST AND GUIDE JOGY LEE, WHO NEITHER KNEW NOR UNDERSTAND THE ENGLISH LANGUAGE, DURING THE SEARCH AND EVEN DURING THE TRIAL;

2. THE LOWER COURT ERRED IN NOT ACQUITTING ACCUSED JOGY LEE UPON THE GROUND THAT HER GUILT WAS NOT ESTABLISHED BY PROOF BEYOND REASONABLE DOUBT.[51]

For its part, the Office of the Solicitor General (OSG) posits that appellant Zhen Hua should be acquitted on the ground of reasonable doubt, but that the conviction of appellant Lee should be affirmed.

The Court's Ruling

We shall delve into and resolve the assigned errors of the appellants Huang Zhen Hua and Jogy Lee sequentially.

On Appellant Zhen Hua

The OSG contends that the prosecution failed to muster the requisite quantum of evidence to prove appellant Zhen Hua's guilt beyond reasonable doubt for the crime charged, thus:

Huang Zhen Hua denies having anything to do with the bags of "shabu" found in the townhouse unit of Henry Lau. He claims that he arrived in the Philippines as a tourist on October 22, 1996, upon the invitation of Jogy Lee. Allegedly, at the time of his arrest, he had been in the Philippines for barely four days. He claims that he was just temporarily billeted as a guest at the townhouse where Jogy Lee was staying. And that he had no control whatsoever over said townhouse. He puts emphasis on the fact that the search of his room turned out to be "negative" and that the raiding team failed to seize or confiscate any prohibited or regulated drug in his person or possession. He, therefore, prays for his acquittal.

The People submits that Huang Zhen Hua is entitled to acquittal. The prosecution's evidence fails to meet the quantum of evidence required to overcome the constitutional presumption of innocence; thus, regardless of the supposed weakness of his defense, and his innocence may be doubted, he is nonetheless entitled to an acquittal (*Natividad v. Court of Appeals*, 98 SCRA 335 (1980), cited in *People v. Fronda*, G.R. No. 130602, March 15, 2000). The constitutional presumption of innocence guaranteed to every individual is of primary importance, and the conviction of the accused must rest not on the weakness of the defense but on the strength of the evidence for the prosecution.

In the instant case, as pointed out by appellant Huang Zhen Hua, the trial court erred when it did not give much weight to the admission made by the prosecution witnesses that no regulated drug was found in his person. No regulated drug was also found inside his room or in his other belongings such as suitcases, etc. Thus, he had no actual or constructive possession of the confiscated "shabu."

Moreover, it is not disputed that Huang Zhen Hua had only been in the country for barely four (4) days at the

time when he was arrested. The prosecution was unable to show that in these four (4) days Huang Zhen Hua committed acts which showed that he was in cahoots with the drug syndicate Henry Lau and Peter Chan. It was not even shown that he was together with Henry Lau and Peter Chan on any occasion. As for Huang Zhen Hua, therefore, there is no direct evidence of any culpability. Nor is there any circumstantial evidence from which any culpability may be inferred.[52]

We agree with the OSG. In a case of recent vintage, this Court, in *People vs. Tira*,^[53] ruminated and expostulated on the juridical concept of “possession” under Section 16, Article III of Rep. Act No. 6425, as amended, and the evidence necessary to prove the said crime, thus:

The essential elements of the crime of possession of regulated drugs are the following: (a) the accused is found in possession of a regulated drug; (b) the person is not authorized by law or by duly constituted authorities; and, (c) the accused has knowledge that the said drug is a regulated drug. This crime is *mala prohibita*, and, as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidende*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.

Thus, conviction need not be predicated upon exclusive possession, and a showing of non-exclusive possession would not exonerate the accused. Such fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. However, the prosecution must prove that the accused had knowledge of the existence and presence of the drug in the place under his control and dominion and the character of the drug. Since knowledge by the accused of the existence and character of the drugs in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the dangerous drug is in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation.[54]

In this case, the prosecution failed to prove that the appellant, at any time, had actual or constructive possession of the regulated drug found in the master’s bedroom where appellant Lee was sleeping; or that the appellant had accessed the said room at any given time; or that he had knowledge of the existence of shabu in appellant Lee’s bedroom. Appellant Zhen Hua had arrived in the Philippines upon the invitation of appellant Lee only on October 22, 1996 or barely four (4) days before the arrival of the policemen and the search conducted in the condominium unit leased by Henry Lao. He was a mere visitor of appellant Lee. There is no evidence that appellant Zhen Hua was aware of the alleged illegal drug activities and/or transactions of Henry Lao, Peter Chan and appellant Lee. The policemen did not find any regulated drug in the room where appellant Zhen Hua was sleeping when they made their search.

