

EMMIE RESAYO Y CRUZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 154502. April 27, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review of the Decision[1] dated 25 July 2002 of the Court of Appeals in CA-G.R. CR No. 18313. The Court of Appeals upheld the decision[2] of the Regional Trial Court of Pasig City, Branch 70 (trial court) in Criminal Case Nos. 76322-23 finding petitioner Emmie Resayo y Cruz (Resayo) and Ricardo Reyes y Cruz @ Richie (Reyes) guilty beyond reasonable doubt of homicide and frustrated homicide.

The Facts

On 13 February 1989, Resayo and Reyes were charged in two separate Informations with the crimes of homicide and frustrated homicide. The Informations read:

Criminal Case No. 76322

That on or about the 5th day of February, 1989, in the Municipality of Tagig, [sic] Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Larry C. Reyes who is still at large and mutually helping and aiding one another, armed with a bladed weapon, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said bladed weapon one Roberto C. Aguinaldo on the vital parts of his body, thereby inflicting upon the latter mortal and fatal stab wounds which caused his death.

Contrary to law.[3]

Criminal Case No. 76323

That on or about the 5th day of February, 1989, in the Municipality of Tagig, [sic] Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with Larry C. Reyes who is still at large and mutually helping and aiding with one another, armed with a bladed weapon, with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and stab with the said bladed weapon one Alfredo A. Braga on the vital parts of his body, thereby inflicting upon the latter stab wounds which ordinarily would have caused his death, thus performing all the acts of execution which would have produce[d] the crime of homicide but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, due to the timely and able medical attendance rendered to the said Alfredo A. Braga which prevented to [sic] his death.

Contrary to law.[4]

Upon arraignment, the two accused pleaded not guilty. Thereafter, trial ensued.

The trial court rendered a decision on 17 March 1995 finding the accused guilty as charged. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the Court finds both accused Emmie Resayo and Richie Reyes guilty beyond reasonable doubt of the crimes of homicide and frustrated homicide. However, Richie Reyes is entitled to the mitigating circumstance of voluntary surrender. Consequently, the Court sentences Emmie Resayo to suffer the indeterminate penalty of imprisonment ranging from eight (8) years and one day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of Reclusion Temporal as maximum for homicide and the indeterminate penalty of two (2) years, four (4) months and one (1) day of prision mayor as maximum for frustrated homicide.

On the other hand, accused Richie Reyes is sentenced to suffer the indeterminate penalty of imprisonment ranging from six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum for homicide and the indeterminate penalty of imprisonment of six (6) months and one (1) day of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum for the crime of frustrated homicide.

Further, the Court hereby orders said accused to jointly and severally pay the heirs of the deceased Robert[o] Aguinaldo the sum of P50,000.00 as and by way of civil indemnity for the death of the victim, P15,000.00 for funeral expenses and P10,000.00 as attorney's fees and to pay Alfredo Braga the amount of P5,000.00 for medical expenses and P10,000.00 as attorney's fees but without subsidiary imprisonment in case of insolvency.

SO ORDERED.[5]

On appeal, the Court of Appeals affirmed the trial court's ruling. The dispositive portion of the Court of Appeals' decision dated 25 July 2002 reads:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED and the decision appealed from in Criminal Case Nos. 76322-76323 is hereby AFFIRMED and UPHeld.

With costs against the accused-appellants.

SO ORDERED.[6]

Not satisfied with the Court of Appeals' decision, Resayo filed the instant petition for review. Reyes did not appeal from the decision of the Court of Appeals.

The Trial

When trial started, it was Judge Armie Elma who presided and heard the entire testimony of Dionisio Esteban (Esteban) and the partial testimony of Walter John Victoria (Victoria). Thereafter, Judge Harriet Demetriou (Judge Demetriou) presided over the case and penned the decision.

The prosecution presented nine witnesses, namely, Esteban, Alfredo Braga (Braga), Victoria, Dr. Desiderio Moraleda, Mrs. Lina Aguinaldo, Mrs. Editha Braga, Dr. Bonifacio Lacsina, Mrs. Rosario Villanueva, and Dr. Manuel Oliveros. The defense, on the other hand, presented seven witnesses, namely, Resayo, Reyes, Dr. Emmanuel Dela Fuente, Joselito Cipriano, Merlita Flores, Ernesto Hermillos, and Elena Reyes Tamayo.

