

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITO BALOLOY, ACCUSED-APPELLANT.*G.R. No. 140740. April 12, 2002*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140740/>**PER CURIAM:**

At the waterfalls of Barangay Inasagan, Aurora, Zamboanga del Sur, on the evening of 3 August 1996, the dead body of an 11-year-old girl Genelyn Camacho (hereafter GENELYN) was found. The one who caused its discovery was accused-appellant Juanito Baloloy (hereafter JUANITO) himself, who claimed that he had caught sight of it while he was catching frogs in a nearby creek. However, based on his alleged extrajudicial confession, coupled with circumstantial evidence, the girl's unfortunate fate was pinned on him. Hence, in this automatic review, he seeks that his alleged confession be disregarded for having been obtained in violation of his constitutional rights, and that his conviction on mere circumstantial evidence be set aside.

The information[1] charging JUANITO with the crime of rape with homicide reads as follows:

That on August 3, 1996 at about 6:30 o'clock in the evening, at Barangay Inasagan, Municipality of Aurora, province of Zamboanga del Sur, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with one Genelyn Camacho, a minor against the latter's will and on said occasion and by reason of the rape, the said Genelyn Camacho died as a result of personal violence, inflicted upon her by the accused.

Act contrary to Article 335 of the Revised Penal Code as amended by R.A. No. 7659.

The case was docketed as Criminal Case No. AZ-CC-96-156.

Upon arraignment[2] on 10 December 1996, JUANITO entered a plea of not guilty. Trial on the merits ensued thereafter.

Jose Camacho, father of GENELYN and resident of Inasagan, Purok Mabilia, Aurora, Zamboanga del Sur, testified that at about 5:00 p.m. of 3 August 1996, he asked GENELYN to borrow some rice from their neighbor Wilfredo Balogbog whose house was about 200 meters away. GENELYN forthwith left, but never returned. Thus, Jose went to the house of Wilfredo, who informed him that GENELYN had already left with one ganta of rice. Jose then started to look for GENELYN. Speculating that GENELYN might have taken shelter at the house of their neighbor Olipio Juregue while it was raining, Jose proceeded to Olipio's house. Unfortunately, Jose did not find GENELYN there. Not losing hope, Jose proceeded to the house of Ernesto Derio. On his way, he met Wilfredo, who accompanied him to the house of Ernesto. GENELYN was not there either. They continued their search for GENELYN, but when it proved to be in vain, the two decided to go home.[3]

A few minutes after Jose reached his house, Ernesto and JUANITO arrived. JUANITO informed Jose that he saw a dead body at the waterfalls, whose "foot was showing." When asked whose body it was, JUANITO answered that it was GENELYN's. Immediately, the three went to the waterfalls where JUANITO pointed the spot where he saw GENELYN's body. With the aid of his flashlight, Jose went to the spot, and there he saw the dead body

floating face down in the knee-high water. True enough, it was GENELYN's. Jose reported the incident to Barangay Captain Luzviminda Ceniza. Upon Ceniza's order, the Bantay Bayan members and some policemen retrieved and brought GENELYN's dead body to Jose's house.[4]

Wilfredo Balogbog corroborated the testimony of Jose that GENELYN came to his house in the afternoon of 3 August 1996 to borrow some rice. GENELYN had with her an umbrella that afternoon, as it was raining. He learned that GENELYN failed to reach her home when Jose came to look for her.[5]

Ernesto Derio, JUANITO's uncle-in-law, testified that at about 6:30 p.m. of 3 August 1996, Jose, together with Wilfredo Balogbog, arrived at his house to look for GENELYN, but they immediately left when they did not find her. At about 7:30 p.m., JUANITO arrived at Ernesto's house, trembling and apparently weak. JUANITO was then bringing a sack and a kerosene lamp. When Ernesto asked JUANITO where he was going, the latter said that he would catch frogs; and then he left. After thirty minutes, JUANITO returned and told Ernesto that he saw a foot of a dead child at the waterfalls. With the disappearance of GENELYN in mind, Ernesto lost no time to go to the house of Jose. JUANITO followed him. There, JUANITO told Jose that he saw a foot of a dead child at the waterfalls. When Jose asked whether it was GENELYN's, JUANITO answered in the affirmative. The three then proceeded to the waterfalls, where JUANITO pointed the place where he saw the body of GENELYN. Jose immediately approached the body, and having confirmed that it was GENELYN's, he brought it to a dry area.[6]