The evidence of the prosecution against appellant Zhen Hua falls short of the requisite quantum of evidence to prove conspiracy between him, appellant Lee and Chan or Lao.

There is conspiracy when two or more persons agree to commit a crime and decide to commit it.[55] Conspiracy cannot be presumed.[56] Conspiracy must be proved beyond reasonable doubt like the crime subject of the conspiracy.[57] Conspiracy may be proved by direct evidence or by proof of the overt acts of the accused, before, during and after the commission of the crime charged indicative of a common design.[58]

The bare fact that on two or three occasions after the arrival of appellant Zhen Hua from China, and before the search conducted in Lao’s condominium unit, appellant Zhen Hua had been seen with Lao, Chan and appellant

Lee. Having dinner or lunch at a restaurant does not constitute sufficient proof that he had conspired with them or with any of them to possess the subject-regulated drug. Mere association with the principals by direct participation or mere knowledge of conspiracy, without more, does not suffice.[59] Anciro, Jr. even admitted that during his surveillance, he could have mistaken appellant Zhen Hua for another group of Chinese persons who were also being watched.[60] Appellant Zhen Hua should, thus, be acquitted.

On Appellant Lee

Appellant Lee avers that certain irregularities were attendant in the issuance and implementation of Search Warrant No. 96-802, as follows: (a) the policemen who implemented the search warrant failed in their duty to show to her the said warrant, inform her of their authority and explain their presence in the condominium unit; (b) the policemen gained entry into the condominium unit by force while she was sleeping; and (c) articles and personal effects owned by her and Lao were taken and confiscated by the policemen, although not specified in the search warrant.

The appellant concludes that the articles procured by the policemen on the occasion of the search of the condominium unit are inadmissible in evidence.

Appellant Lee, likewise, contends that she was a victim of a frame-up because the policemen planted the regulated drug on her bed even before they searched the bedroom. She went to the room of appellant Zhen Hua to find out if he was already awake, and when she returned to the bedroom, she noticed shabu on her bed. She avers that the sole testimony of Anciro, Jr., that he found the regulated drug in the master's bedroom, is incredible because he was not with the policemen who barged into the bedroom. She notes that even Pangan, the caretaker of the Villa, testified that he did not see any illegal drug confiscated by the policemen.

According to appellant Lee, the trial court erred in convicting her of the crime charged, considering that Lao and Chan were the suspects identified in the search warrants, not her. She avers that she had no knowledge of the alleged illegal drug transactions of her lover Lao. She contends that there was no probable cause for her arrest as her mere presence in the condominium unit does not render her liable for the shabu found in the master's bedroom of the condominium unit leased by Lao. She further avers that the testimonies of the witnesses for the prosecution are inconsistent; hence, barren of probative weight. The appellant also asserts that she was deprived of her right to due process when the trial court conducted a trial without a Chinese interpreter to assist her.

The OSG, for its part, avers that the police officers are presumed to have performed their duties. Based on the testimony of Anciro, Jr., appellant Lee was shown the search warrant, through the window, and the policemen identified themselves through their uniforms. The security guards of the condominium also explained the search warrant to the appellant. Although she was, at first, reluctant to open the door, appellant Lee later voluntarily opened the door and allowed them entry into the unit. There was no evidence of forcible entry into the unit and no breakage of any door. The OSG further avers that the appellant had been in the country for quite sometime already and could not have gotten around without understanding English. In fact, the OSG argues that when Anciro, Jr. told the appellant to get some of her clothes since she would be brought to the police headquarters in Quezon City, she did as she was told and took her clothes from the cabinet where the shabu were found by the policemen.

The OSG further points out that Pangan, the chief of security of the subdivision who was a witness for appellant Lee, even testified that the search was orderly. The OSG contends that there was probable cause for the appellant's arrest because an informant had tipped off the arresting officers that the appellant was a member of a syndicate dealing with illegal drugs, and that she handled the accounts of Lao and Chan. The appellant was not a victim of frame-up because she was present when the policemen searched the master's bedroom where she was

sleeping and where she kept her clothes, and witnessed the discovery of the regulated drugs and paraphernalia.

We agree with the contention of the appellant that the constitutional proscription against unreasonable search and seizure applies to Filipino citizens, as well as to aliens temporarily residing in the country. The rule against unreasonable search and seizure forbids every search that is unreasonable; it protects all those suspected or known to be offenders, as well as the innocent. The guarantee is as important and imperative as the guarantee of the other fundamental rights of the citizens.[61] All owes the duty for its effective enforcement lest there shall be an impairment of the right for the purpose for which it was adopted.[62]

Section 7, Rule 126 of the Revised Rules of Criminal Procedure provides:

SEC. 7. Right to break door or window to effect search. – The officer, if refused admittance to the place of directed search after giving notice of his purpose and authority, may break open any outer or inner door or window of a house or any part of a house or anything therein to execute the warrant or liberate himself or any person lawfully aiding him when unlawfully detained therein.