Version of the Prosecution

The prosecution established that at about 1:30 p.m. of 5 February 1989, the group consisting of Braga, Esteban, Victoria, Roderick Bautista (Bautista), Edgardo Cruz, Alexander Garcia, Henry Victoria, Eduardo Relon, Antonio Esteban, and Roberto Aguinaldo (Aguinaldo) were in the house of their friend Emy Roldan (Roldan) located at Mastrilli Street, Bambang, Taguig, Metro Manila to celebrate simultaneously Roldan's birthday and the fiesta

of Taguig. They had a few rounds of beer and exchanged jokes with Bogac Reyes (Bogac)[7] as their subject. At about 4:00 to 4:30 p.m., Bogac's brothers, Larry, Cris, and Reyes, and their brother-in-law Rey arrived at the party to confront the group that was teasing Bogac. Roldan's mother, Aida Roldan, was able to patch up their differences and the celebration resumed until 7:00 to 7:30 p.m. While Braga's group was heading home, Esteban momentarily stopped to talk to his wife at the alley beside Roldan's house so the others went ahead. Aguinaldo and Braga were slightly in front of the others. Aguinaldo's hand was on Braga's shoulders. While talking to his wife, Esteban saw Larry heading toward Braga's group. Larry suddenly pulled a knife and stabbed Aguinaldo who was able to parry the blow, which instead hit Braga on the left side of the body just below the rib.

Thereafter, Victoria and Aguinaldo called their other friends who were still in the alley, and they immediately responded and pursued Larry who ran to Quezon Street. Esteban was able to catch up with Larry who tried to stab him but caused only a slight wound at his armpit. Victoria saw Aguinaldo run after Larry. Victoria, in turn, chased Aguinaldo to pacify him. However, upon reaching Quezon Street, Resayo suddenly appeared and stabbed Aguinaldo in the chest.

Then, an unfamiliar group of six or seven armed persons appeared at the corner of Mastrilli and Quezon Streets. An unidentified man tried to stab Victoria prompting him to retreat and run towards Roldan's house.

Meanwhile, Esteban, who was stabbed by Larry, saw Aguinaldo sprawled on the corner of Mastrilli and Quezon Streets. Since he was also in pain, Esteban asked Bautista to bring Aguinaldo to the hospital while a neighbor brought Esteban home. Along the way, Esteban saw Reyes stab Braga for the second time below the right nipple. Braga was then already walking slowly and crouching while holding his left abdomen.

Dr. Desiderio Moraleda testified that Aguinaldo's stab wound located at his left mammary region, measuring 1.4 x 0.7 cm., 4 cm. from the anterior midline, 8 cm. deep, directed posteriorwards, slightly upwards and medialwards, passing thru the 5th left intercostal space, lacerating the pericardial sac and left and right ventricles of the heart was fatal. This wound eventually caused Aguinaldo's death.

Aguinaldo's mother, Lina, testified that in addition to her moral sufferings, she incurred funeral expenses of P15,000.

Braga's mother, Editha, testified that she spent P5,000 for the medical treatment of her son, and P600 per appearance of the private prosecutor.

Dr. Bonifacio Lacsina, a surgeon, and Dr. Manuel Oliveros, chief resident physician of the Rizal Medical Center, had similar findings that Braga's stab wound located at the left subcostal area with stomach perforation on greater curvature would have caused Braga's death were it not for the immediate medical attention.

Version of the Defense

The defense rests on alibis. Resayo, who was a tricycle driver, claims that he was pedaling his tricycle at the time of the incident. He testified that at around 7:00 p.m. of 5 February 1989, he brought a passenger to Barrio Sagad, Pasig. The passenger, a certain Patrolman David Rayos Del Sol (Pat. Rayos), made Resayo wait for two hours, before boarding the tricycle again, arriving at Taguig at around 9:00 p.m. The police invited Resayo for questioning in the morning of 7 February 1989 and executed a sworn statement dated 8 February 1989. Resayo alleged that he was accused of killing Aguinaldo based solely on the description of the suspect as having a red mark on the face caused by a fist blow. While Resayo had a red mark on his face, this was due to an operation on 3 October 1988, and not a fist blow. To support his claim, Resayo presented a medical certificate issued by the hospital. Resayo alleged that when he gave his statement, Pipiano Mamonong and Pat. Rayos were present, and the latter appeared surprised as he was on board Resayo's tricycle at the time in question.