Ernesto also testified that on 4 August 1996, he saw Antonio Camacho hand over a black rope to Barangay Captain Ceniza. The latter asked those present as to who owned the rope. When JUANITO admitted ownership of the rope, Ceniza brought him away from the crowd to a secluded place and talked to him.[7]

Finally, Ernesto testified that JUANITO previously attempted to molest his (Ernesto's) child, an incident that caused a fight between him (JUANITO) and his (Ernesto's) wife.[8]

Antonio Camacho, a cousin of Jose, testified that on 3 August 1996, he was informed by Jose's brother that GENELYN was "drowned." He and the Bantay Bayan members proceeded to the place of the incident and retrieved the body of GENELYN. At 8:00 a.m. of the following day he, together with Edgar Sumalpong and Andres Dolero, went to the waterfalls to trace the path up to where GENELYN was found. There, they found a black rope and an umbrella. They gave the umbrella to Jose's wife, and the black rope to Barangay Captain Ceniza, who was then attending the wake of GENELYN. Ceniza asked those who were at the wake whether anyone of them owned the rope. JUANITO answered that he owned it. Thereafter Ceniza talked to JUANITO.[9]

Andres Dolero corroborated the testimony of Antonio on the recovery of the black rope and umbrella at the waterfalls where GENELYN's body was found.[10]

Barangay Captain Ceniza of Inasagan, Aurora, Zamboanga del Sur, testified that at about 8:30 p.m. of 3 August 1996, Jose Camacho, Ernesto Derio, Porferio Camacho, and JUANITO arrived at her house to inform her that JUANITO found GENELYN's dead body at the waterfalls. Ceniza forthwith ordered the members of the Bantay Bayan to retrieve the body of GENELYN, and reported the incident to the police headquarters of Aurora, Zamboanga del Sur. She specifically named JUANITO as her suspect. She then went home and proceeded to Jose's house for GENELYN's wake. She saw JUANITO at the wake and noticed that he was very uneasy.[11]

Ceniza further revealed that on 4 August 1996, while she was on her way to Jose's house, Antonio gave her a black rope, which he reportedly found at the spot where the dead body of GENELYN was retrieved. Ceniza then asked the people at the wake about the rope. JUANITO, who was among those present, claimed the rope as his. She brought JUANITO away from the others and asked him why his rope was found at the place where GENELYN's body was discovered. JUANITO answered: "I have to claim this as my rope because I can commit

sin to God if I will not claim this as mine because this is mine.” Ceniza further asked JUANITO to tell her everything. JUANITO told Ceniza that his intention was only to frighten GENELYN, not to molest and kill her. When GENELYN ran away, he chased her. As to how he raped her, JUANITO told Ceniza that he first inserted his fingers into GENELYN’s vagina and then raped her. Thereafter, he threw her body into the ravine.[12]

After such confession, Ceniza examined his body and found a wound on his right shoulder, as well as abrasions and scratches on other parts of his body. Upon further inquiry, JUANITO told her that the wound on his shoulder was caused by the bite of GENELYN. Ceniza then turned over JUANITO to a policeman for his own protection, as the crowd became unruly when she announced to them that JUANITO was the culprit. JUANITO was forthwith brought to the police headquarters.[13]

Victor Mosqueda, a member of the Philippine National Police (PNP) stationed at the Aurora Police Station, testified that at about 10:00 p.m. of 4 August 1996 he was at Jose’s house. Ceniza informed him that JUANITO was the suspect in the killing of GENELYN, and she turned over to him a black rope which belonged to JUANITO. He wanted to interrogate JUANITO, but Ceniza cautioned him not to proceed with his inquiry because the people around were getting unruly and might hurt JUANITO. Mosqueda immediately brought JUANITO to the police station, and on that same day, he took the affidavits of the witnesses. The following day, a complaint was filed against JUANITO.[14]

Dr. Arturo Lumacad, Municipal Health Officer of the Aurora Rural Health Clinic, testified that he examined JUANITO so as to verify the information that JUANITO sustained wounds in his body.[15] His examination of JUANITO revealed the following injuries:

1. fresh abrasions on the right portion of the cheek;
2. multiple abrasions on the right shoulder;
3. abrasion on the left shoulder; and
4. abrasions on the left forearm.[16]