The police officers were obliged to give the appellant notice, show to her their authority, and demand that they be allowed entry. They may only break open any outer or inner door or window of a house to execute the search warrant if, after such notice and demand, such officers are refused entry to the place of directed search. This is known as the “knock and announce” principle which is embodied in Anglo-American Law. The method of entry of an officer into a dwelling and the presence or absence of such notice are as important considerations in assessing whether subsequent entry to search and/or arrest is constitutionally reasonable.[63] In *Gouled v. The United States*,[64] it was held that a lawful entry is the indispensable predicate of a reasonable search. A search would violate the Constitution if the entry were illegal, whether accomplished by force, by illegal threat or mere show of force.

The principle may be traced to a statute in England way back in 1275 providing that “if a person takes the beasts of another and causes them to be driven into a castle or fortress, if the sheriff makes a solemn demand for the deliverance of the beasts, and if the person did not cause the beasts to be delivered incontinent, the king shall cause the said castle or fortress to be beaten down without recovery.” Common law courts appended an important qualification:

But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors ..., for the law without a default in the owner abhors the destruction or breaking of any house (which is for the habitation and safety of man) by which great damage and inconvenience might ensue to the party, when no default is in him; for perhaps he did not know of the process, of which, if he had noticed, it is to be presumed that he would obey it...[65]

Blackstone simply stated the principle that the sheriff may justify breaking open doors if the possession be not quietly delivered.[66] The principle was woven quickly into the fabric of early American law and in the Fourth Amendment in the United States Federal Constitution. It is an element of the reasonableness inquiry under the Fourth Amendment as held in *Wilson v. Arkansas*. [67]

Generally, officers implementing a search warrant must announce their presence, identify themselves to the accused and to the persons who rightfully have possession of the premises to be searched, and show to them the search warrant to be implemented by them and explain to them said warrant in a language or dialect known to and understood by them. The requirement is not a mere procedural formality but is of the essence of the substantial provision which safeguards individual liberty.[68] No precise form of words is required. It is sufficient that the accused has notice of the officers, their authority and the purpose of the search and the object to be seized. It must be emphasized that the notice requirement is designed not only for the protection of the liberty of the person to be

searched or of his property but also the safety and well-being of the officers serving and implementing the search warrant. Unless the person to whom the warrant is addressed and whose property is to be searched is notified of the search warrant and apprised of the authority of the person serving the warrant, he may consider the unannounced intrusion into the premises as an unlawful aggression on his property which he will be justified in resisting, and in the process, may cause injury even to the life of the officer implementing the warrant for which he would not be criminally liable. Also, there is a very real possibility that the police serving and implementing the search warrant may be misinformed as to the name or address of the suspect, or to other material affirmations. Innocent citizens should not suffer the shock, fright, shame or embarrassment attendant upon an unannounced intrusion.[69] Indeed, a lawful entry is the indispensable predicate of a reasonable search. A search would violate the constitutional guarantee against unreasonable search and seizure if the entry were illegal, whether accomplished by force, or by threat or show of force or obtained by stealth, or coercion.[70]

Unannounced intrusion into the premises is permissible when (a) a party whose premises or is entitled to the possession thereof refuses, upon demand, to open it; (b) when such person in the premises already knew of the identity of the officers and of their authority and persons; (c) when the officers are justified in the honest belief that there is an imminent peril to life or limb; and (d) when those in the premises, aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers to believe that an escape or the destruction of evidence is being attempted. Suspects have no constitutional right to destroy evidence or dispose of evidence.[71] However, the exceptions above are not exclusive or conclusive. At times, without the benefit of hindsight and ordinarily on the spur of the moment, the officer must decide whether or not to make an unannounced intrusion into the premises. Although a search and seizure of a dwelling might be constitutionally defective, if the police officers' entry was without prior announcement, law enforcement interest may also establish the reasonableness of an unannounced entry.[72] Indeed, there is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances.[73] In determining the lawfulness of an unallowed entry and the existence of probable cause, the courts are concerned only with what the officers had reason to believe and the time of the entry.[74] In *Richards v. Wisconsin*,[75] it was held that:

[1] In order to justify a “no-knock” entry, the police must have a reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence. This standard—as opposed to a probable-cause requirement—strikes the appropriate balance between the legitimate law enforcement concerns at issue in the execution of search warrants and the individual privacy interest affected by no-knock entries.[76]

As articulated in *Benefield v. State of Florida*,[77] what constitutes breaking includes the lifting of a latch, turning a door knob, unlocking a chain or hasp, removing a prop to or pushing open a closed door of entrance to the house, even a closed screen door.[78] However, entry obtained through the use of deception, accomplished without force is not a “breaking” requiring officers to first announce their authority and purpose because the reasons behind the rule are satisfied – there was no real likelihood of violence, no unwarranted intrusion or privacy and no damage to the residence of the accused.[79]