Dr. Emmanuel Dela Fuente, a medical specialist at the Rizal Medical Center, corroborated Resayo's testimony that he had an operation on 3 October 1988, where an excision was done on a portion of Resayo's face, the mark below his eye having been caused by an infection as a result of the operation.

Joselito Cipriano, another tricycle driver plying the route of Barangay Tuktukan in Taguig, testified that he saw Resayo at Pateros driving his tricycle going to Taguig. At 9:45 p.m., he met and talked to Resayo whom he saw near Barangay Ususan and Barangay Tuktukan. He only learned about the stabbing incident when Resayo was jailed as a suspect. He visited Resayo in jail, who told him that he was innocent, and he believed Resayo since they were both pedaling their tricycles at the time of the incident.

Merlita Flores, sister of Reyes and cousin of Resayo, testified that Resayo's house is adjacent to hers. On the date in question, she had visitors since it was the fiesta of Taguig. At around 7:00 p.m., she heard people shouting "May gulo, may gulo." She climbed up to Quezon Street where she found that there was a fight between Braga's group and others against the visitors of her other brother Larry. She shielded her brother Larry who was being mauled by Braga's group. Then she shouted, "Huwag! Ayan, may nasagasaan na," as she allegedly saw Aguinaldo being run over by a red car. However, when cross-examined, she admitted that Aguinaldo's death was due to a stab wound. Braga's group picked up Aguinaldo while she accompanied her brother Larry home so the blood on his forehead could be treated. She claimed she did not see Resayo at the scene of the incident. She only saw him park his tricycle at around 8:00 p.m. Neither did she see her brother Reyes, who she claimed was then inside the house of her cousin at No. 04 Quezon Street, Bambang, Taguig.

Ernesto Hermillos, a third cousin of both accused, testified that an unknown assailant, who was one of Lauro Reyes' visitors, stabbed Aguinaldo.

Reyes, Resayo's co-accused, denied the charges against him. He testified that he was at the Bambang Bridge, approximately 100 meters from the crime scene, during the stabbing incident. He stated that there was an on-going fight between Braga and Larry's groups, while he was about to go to work. Thus, his wife brought him to their aunt's house, which was only two meters from the Bambang Bridge, to avoid being involved in the fight. He claimed that he stayed there for about one hour, after which they proceeded to their place of work.

Elena Reyes Tamayo, another sister of Larry and Reyes, testified that a fight ensued between Braga's and her brother Larry's groups. She claimed that she saw a certain Totoy suddenly draw a bladed weapon and was about to stab her brother. Then, a certain Leo Bernales who was holding a knife prevented him and stabbed Totoy. She stated, on cross examination, that it was Leo Bernales who stabbed Totoy and not her brother Ricardo (or Reyes).

The Issues

Resayo faults the Court of Appeals for (1) finding the testimonies of the prosecution witnesses credible, though the judge who penned the decision did not hear their entire testimonies; (2) ruling that there was conspiracy; (3) not recognizing the alibis of the accused; and (4) disregarding Resayo's gesture of accepting the police's invitation as a sign of innocence.

The Ruling of the Court

The petition is partly meritorious.

On the credibility of the prosecution witnesses

Resayo argues that since Judge Demetriou did not hear the entire testimonies of Esteban and Victoria, the rule on non-interference with the determination of the credibility of witnesses does not apply. Indeed, one of the recognized exceptions to this rule is when the judge who penned the decision is not the judge who received the

evidence and heard the witnesses.[8] However, the efficacy of a decision is not necessarily impaired by the fact that the ponente only took over from a colleague who had earlier presided over the trial. It does not follow that a judge who was not present during the trial cannot render a valid and just decision.[9] In the present case, what Judge Demetriou did not hear was the entire testimony of Esteban and the direct examination and partial cross-examination of Victoria, who was the eyewitness that identified Resayo as Aguinaldo's killer. Hence, upon the continuation of Victoria's testimony, Judge Demetriou still had the opportunity to observe the demeanor of Victoria, who pinned Resayo to the crime. As to Esteban's testimony, Judge Demetriou relied upon the transcribed stenographic notes for her decision. Moreover, the full record was available to Judge Demetriou. There is no sufficient showing that she did not thoroughly examine and analyze the evidence before her, particularly the testimonies of both Esteban and Victoria.