Dr. Lumacad also testified that he examined the dead body of GENELYN on 4 August 1996 and found the following injuries:

1. 2.5-inch lacerated wound at her left neck, front of the head;
2. 1-inch wound at the right cheek just below the first wound;
3. multiple contusions on her chest;
4. contusion at the right hip; and
5. fresh lacerations on her vagina at 9 o’clock and 3 o’clock positions.[17]

He opined that the fresh lacerations could have been caused by a large object inserted into GENELYN’s vagina, such as a male sex organ, a rod, or a piece of wood or metal.[18]

Presiding Judge Celestino V. Dicon of the Municipal Trial Court of Aurora, Zamboanga del Sur, testified that when he arrived in his office at around 8:30 a.m. of 4 August 1996 several people, including Barangay Captain Ceniza, were already in his courtroom. He learned that they came to swear to their affidavits before him. After reading the affidavit of Ceniza, he asked Ceniza whether her statements were true. Ceniza answered in the affirmative and pointed to JUANITO as the culprit. Judge Dicon turned to JUANITO and asked him whether the charge against him was true. JUANITO replied in the dialect: “[N]apanuwayan ko, sir” (“I was demonized”). While Judge Dicon realized that he should not have asked JUANITO as to the truthfulness of the allegations against him, he felt justified in doing so because the latter was not under custodial investigation. Judge Dicon thus proceeded to ask JUANITO whether he had a daughter as old as the victim and whether he was aware of what he had done to GENELYN. Again, JUANITO responded that he was demonized, and he spontaneously narrated that

after he struck GENELYN's head with a stone he dropped her body into the precipice.[19]

Lopezino Albano, process server in the court of Judge Dicon, corroborated the testimony of the latter as to JUANITO's admission that he was demonized when he raped and killed GENELYN.[20]

The sole witness for the defense was JUANITO, who invoked denial and alibi. He testified that he was at his mother's house at around 6:30 p.m. of 3 August 1996. An hour later, he left for the creek to catch frogs; and while catching frogs, he saw a foot. He forthwith headed for Ernesto Derio's house to ask for help. There, he told Ernesto and his wife of what he had seen. Ernesto's wife asked JUANITO whether the person was still alive, and JUANITO answered that he was not sure. At this point, Ernesto informed him that Jose Camacho was looking for GENELYN. JUANITO and Ernesto then proceeded to the house of Jose to inform the latter of what he, JUANITO, had seen. The three forthwith went to the creek. There, they found out that the foot was GENELYN's and that she was already dead. Upon Jose's request, JUANITO and Ernesto informed Jose's brother about the incident, and they proceeded to the house of Ceniza. Thereafter, they, along with the members of the Bantay Bayan, went back to the creek to retrieve the body of GENELYN.[21]

JUANITO further recalled that after the body of GENELYN was brought to her parent's house, he helped saw the lumber for her coffin. Thereafter, he went to Ernesto's house to get the sack containing the seventeen frogs he had caught that night, which he earlier left at Ernesto's house. He was shocked to find out that the rope which he used to tie the sack, as well as all the frogs he caught, was missing. As it was already dawn, JUANITO left his sack at his mother's house; then he proceeded to the house of Jose to help make the coffin of GENELYN. But, at around 8:00 a.m., policeman Banaag came looking for him. He stopped working on GENELYN's coffin and identified himself. Banaag took him away from the house of Jose and asked him whether he owned the rope. JUANITO answered in the affirmative. At this point, policeman Mosqueda came near them and escorted him and Banaag back to Jose's house. At Jose's house, Mosqueda announced to the crowd that JUANITO was the suspect in GENELYN's untimely demise. JUANITO was then detained and investigated at the police station.[22] During his investigation by the police officers and by Judge Dicon, he was never assisted by a lawyer.[23]

In its challenged decision,[24] the trial court found JUANITO guilty beyond reasonable doubt of the crime of rape with homicide. On the challenge on the admissibility of the admissions he made to Barangay Captain Ceniza and Judge Dicon, it ruled that they are not the law enforcement authorities referred to in the constitutional provisions on the conduct of custodial investigation. Hence, JUANITO's confessions made to them are admissible in evidence. Moreover, no ill-motive could be attributed to both Ceniza and Judge Dicon. It also found unsubstantiated JUANITO's claim that he was threatened by his fellow inmates to make the confession before Judge Dicon; and that, even assuming that he was indeed threatened by them, the threat was not of the kind contemplated in the Bill of Rights. The threat, violence or intimidation that invalidates confession must come from the police authorities and not from a civilian. Finally, it ruled that JUANITO's self-serving negative evidence cannot stand against the prosecution's positive evidence.