As to how long an officer implementing a search warrant must wait before breaking open any door cannot be distilled into a constitutional stopwatch. Each case has to be decided on a case-to-case basis requiring an examination of all the circumstances.[80] The proper trigger point in determining, under the “knock and announce” rule, whether the police waited long enough before entering the residence to execute a warrant, is when those inside should have been alerted that the police wanted entry to execute a warrant.[81]

In this case, we rule that the policemen complied with Section 7, Rule 126 of the Revised Rules of Criminal Procedure before entering the condominium unit. Appellant Lee admitted, when she testified, that the police officers were accompanied by Chuang, a Cantonese interpreter, who informed her that his companions were police officers and had a search warrant for the premises, and also explained to her that the officers were going to search the condominium unit.[82] The appellant was sufficiently aware of the authority of the policemen, who wore PARAC uniforms, to conduct the search and their purpose. Moreover, Anciro, Jr. told the appellant, in English, to bring some clothes with her as she was to be brought to the police headquarters. Without such request being interpreted to the appellant, the latter did as she was directed and took some clothes from the cabinet atop the headboard.[83]

The evidence on record shows that the police officers knocked on the outer door before entering the condominium unit, and after a while, the appellant opened the door and allowed the policemen and Pangan to enter. Anciro, Jr. testified, thus:

Q

Do you still recall Mr. Witness the identities of the security guards who helped you or assisted you in implementing said search warrants at Grand Villa Subdivision?

A

The OIC of the Home Owners' Association, Antonio Pangan, and the OIC of the Security Agency and two (2) other security guards.

Q

Do you recall the names of those persons you mentioned Mr. Witness?

A

I can hardly recall their names.

Q

After having been assisted or coordinated with said security officers and the OIC of the Home Owners' Association, what did you do next?

A

We told them that if we could ask them if they have a duplicate key and also knock and introduce ourselves, knock on the said condominium.

Q

Did they do that, the request?

A

Yes, Sir.

Q

Meaning to say, you arrived at #19 Atlantic Drive, Pacific Grand Villa?

A

Yes, Sir.

Q

While you were already at the door of that targeted house to implement said search warrants, what happened next, if any? What did you do after that?

A

We knocked on the door and tried to find out if there was somebody there because the Home Owners' Association doesn't have any key for the door. We asked them to knock also because they are the ones who have access with the tenants.

Q

And after knocking, what happened next?

A

There were around 5 minutes, no one was trying to open the door. By that time, we thought they were still asleep.

Q

And then after that what did you do, if any?

A

We asked Mr. Pangan to knock and introduce himself and another security guard to try to knock on the kitchen which is on the back door.

Q

And then after that?

A

And then after that, it was a female person who showed up to (sic) the window of the kitchen and asked who we are in a sign language.

Q

And this female person who showed up to (sic) the window ... I withdraw. Were you able to have a good look on that female person who showed herself thru the window?

A

Yes, Sir.

Q

And who is this person Mr. Witness?

A

She was identified as Jogy Lee, Sir.[84]

The appellant failed to prove that the policemen broke open the door to gain entry into the condominium unit. She could have asked the court for an ocular inspection to show the door which was allegedly broken into by the policemen, or at least adduce in evidence pictures showing the said breakage. The appellant failed to do so. The testimony of the appellant is even belied by Pangan, who was a witness for the appellant, who certified, along with three other security guards, that nothing was destroyed and that the search was conducted in a peaceful and orderly manner.[85]

We are not impervious of the testimony of Pangan that the policemen kicked the outer door to gain entry into the condominium unit, which testimony is seemingly in derogation of his certification. However, Pangan admitted that the policemen did so only after knocking on the door for three (3) to five (5) minutes and after he had called Lao in a loud voice and received no response from the appellants:

Q

Did you come to know the persons wherein your presence was being required according to your security guards?

A

According to my security guards, they introduced themselves as police operatives.

Q

Did you comply with the invitation of these police authorities?

A

Yes, they called me and according to them, they will search Unit 19, that is what they told me.

Q

Can you please tell us what time did the police operatives conduct the search?

A

I cannot recall anymore because the incident happened in 1996. I don't know what time was that.

Q

When they conducted the search, were you there?

A

I was there because that unit cannot be opened if the caretaker is not present.

Q

Are you trying to say that you were the one who opened the door of that unit occupied by Henry Kau Chung?

A

They kicked the door and when nobody opened the door, they pushed the door and the door was opened.

Q

They forcibly opened the door when nobody opened it?

A

Kaya naman po ginawa 'yon dahil nandoon naman po ang caretaker, wala naman pong masamang mangyayari dahil nandoon naman po ang namamahala.