We find untenable Resayo's argument that Victoria, being a friend of both Aguinaldo and Braga, would naturally testify in favor of the victims. On the contrary, being Aguinaldo's best friend, Victoria instinctively seeks justice for the senseless death of Aguinaldo. We also find no improper motive for Victoria to falsely testify against Resayo. Absent any showing of an improper motive on his part, his testimony must be given full faith and credit.[10]

On the alleged inconsistency in Braga's statements, that he failed to state in his written statement but was later able to testify that he and Aguinaldo were merely pacifying their other group members, it is settled that contradictions between the contents of an affiant's affidavit and his testimony in the witness stand do not always militate against the witness' credibility. This is so because affidavits, which are usually taken ex parte, are often incomplete and inaccurate.[11] Likewise settled is the rule that inconsistencies on minor, trivial, and insignificant matters do not affect the credibility of witnesses. There is hardly a witness who can perfectly remember the details of a crime. Human memory is not as unerring as a photograph.[12] We can attribute Braga's lapses to the natural fickleness of a man's memory.

Resayo further harps on Braga's failure to identify Aguinaldo's killer while Braga was in pain in the hospital and on Braga and Esteban's testimonies that Resayo was not among those who went to Roldan's house at 4:30 p.m. It must be borne in mind that the time material to this case is around 7:00 p.m. and not 4:30 p.m. Even if Resayo was nowhere to be found at or near Roldan's house at 4:30 p.m., it does not follow that Resayo could not or was not present at the crime scene at 7:00 p.m. As the Court of Appeals held, whether or not Resayo actually had gone to Roldan's house earlier in the afternoon together with his cousins Larry and Reyes to settle Bogac's quarrel with Braga's group is immaterial for the purpose of establishing the actual participation of Resayo in the killing of Aguinaldo and wounding of Braga later in the evening of the same day.[13]

Likewise, the fact that Esteban's answers to Questions 1 to 4 of his sworn statement were supplied by his uncle who was a policeman investigating the case did not necessarily destroy Esteban's credibility as a witness.

Resayo also contends that Exhibit "D," which was Braga's sworn statement executed a few hours after the stabbing incident, did not contain any information on the identity of Aguinaldo's assailant. Resayo insists that since Braga did not know who actually stabbed Aguinaldo, Braga did not volunteer such information to the investigator. Even without Braga's statement on Resayo's participation in the crimes, Victoria's direct and categorical statement on the witness stand that it was Resayo who stabbed Aguinaldo is sufficient to sustain a conviction. Criminals are convicted not on the number of witnesses against them but on the quality of the testimony given under oath. Even one witness will suffice provided he or she succeeds in convincing the court of the guilt of the accused with moral certainty. The testimony of a single witness is enough to convict, even of a charge of murder, if it is positive and credible.[14]

Resayo continues to wonder why Larry or Lauro Reyes, who was often mentioned in the pleadings, was never formally charged for hitting Braga. As the Court of Appeals held, the determination of who should be criminally charged in court is essentially an executive, not a judicial, function. The public prosecutor, as the officer authorized to direct and control the prosecution of all criminal actions, should ascertain whether there is sufficient ground to engender a well-founded belief that an offense has been committed and that the accused is probably guilty of such offense.[15]

On the finding of conspiracy

Resayo points out that he had no motive to harm Aguinaldo. He maintains that it was a rumble where the participants acted on their own, with no clear intention of conspiring to hurt or kill a particular person.

Motive is not essential to convict when there is no doubt as to the identity of the culprit. Lack of motive does not preclude conviction when the crime and the participation of the accused in the crime are definitely shown, particularly when we consider that it is a matter of judicial knowledge that persons have killed or committed serious offenses for no reason at all.[16]

However, we disagree with the trial court and Court of Appeals' finding of conspiracy. The trial court concluded that there is conspiracy though there is no evidence that both Resayo and Reyes were at the crime scene at the same time. The trial court found that Reyes' act of stabbing Braga after the latter was already stabbed by Reyes' brother Larry is a manifestation that he intended to carry out the unlawful purpose of finishing off Braga while Resayo took care of Aguinaldo. The trial court ruled that Resayo and Reyes were moved and motivated by one common design and purpose, considering that they are first cousins. Bogac, on whose behalf Resayo and Reyes were retaliating, is closely related to both of them. The Court of Appeals, in sustaining the trial court's finding of conspiracy, similarly found that the manner by which the accused attacked the victims shows that they were impelled by a shared sentiment generated by the earlier quarrel involving accused's close relative.