The trial court, thus, convicted JUANITO of rape with homicide and imposed on him the penalty of death. It also ordered him to pay the heirs of the victim the amount of P50,000 by way of civil indemnity. Hence, this automatic review.

In his Appellant's Brief, JUANITO imputes to the trial court the following errors:

I

THE COURT A QUO GRAVELY ERRED IN ADMITTING THE ALLEGED CONFESSION OF THE ACCUSED-APPELLANT TO WITNESSES LUZVIMINDA CE[N]IZA AND JUDGE CELESTINO DICON AS EVIDENCE AGAINST THE ACCUSED.

II

ON ACCOUNT OF THE INADMISSIBILITY OF THE ACCUSED'S ALLEGED CONFESSION THE COURT GRAVELY ERRED IN CONVICTING THE ACCUSED BASED ON MERE CIRCUMSTANTIAL EVIDENCE.

Anent the first assigned error, JUANITO maintains that the trial court violated Section 12(1) of Article III of the Constitution^[25] when it admitted in evidence his alleged extrajudicial confession to Barangay Captain Ceniza and Judge Dicon. According to him, the two failed to inform him of his constitutional rights before they took it upon themselves to elicit from him the incriminatory information. It is of no moment that Ceniza and Dicon are not police investigators, for as public officials it was incumbent upon them to observe the express mandate of the Constitution. While these rights may be waived, the prosecution failed to show that he effectively waived his rights through a written waiver executed in the presence of counsel. He concludes that his extrajudicial confession is inadmissible in evidence.

In his second assigned error, JUANITO asserts that the prosecution miserably failed to establish with moral certainty his guilt. He points to the contradicting testimonies of the witnesses for the prosecution concerning the retrieved rope owned by him. Consequently, with the inadmissibility of his alleged extrajudicial confession and the apparent contradiction surrounding the prosecution's evidence against him, the trial court should have acquitted him.

In the Appellee's Brief, the Office of the Solicitor General (OSG) supports the trial court's finding that JUANITO is guilty beyond reasonable doubt of the crime as charged. His bare denial and alibi cannot overcome the positive assertions of the witnesses for the prosecution. Moreover, he was unable to establish by sufficient evidence that Barangay Captain Ceniza and Judge Dicon had an ulterior motive to implicate him in the commission of the crime.

The OSG recommends that the civil indemnity of P50,000 awarded by the trial court be increased to P75,000; and that in line with current jurisprudence, moral damages in the amount of P50,000 be awarded to the heirs of GENELYN.

We shall first address the issue of admissibility of JUANITO's extrajudicial confession to Barangay Captain Ceniza.

It has been held that the constitutional provision on custodial investigation does not apply to a spontaneous statement, not elicited through questioning by the authorities but given in an ordinary manner whereby the suspect orally admits having committed the crime. Neither can it apply to admissions or confessions made by a suspect in the commission of a crime before he is placed under investigation. What the Constitution bars is the compulsory disclosure of incriminating facts or confessions. The rights under Section 12 of the Constitution are guaranteed to preclude the slightest use of coercion by the state as would lead the accused to admit something false, not to prevent him from freely and voluntarily telling the truth.^[26]

In the instant case, after he admitted ownership of the black rope and was asked by Ceniza to tell her everything, JUANITO voluntarily narrated to Ceniza that he raped GENELYN and thereafter threw her body into the ravine. This narration was a spontaneous answer, freely and voluntarily given in an ordinary manner. It was given before he was arrested or placed under custody for investigation in connection with the commission of the offense.

It may be stressed further that Ceniza's testimony on the facts disclosed to her by JUANITO was confirmed by the findings of Dr. Lumacad. GENELYN's physical resistance and biting of the right shoulder of JUANITO were proved by the wound on JUANITO's right shoulder and scratches on different parts of his body. His admission

that he raped GENELYN was likewise corroborated by the fresh lacerations found in GENELYN's vagina.