Q

From the time you knocked at the door of this unit up to the time that the police operatives forcibly break open the door, how many minutes had elapsed?

A

Matagal din po silang kumakatok sa pintuan. I said, "Mr. Henry, pakibuksan n'yo ang pinto, would you mind to open the door, kasi merong mga police officers na gustong ma-search itong unit mo. Then, when nobody was answering, they forcibly opened the door.

Q

Was there any other occupant other than Henry Kau Chung in that unit at that time?

A

At the second floor, they saw this Jogy Lee and her male companion whom I do not know.

Q

But during the time that you were trying to seek entry to the door, there was no one who responded, is that correct?

A

Pardon, Sir?

Q

At the time that you were trying to knock at the door, there was no one who responded to your knocking at the door?

A

Nobody was answering, Sir.

Q

And that compelled the police operatives to open the door forcibly?

A

Yes, Sir.[86]

...

COURT:

From the first time you knocked at the door, how long a time lapsed before the police officer broke open the door?

A

Matagal din po.

Q

For how long?

A

Maybe for about three to five minutes.

Q

When nobody was answering, they forced open the door?

A

Yes, Your Honor.

COURT:

Continue.[87]

The appellant failed to prove, with clear and convincing evidence, her contention that Anciro, Jr. placed the shabu on her bed before he continued his search in the bedroom, and that she was a victim of frame-up by the policemen. She relied on her testimony and those of Pangan and Ferias that they did not see Anciro, Jr. discover and take custody of the shabu in the cabinet.

The appellant's defense of frame-up is nothing new. It is a common and standard line of defense in most prosecutions for violation of the Dangerous Drugs Law. While such defense cannot and should not always be considered as contrived, nonetheless, it is generally rejected for it can easily be concocted but is difficult to prove. Police officers are, after all, presumed to have acted regularly in the performance of their official functions, in the absence of clear and convincing proof to the contrary, or that they are motivated by ill-will.[88]

It is true, as testified by Pangan and Ferias that, they did not see Anciro, Jr. discover and take custody of the shabu subject of this case. However, as explained by Pangan, he remained in the ground floor of the condominium unit while Anciro, Jr., Castillo and Margallo searched the bedroom of appellant Lee and her lover Lao, and Ferias proceeded to the room occupied by appellant Zhen Hua where he conducted his search. Thus, Pangan testified:

Q

When the master's bedroom was searched where Jogy Lee was then, according to you, sleeping, did you accompany the PARAC members?

A

No, Sir, because I was talking to a member of the PARAC downstairs.

Q

What about the members of the security force?

A

They were outside, Sir.

Q

During the search made on the master's bedroom?

A

Yes, Sir.

Q

How about when the search was made in the room occupied by Huang Zhen Hua, were you present then?

A

No, Sir, I was still downstairs.

Q

How about the other guards?

A

They were also outside.[89]

For his part, Ferias declared:

Q

In other words, you did not go inside the biggest room?

A

No, Sir.

Q

You proceeded to another room where co-accused Huang Zhen Hua was then sleeping?

A

Yes, Sir.

Q

What happened next?

A

We woke up Huang Zhen Hua and we introduced ourselves to him as police officers.

Q

What was the reaction of Huang Zhenhua?

A

He was surprised.[90]

...

Q

In other words, you did not go inside the biggest room?

A

No, Sir.

Q

You proceeded to another room where co-accused Huang Zhen Hua was then sleeping?

A

Yes, Sir.

Q

What happened next?

A

We woke up Huang Zhen Hua and we introduced ourselves to him as police officers.

Q

What was the reaction of Huang Zhen Hua?

A

He was surprised.[91]

Pangan testified that before the police officers conducted their search in the second floor of the condominium unit, he did not see them bring in anything:

Q

But you are very sure that before the police officers searched the unit, you did not see them bringing anything with them, they were all empty-handed?

A

I did not see, Sir.[92]

No less than Pangan himself, a witness for the appellants, and three of the security guards of the subdivision, who accompanied the policemen in implementing the search warrants, certified that, what was found inside the condominium unit and confiscated by the policemen were two plastic bags which contained white crystalline powder substances suspected to be shabu.[93]

The appellant admitted that she saw shabu in her bedroom while the policemen were there. She claimed that the policemen placed the plastic bag on the bed before they started the search and that she noticed the shabu only after he returned from the room of appellant Zhen Hua to see if he was already awake is hard to believe.