On the contrary, we find that the manner by which both accused attacked the victims does not clearly and convincingly show that Resayo and Reyes were motivated by a common intent of killing Aguinaldo and Braga. There is doubt on whether Resayo was among those who confronted Braga's group about their teasing of Bogac, who was admittedly a close relative of both accused. Victoria's testimony that Resayo was among those who confronted Braga's group[17] contradicts Esteban's testimony that Resayo was not present when the initial confrontation occurred at 4:30 p.m.[18]

Further, Resayo was not even among the group who first attacked the victims while they were heading home. As the trial court found, there is no evidence that Resayo and Reyes were at the crime scene at the same time. Also as testified to by Victoria, Resayo suddenly appeared from a corner and stabbed Aguinaldo near his heart while Aguinaldo was chasing his assailant, Larry. Thus:

Q: Did you actually see the stabbing of Roberto Aguinaldo?

A: Yes, I did.

Q: Who stabbed Roberto Aguinaldo?

A: Emmie Resayo.

Q: How did he stab Roberto Aguinaldo?

A: Roberto Aguinaldo and I were running and suddenly Emmie Resayo, the accused[,] came out from a corner and treacherously stab Roberto Aguinaldo near his heart.

Q: Why did you say that he treacherously stabbed Roberto Aguinaldo when in fact Aguinaldo was hit at the chest which presupposes that the two were facing each other?

A: Because he suddenly appeared from the corner.

Q: Why were you running together with Roberto Aguinaldo, Mr. Witness?

A: I was running after the assailant of Alfredo Braga, sir?

x x x[19]

From the foregoing circumstances, it is not clear whether Resayo, in stabbing Aguinaldo, and Reyes, in wounding Braga, shared the same unlawful intent. There is no evidence showing that Resayo was impelled by the same motive of retaliating against Braga's group for teasing Bogac. Nothing shows that Resayo knew that his cousin Bogac was being teased by Braga's group. Resayo stabbed Aguinaldo upon seeing Aguinaldo run after his cousin Larry. We can infer, from this act alone, that Resayo reacted to Aguinaldo's act of chasing Larry. Thus, another explanation for Resayo's act would be to protect his cousin Larry and prevent Aguinaldo from harming him, instead of retaliating against Braga's group for teasing Bogac. Since we are confronted with variant though equally plausible versions of events, we prefer the version that is in accord with the acquittal or the least liability of the accused.[20] Hence, considering this possible scenario, a finding of conspiracy cannot arise.

Since there is no conspiracy in this case, the act of one is not the act of all. Consequently, each of the accused should be held liable for his individual criminal act. Resayo should only be guilty of homicide for fatally stabbing Aguinaldo while Reyes should only be convicted of frustrated homicide for seriously wounding Braga.

On the alibi of Resayo

Resayo's defense rests on denial and alibi. He claims that he was pedaling his tricycle in Pateros at the time of the incident. We have consistently ruled that alibi is the weakest defense not only because of its inherent weakness and unreliability, but also because it is easy to fabricate. It is generally rejected when the accused is positively identified by a witness.[21] For the defense of alibi to prosper, Resayo must establish by clear and convincing evidence not only that he was not present at the crime scene but also that it was physically impossible for him to have been present there at the time of its commission.[22] This Resayo failed to do.

We agree with the Court of Appeals' ruling that the accused failed to prove that it was physically impossible for them to be present at the crime scene, which was just along the street near their respective residences. Reyes was only 100 meters away at Bambang Bridge from the crime scene and there was no proof of the exact time he had left the place. On the other hand, Resayo was pedaling his tricycle. We agree with the Court of Appeals' observation that Resayo's mobility, while pedaling his tricycle, during the time of the incident "only heightened the possibility that he could have momentarily lurked at the corner of Quezon and Mastrilli Streets to await the approaching Aguinaldo and stab him with a single fatal thrust at the heart, and then disappear right away." [23] Further, where there is even the slightest chance for the accused to be present at the crime scene, the alibi will not hold.[24] In addition, Resayo's statement that he went home at 9:30 p.m. conflicts with the statement of another defense witness, Merlita Flores, who claimed that she saw Resayo park his tricycle at 8:00 p.m.