Moreover, JUANITO did not offer any evidence of improper or ulterior motive on the part of Ceniza, which could have compelled her to testify falsely against him. Where there is no evidence to show a doubtful reason or improper motive why a prosecution witness should testify against the accused or falsely implicate him in a crime, the said testimony is trustworthy.[27]

However, there is merit in JUANITO's claim that his constitutional rights during custodial investigation were violated by Judge Dicon when the latter propounded to him incriminating questions without informing him of his constitutional rights. It is settled that at the moment the accused voluntarily surrenders to, or is arrested by, the police officers, the custodial investigation is deemed to have started. So, he could not thenceforth be asked about his complicity in the offense without the assistance of counsel.[28] Judge Dicon's claim that no complaint has yet been filed and that neither was he conducting a preliminary investigation deserves scant consideration. The fact remains that at that time JUANITO was already under the custody of the police authorities, who had already taken the statement of the witnesses who were then before Judge Dicon for the administration of their oaths on their statements.

While Mosqueda claims that JUANITO was not arrested but was rather brought to the police headquarters on 4 August 1996 for his protection, the records reveal that JUANITO was in fact arrested. If indeed JUANITO's safety was the primordial concern of the police authorities, the need to detain and deprive him of his freedom of action would not have been necessary. Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense, and it is made by an actual restraint of the person to be arrested, or by his submission to the person making the arrest.[29]

At any rate, while it is true that JUANITO's extrajudicial confession before Judge Dicon was made without the advice and assistance of counsel and hence inadmissible in evidence, it could however be treated as a verbal admission of the accused, which could be established through the testimonies of the persons who heard it or who conducted the investigation of the accused.[30]

JUANITO's defense of alibi is futile because of his own admission that he was at the scene of the crime. Alibi is a defense that places an accused at the relevant time of a crime in a place other than the scene involved and so removed therefrom as to render it impossible for him to be the guilty party.[31] Likewise, a denial that is unsubstantiated by clear and convincing evidence is a negative and self-serving evidence, which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[32]

Anent the alleged inconsistencies in the details surrounding the recovery of the black rope, the same are irrelevant and trite and do not impair the credibility of the witnesses. Minor inconsistencies and honest lapses strengthen rather than weaken the credibility of witnesses, as they erase doubts that such testimonies have been coached or rehearsed.[33] What matters is that the testimonies of witnesses agree on the essential fact that JUANITO was the owner of the black rope and the perpetrator of the crime.

Even if JUANITO's confession or admission is disregarded, there is more than enough evidence to support his conviction. The following circumstances constitute an unbroken chain proving beyond reasonable doubt that it was JUANITO who raped and killed GENELYN:

- At about 5:00 p.m. of 3 August 1996, Jose Camacho bid his daughter GENELYN to borrow some rice from their neighbor Wilfredo Balogbog. GENELYN did so as told, but failed to return home.
- About 7:30 p.m. of the same day, JUANITO arrived at Ernesto's house bringing a sack and kerosene lamp,

trembling and apparently weak.

- Thirty minutes thereafter, JUANITO returned to Ernesto's house and told Ernesto that he saw a foot of a dead child at the waterfalls, without disclosing the identity of the deceased.
- When JUANITO and Ernesto were at Jose's house, the former told Jose that it was GENELYN's foot he saw at the waterfalls.
- GENELYN was found dead at the waterfalls with fresh lacerations on her vaginal wall at 9 and 3 o'clock positions.
- At about 8:00 a.m. of 4 August 1996, Antonio Camacho, Andres Dolero and Edgar Sumalpong recovered at the crime site a black rope, which they turned over to Ceniza, who was then at GENELYN's wake.
- When Ceniza asked the people around as to who owned the black rope, JUANITO claimed it as his.
- When Ceniza examined JUANITO's body, she saw a wound on his right shoulder and scratches on different parts of his body.
- Dr. Lumancad's physical examination of JUANITO revealed abrasions, which could have been caused by scratches.

Guilt may be established through circumstantial evidence provided that the following requisites concur: (1) there is more than one circumstance; (2) the inferences are based on proven facts; and (3) the combination of all circumstances produces a conviction beyond reasonable doubt of the guilt of the accused.[34] All these requisites are present in the case at bar.