First. We find it incredible that the policemen placed the shabu on the appellant's bed, in her full view, for which the latter could be prosecuted for planting evidence and, if convicted, sentenced to death under Section 19 of Rep. Act 7659:

SECTION 19. Section 24 of Republic Act No. 6425, as amended, known as the Dangerous Act of 1972, is

hereby amended to read as follows: Sec. 24. Penalties for Government Officials and Employees and Officers and Members of Police Agencies and the Armed Forces, 'Planting' of Evidence.— The maximum penalties provided for [in] Section 3, 4(1), 5(1), 6, 7, 8, 9, 11, 12 and 13 of Article II and Sections 14, 14-A, 15(1), 16 and 19 of Article III shall be imposed, if those found guilty of any of the said offenses are government officials, employees or officers, including members of police agencies and the armed forces.

Any such above government official, employee or officer who is found guilty of "planting" any dangerous drugs punished in Sections 3, 4, 7, 8, 9 and 13 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act in the person or in the immediate vicinity of another as evidence to implicate the latter, shall suffer the same penalty as therein provided.

Second. The appellant failed to inform her counsel of the alleged planting of evidence by the policemen; if she had done so, for sure, the said counsel would have prepared her affidavit and filed the appropriate motion in court for the suppression of the things/articles seized by the policemen.

Third. The appellant failed to charge the policemen with planting of evidence before or after she was charged of violation of Rep. Act No. 6425, as amended.

Fourth. The appellant cannot even identify and describe the policeman or policemen who allegedly planted the evidence.

The fact is that, as gleaned from the affidavit of arrest signed by Anciro, Jr. and Ferias, the articles and substances found and confiscated from the condominium unit of Lao and appellant Lee at Atlantic Drive and at the Cityland condominium unit of Lao and Chan were itemized as follows:

- TWO (2) Big Transparent Plastic Bags containing about one (1) kilo each of white crystalline granules later tested to be Methamphetamine Hydrochloride or Shabu, a regulated drug;
- ONE (1) Transparent Plastic Baby Feeding Bottle containing undetermined quantity of suspected Shabu;
- ONE (1) Small Plastic Canister also containing undetermined amount of suspected Shabu ...
- Assorted Pieces of Shabu Paraphernalia consisting of Improvised Tooters used for sniffing shabu, Improvised Burners used for burning Shabu, aluminum foils, etc.;
- ...
- TWO (2) Kettles/Pots containing more or less 1 ½ kilos of Raw Shabu or Methamphetamine Hydrochloride;
- Two (2) Big Transparent Plastic Bags containing more or less Two (2) Kilos of Shabu;
- Three (3) Plastic Basins, small, medium, large, used for containers of finished/cooked Shabu;
- Several pieces of Plastic Strainers used for draining out liquids from finished Shabu;
- One (1) Plastic Container with liquid chemical of undetermined element;
- Several pieces of Spoons and ladles with traces of raw Shabu used in stirring mixtures
- One (1) Electric Cooking Stove w/one coil burner;
- One (1) Unit Card Making Machine;
- One (1) Unit Card Stamping Machine;
- Several pieces of Credit Cards and Telephone Cards;[94]

Anciro, Jr. placed his initials on the plastic bags containing white crystalline powder which were found and confiscated at Atlantic Drive and, in the company of Ferias, delivered the same to the PNP Crime Laboratory for examination, per the request of Police Superintendent Janice P. de Guzman, the chief of the PARAC.

We agree with the appellant that she was not one of the accused named in the search warrants. However, such fact did not proscribe the policemen from arresting her and charging her of violation of Rep. Act No. 6425, as amended. There was, in fine, probable cause for her warrantless arrest independent of that found by Judge William Bayhon when he issued the search warrants against Lao and Chan for search of the condominium units at Atlantic Drive and Cityland.

Probable cause exists for the warrantless detention and arrest of one at the premises being searched when the facts and circumstances within their knowledge and of which they had reliable and trustworthy information are sufficient to themselves warrant a reasonable belief of a cautious person that an offense has been or is being committed.[95] It has been held that:

Probable cause for the arrest of petitioner Diane Ker, while not present at the time the officers entered the apartment to arrest her husband, was nevertheless present at the time of her arrest. Upon their entry and announcement of their identity, the officers were met not only by George Ker but also by Diane Ker, who was emerging from the kitchen. Officer Berman immediately walked to the doorway from which she emerged and, without entering, observed the brick-shaped package of marijuana in plain view. Even assuming that her presence in a small room with the contraband in a prominent position on the kitchen sink would not alone establish a reasonable ground for the officers' belief that she was in joint possession with her husband, that fact was accompanied by the officers' information that Ker had been using his apartment as a base of operations for his narcotics activities. Therefore, we cannot say that at the time of her arrest there were no sufficient grounds for a reasonable belief that Diane Ker, as well as her husband, were committing the offense of possession of marijuana in the presence of the officers.[96]