On Resayo's accession to police's invitation

Resayo points out that his accession to the police's invitation was an indication of his innocence. He was found by the investigators ferrying passengers in Sta. Ana, Metro Manila and willingly went with them upon their request. He insists that this gesture is proof of his non-complicity in the crime charged. This argument is without merit. Such behavior does not sufficiently rebut the eyewitness' testimony nor is it conclusive proof of his innocence.

There is nothing extraordinary with this conduct of acceding to the police's invitation to go to the headquarters for questioning.[25]

On the award of actual damages

The award of actual damages amounting to P15,000 to the heirs of Roberto Aguinaldo cannot be sustained. This amount was allegedly incurred in the interment of the deceased. Except for the amount of P7,500 that was supported by receipts,[26] the remaining sum of P7,500 was unsubstantiated by competent evidence. The award of actual damages cannot rest on the bare allegation of the heirs of the victim.[27]

WHEREFORE, we PARTLY GRANT the petition. We find petitioner Emmie Resayo guilty only of homicide and sentence him to an indeterminate sentence of imprisonment ranging from eight years and one day of prison mayor as minimum to fourteen years, eight months and one day of reclusion temporal as maximum. We also order petitioner to pay the heirs of Roberto Aguinaldo P50,000 as civil indemnity for the death of the victim, P7,500 for funeral expenses, and P10,000 for attorney's fees.

SO ORDERED.

Quisumbing, (Chairperson), and Velasco, Jr., JJ., concur.

Carpio-Morales, J., No part. Concurred in OCA Decision.

Tinga, J., No part. close relation to some parties.

[1] Rollo, pp. 18-39. Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Conchita Carpio Morales (now Associate Justice of this Court) and Mariano C. Del Castillo, concurring.

[2] CA rollo, pp. 35-59. Penned by Judge Harriet O. Demetriou.

[3] Records, p. 1.

[4] Id. at 30.

[5] CA rollo, pp. 58-59.

[6] Rollo, p. 39.

[7] Sometimes spelled in the records as "Bogak."

[8] *People v. Mationg*, G.R. No. 137989, 27 March 2001, 355 SCRA 458.

[9] *Hugo v. Court of Appeals*, 437 Phil. 260 (2002).

[10] Id.

[11] *People v. Quillosa*, 382 Phil. 638 (2000), citing *People v. Manlapaz*, G.R. No. 129033, 25 June 1999, 309 SCRA 124; *People v. Tanilon*, 354 Phil. 1015 (1998).

[12] *People v. Mationg*, supra note 8.

[13] Rollo, p. 37.

[14] *Hugo v. Court of Appeals*, supra note 9.

[15] Rollo, p. 38, citing *People v. Librero*, 395 Phil. 425 (2000).

[16] *People v. Bangcado*, 399 Phil. 768 (2000).

[17] TSN, 26 October 1989, p. 7.

[18] TSN, 27 June 1989, p. 46.

[19] TSN, 13 March 1990, pp. 6-7.

[20] *Li v. People*, G.R. No. 127962, 14 April 2004, 427 SCRA 217. See *People v. Mapalo*, G.R. No. 172608, 6 February 2007.

[21] *People v. Cantonjos*, 421 Phil. 765 (2001). See *People v. Suarez*, G.R. Nos. 153573-76, 15 April 2005, 456 SCRA 333.

[22] *People v. Alberca*, G.R. No. 117106, 26 June 1996, 257 SCRA 613.

[23] *Rollo*, p. 38.

[24] *People v. Quillosa*, *supra* note 11, citing *People v. Francisco*, 373 Phil. 733 (1999).

[25] *People v. Garcia*, G.R. No. 129216, 20 April 2001, 357 SCRA 151.

[26] Exhibits "H" to "H-2." Records, pp. 227-229.

[27] *People v. Geneblazo*, 414 Phil. 103 (2001).

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