With JUANITO's guilt for rape with homicide proven beyond reasonable doubt, we are constrained to affirm the death penalty[*] imposed by the trial court. Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. No. 7659, pertinently provides: "When by reason or on occasion of the rape, a homicide is committed, the penalty shall be death."

As to JUANITO's civil liability, prevailing judicial policy has authorized the mandatory award of P100,000[35] as civil indemnity ex delicto in cases of rape with homicide (broken down as follows: P50,000 for the death and P50,000 upon the finding of the fact of rape). Thus, if homicide is committed by reason or on occasion of rape, the indemnity in the amount of P100,000 is fully justified and properly commensurate with the seriousness of the said special complex crime. Moral damages in the amount of P50,000 may be additionally awarded to the heirs of the victim without the need for pleading or proof of the basis thereof; the fact that they suffered the trauma of mental, physical and psychological sufferings, which constitutes the basis for moral damages under the Civil Code, is too obvious to still require the recital thereof at the trial.[36]

WHEREFORE, the decision of the Regional Trial Court, Branch 30, Aurora, Zamboanga Del Sur, in Criminal Case No. AZ-CC-96-156, finding accused-appellant Juanito Baloloy guilty of the crime of rape with homicide and sentencing him to suffer the penalty of death is **AFFIRMED** with the modification that he is ordered to pay the heirs of Genelyn Camacho P100,000 as indemnity and P50,000 as moral damages.

In consonance with Section 25 of R.A. No. 7659 amending Article 83 of the Revised Penal Code, upon finality of this Decision, let the records of this case be forthwith forwarded to the Office of the President for possible exercise of the pardoning power.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

Mendoza, J., in the result.

[1] OR, 1.

[2] Id., 20.

[3] TSN, 4 February 1997, 63-72.

[4] Id., 72-76.

[5] TSN, 29 April 1997, 30-34.

[6] TSN, 4 February 1997, 120-121, 128-138.

[7] Id., 140-144.

[8] Id., 154.

[9] Id., 90-99.

[10] TSN, 29 April 1997, 17-19.

[11] TSN, 4 February 1997, 5-14.

[12] Id., 15-20.

[13] TSN, 4 February 1997, 21-22.

[14] TSN, 29 April 1997, 5-8.

[15] Id., 9.

[16] Exhibit "E"; OR, 4; TSN, 18 March 1997, 18.

[17] Exhibit "C"; OR, 5.

[18] TSN, 18 March 1997, 7-14.

[19] TSN, 25 November 1997, 5-8.

[20] TSN, 22 September 1997, 6-8.

[21] TSN, 7 July 1998, 3-8.

[22] TSN, 7 July 1998, 9-15.

[23] Id., 19.

[24] Original Records (OR), 212-229; Rollo, 70-87. Per Judge Loreto C. Quinto.

[25] This Section provides:

Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel, preferably of his own choice. If the person cannot

afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

[26] *People v. Andan*, 269 SCRA 95, 110 [1997].

[27] *People v. Leoterio*, 264 SCRA 608, 618 [1996]; *People v. Lagarto*, 326 SCRA 693, 744 [2000].

[28] *People v. Lim*, 196 SCRA 809, 820 [1991].

[29] *People v. Sequiño*, 264 SCRA 79, 98-99 [1996].

[30] *People v. Molas*, 218 SCRA 473, 481 [1993].

[31] *People v. Maqueda*, 242 SCRA 565, 592 [1995]; *People v. Abella*, 339 SCRA 129, 147 [2000].

[32] *People v. Villanueva*, 339 SCRA 482, 501 [2000].

[33] *People v. Diaz*, 262 SCRA 723, 732 [1996]; *People v. Gutierrez*, 339 SCRA 452, 460 [2000].

[34] Section 4, Rule 133, Rules of Court; *People v. Casingal*, 243 SCRA 37, 44 [1995].

[*] Three Members of the Court continue to maintain their view that R.A. No. 7659 is unconstitutional insofar as it prescribes the death penalty; however, they submit to the ruling of the majority that the law is constitutional and the death penalty can be lawfully imposed.

[35] *People v. Robles, Jr.*, 305 SCRA 274, 283 [1999]; *People v. Tahop*, 315 SCRA 465, 475 [1999]; *People v. Paraiso*, G.R. No. 131823, 17 January 2001.

[36] *People v. Robles, Jr.*, *supra*.

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