In *Draper v. United States*,[97] it was held that informations from a reliable informant, corroborated by the police officer's observations as to the accuracy of the description of the accused, and of his presence at a particular place, is sufficient to establish probable cause. In this case, the police officers received reliable information and verified, after surveillance, that appellant Lee and Lao were living together as husband and wife in the condominium unit and that appellant Lee handled the accounting of the payments and proceeds of the illegal drug trafficking activities of Lao. Indeed, the policemen found that the appellant occupied the bedroom and slept in the same bed used by Lao. The appellant took her clothes from the same cabinet where the subject shabu and paraphernalia were found by Anciro, Jr. The appellant had been living in the same condominium unit with Lao since October 1, 1996 until her arrest on October 25, 1996. Along with Lao, the appellant thus had joint control and possession of the bedroom, as well as of the articles, paraphernalia, and the shabu found therein. Such facts and circumstances are sufficient on which to base a reasonable belief that the appellant had joint possession of the regulated drugs found in the bedroom along with Lao, her live-in partner, in line with our ruling in *People v. Tira*. [98] For the purpose of prosecution for violation of the Dangerous Drugs Law, possession can be constructive and need not be exclusive, but may be joint.[99]

Admittedly, Anciro, Jr. seized and took custody of certain articles belonging to the appellant and Lao which were not described in the search warrants. However, the seizure of articles not listed in a search warrant does not render the seizure of the articles described and listed therein illegal; nor does it render inadmissible in evidence such articles which were described in the warrant and seized pursuant thereto. Moreover, it bears stressing that Anciro, Jr. saw the unlisted articles when he and the other policemen implemented the search warrants. Such articles were in plain view of Anciro, Jr. as he implemented the search warrants and was authorized to seize the said articles because of their close connection to the crime charged. As held in *Coolidge, Jr. v. New Hampshire*: [100]

An example of the applicability of the ‘plain view’ doctrine is the situation in which the police have a warrant to search a given area for specified objects, and in the course of the search come across some other article of incriminating character. ...

Where the initial intrusion that brings the police within plain view of such an article is supported, not by a warrant, but by one of the recognized exceptions to the warrant requirement, the seizure is also legitimate. Thus, the police may inadvertently come across evidence while in ‘hot pursuit’ of a fleeing suspect. ... And an object that comes into view during a search incident to arrest that is appropriately limited in scope under existing law may be seized without a warrant.... Finally, the ‘plain view’ doctrine has been applied where a police officer is not searching for evidence against the accused, but nonetheless inadvertently comes across an incriminating object. ...[101]

It cannot be denied that the cards, passbook, passport and other documents and papers seen by the policemen have an intimate nexus with the crime charged or, at the very least, incriminating. The passport of the appellant would show when and how often she had been in and out of the country. Her credit cards and bank book would indicate how much money she had amassed while in the country and how she acquired or earned the same. The pictures and those of the other persons shown therein are relevant to show her relationship to Lao and Chan.[102]

Contrary to the claim of the appellant, it is not true that the trial court failed to provide an interpreter when she testified. The records show that a Cantonese interpreter attended the trial and interpreted her testimony. The Rules of Court does not require the trial court to provide the appellant with an interpreter throughout the trial. An interpreter is required only if the witness on the stand testifies in a language other than in English or is a deaf-mute. The appellant may procure the services of an interpreter at her own expense.

Contrary to the claim of appellant Lee, the prosecution adduced proof beyond reasonable doubt of her guilt of the crime charged. She and Lao, her lover, had joint possession of the shabu which the policemen found and confiscated from her bedroom.

IN LIGHT OF ALL THE FOREGOING, the appeal of appellant Huang Zhen Hua is GRANTED. The Decision of the Regional Trial Court of Parañaque City, convicting him of the crime charged, is REVERSED AND SET ASIDE. The said appellant is ACQUITTED of said charge. The Director of the Bureau of Corrections is hereby directed to release the said appellant from detention unless he is detained for another cause or charge, and to submit to the Court, within five (5) days from notice hereof, a report of his compliance with the directive of the Court.

The appeal of appellant Jogy Lee is DENIED. The Decision dated January 10, 1999, of the Regional Trial Court of Parañaque City, convicting her of violation of Section 16, Rep. Act No. 6425 is AFFIRMED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Penned by Judge Zosimo V. Escano.

[2] Henry Lao was also referred to as Henry “Lau” in the records.

[3] TSN, 5 November 1997, p. 16.

[4] Id. at 11-13.

- [5] TSN, 22 September 1997, p. 48.
- [6] Exhibits “E” and “F.”
- [7] Exhibit “H.”
- [8] TSN, 5 March 1997, p. 18.
- [9] Id. at 21.
- [10] TSN, 22 September 1997, pp. 9-10.
- [11] TSN, 22 November 1997, p. 29.
- [12] Id. at 40.
- [13] TSN, 22 September 1997, p. 10.
- [14] TSN, 3 December 1997, p. 17.
- [15] TSN, 22 November 1997, p. 31.
- [16] TSN, 3 December 1997, p. 18.
- [17] Exhibits “B” and “B-3.”
- [18] Exhibit “E-4.”
- [19] TSN, 22 September 1997, pp. 12-14.
- [20] TSN, 5 November 1997, pp. 3-9; Exhibits “J” to “W-1.”
- [21] TSN, 22 November 1997, p. 40.
- [22] TSN, 5 November 1997, pp. 20-21.
- [23] Id. at 25-26.
- [24] TSN, 22 November 1997, p. 39.
- [25] Id. at 36-37.
- [26] Exhibit “H-1.”
- [27] Exhibit “B;” TSN, 22 September 1997, p. 17.
- [28] Exhibit “G.”
- [29] TSN, 22 September 1997, p. 25.
- [30] Exhibits “A” and “A-1.”
- [31] Exhibit “A.”
- [32] Exhibit “C.”
- [33] Exhibit “H.”
- [34] Exhibit “J.”
- [35] Exhibit “I.”

- [36] Records, p. 1.
- [37] TSN, 14 September 1998, p. 42.
- [38] Id. at 46.
- [39] Id. at 44.
- [40] Id. at 53.
- [41] Id. at 55.
- [42] Id. at 57-58.
- [43] Id. at 53.
- [44] Id. at 67-68.
- [45] Id. at 65.
- [46] Id. at 72.
- [47] TSN, 18 September 1998, p. 30.
- [48] TSN, 14 September 1998, pp. 1-3.
- [49] Rollo, pp. 189-190.
- [50] Id. at 83-84.
- [51] Id. at 134.
- [52] Rollo, pp. 247-248.
- [53] G.R. No. 139615, May 28, 2004.
- [54] Id. at 20-21.
- [55] Article 8, Revised Penal Code.
- [56] Magsuci v. Sandiganbayan, 240 SCRA 13 (1995).
- [57] People v. Gomez, 275 SCRA 482 (1997).
- [58] People v. Woolcock, 244 SCRA 235 (1995).
- [59] U.S. v. Percival, 756 F.2d 600 (1985).
- [60] TSN, 22 November 1997, p. 53.
- [61] Gouled v. U.S., 65 L.Ed. 647 (1921).
- [62] Ibid.
- [63] Wilson v. Arkansas, 131 L.Ed.2d 976 (1995).
- [64] Supra.
- [65] Semayne's Case, Eng.Rep. 194, 195 (K.B. 1603).
- [66] 3 Blackstone 412.

- [67] Supra.
- [68] Gatewood v. U.S., 209 F.2d 789 (1953).
- [69] Ker v. State of California, 374 U.S. 23 (1963).
- [70] Gouled v. United States, supra.
- [71] People v. Maddox, 46 Cal.2d 301, 294 P.2d 6 (1956).
- [72] Wilson v. Arkansas, supra.
- [73] U.S. v. Rabinowitz, 94 L.Ed. 653 (1950).
- [74] Johnson v. U.S., 92 L.Ed. 436 (1948).
- [75] 137 L.Ed.2d 615 (1997).
- [76] Semayne's Case, supra.
- [77] 160 So.2d 706 (1964).
- [78] Sabbath v. U.S., 20 L.Ed.2d 828 (1968).
- [79] U.S. v. Salter, 815 F.2d 1150 (1987); U.S. v. Contreras-Ceballos, 999 F.2d 432 (1993).
- [80] U.S. v. Spikes, 158 F.3d 913 (1998).
- [81] Ibid.
- [82] TSN, 14 September 1998, pp. 25-27.
- [83] TSN, 22 September 1997, p. 61.
- [84] TSN, 5 March 1997, pp. 18-22.
- [85] Exhibit "G."
- [86] TSN, 14 September 1998, pp. 12-16.
- [87] Id. at 19-20.
- [88] People v. Lacap, 369 SCRA 124 (2001).
- [89] TSN, 18 September 1998, pp. 9-10.
- [90] TSN, 18 December 1997, p. 18.
- [91] TSN, 3 December 1997, p. 18.
- [92] TSN, 18 September 1998, pp. 12-13.
- [93] Exhibit "I."
- [94] Ibid.
- [95] Ker v. State of California, supra, citing Brinegar v. U.S., 93 L.Ed. 1879 (1949).
- [96] Id. at 1631.
- [97] 3 L.Ed.2d 38 (1959).

[98] Supra.

[99] Hernandez v. U.S., 300 F.2d 114 (1962); Gallego v. U.S., 277 F.2d 694 (1962); Arellanes v. U.S., 302 F.2d 603 (1962); Delgado v. U.S., 327 F.2d 641 (1964).

[100] 29 L.Ed.2d 564 (1971).

[101] Id.

[102] Coolidge v. New Hampshire, supra.

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