

ERPASCUAL DIEGA Y PAJARES, PETITIONER, VS. COURT OF APPEALS, RESPONDENT.

G.R. No. 173510. March 15, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The accused may be convicted on the basis of circumstantial evidence, provided the proven circumstances constitute an unbroken chain leading to one fair reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.[1]

The instant appeal assails the Decision[2] of the Court of Appeals (CA) dated February 9, 2006 in CA-G.R. CR-H.C. No. 01384 which affirmed with modification the Decision[3] of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 21 dated March 3, 1991 in Criminal Case No. 949-M-95, finding appellant guilty beyond reasonable doubt of the complex crime of rape with homicide.

Factual Antecedents

The Amended Information[4] against the appellant contains the following accusatory allegations:

That on or about the 17[th] day of March, 1995, in the Municipality of San Jose del Monte, Province of Bulacan, Philippines and within the jurisdiction of this Honorable Court the above-named accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of "AAA"[5] against the latter's will and without her consent, and by reason or on occasion of the said rape, said accused did then and there, willfully, unlawfully and feloniously, with intent to kill the said "AAA", attack, strangle and assault her with wood vine and blunt instrument, thereby inflicting upon her mortal injuries/wounds which directly caused her death.

Contrary to law.

Upon arraignment, the appellant entered a plea of not guilty. Thereafter, trial ensued.

The Version of the Prosecution

The Brief for the Appellee[6] contains a summary of the following evidence for the prosecution:

The victim, "AAA", was a 13-year old girl residing with her family in Rodriguez, Rizal. She was a 1[st] year high school student and would usually leave her home at 4:00 o'clock in the morning and walk for about a kilometer to a terminal where she could take a ride to school. The path towards the terminal passes a farm within a 50-hectare plantation located at Upper Ciudad Real, Araneta, San Jose Del Monte, Bulacan, where the appellant was employed as a stay-in security guard. "AAA" uses the same route on her way home.

On March 17, 1995, "AAA" failed to return home at the usual time. Her parents frantically searched for her, but it

was only on the next day, March 18, 1995, between 9:00 and 10:00 o'clock in the morning, when the dead body of "AAA" was discovered inside the plantation.

"AAA's" corpse was covered with leaves. A wood vine was tied around her neck and her head bore several wounds. Her school uniform was crumpled and her panty was missing. The medico-legal examination conducted around 24 hours from "AAA's" death indicated that she died of "asphyxia by strangulation, hemorrhages as a result of traumatic injuries, head and body". There were deep, fresh lacerations at 3:00 and 9:00 o'clock positions and a shallow fresh laceration at 7:00 o'clock position in her hymen which "are compatible with recent loss of virginity." Moreover, the doctor who conducted the examination on the cadaver of "AAA" saw several injuries in the middle left forearm, suggesting that "AAA" used her hands to protect herself.

The police investigation revealed that on March 17, 1995, between 1:00 and 2:00 o'clock in the afternoon, Juanito Manalo III (Juanito) was tending to the grazing carabaos inside the plantation when he saw the appellant stooping down. The appellant stood up clad only in his shorts and waved his pistol to call Juanito. As Juanito approached, he saw that the appellant had a menacing look and noticed "AAA" lying unconscious on the ground. The appellant then pointed his pistol to Juanito and ordered him to touch the body of "AAA" and to tie a vine around her neck. Out of fear, Juanito obeyed and discovered that "AAA" no longer had undergarments. He was permitted to leave, but only after the appellant threatened to kill him and his family if he would reveal to anyone what he witnessed. As Juanito fled from the scene, he was seen by Martin Gailan (Martin) and Arnel Alminana (Arnel).

Martin and Arnel were also privy to the death threats made by the appellant against Juanito on several occasions causing Juanito to leave his abode temporarily. They also claimed that although the appellant reported for work on March 17, 1995, he was not in his post and could not be located. At the time the appellant was questioned by the police, it was observed that he had fresh scratches on his arms, neck, and back.

The police investigation also revealed that prior to the commission of the crime, "AAA" and her aunt used to pass by the plantation and every time the appellant would see them, especially when he was drunk, he would whistle at "AAA" and even touch her upper arm. At one time, the appellant uttered to "AAA's" aunt, "Misis, ingatan mo ang iyong pamangkin." According to the aunt, the appellant always looked lecherously at "AAA".

Initially the appellant voluntarily submitted himself to detention. However, he was released to the custody of his former counsel after his waiver was withdrawn. Pending trial, he absconded and remained at-large until his arrest in his hometown in Baybay Gamay in Northern Samar.

The Version of the Defense

The appellant denied any wrongdoing. According to him, he did not know "AAA". He claimed he was at Balete, in the center of the farm from midnight to 10:00 o'clock in the morning of March 17, 1995. Thereafter, until 3:00 o'clock in the afternoon, he was in Makabod, Montalban, Rizal, which was on the other side of the river where the crime was committed.

The appellant alleged that he was being falsely accused of the rape-slay because he informed the farm manager that "AAA's" family was squatting within the farm and that he prevented their carabaos from grazing inside the compound. He belied the claim of Juanito but admitted not knowing of any motive why Juanito would falsely testify against him.

On March 19, 1995, the police invited him and other employees of the farm for questioning. After all of them were questioned, he was the only one who was not allowed to leave. On March 22, 1995, the police prepared his statement despite the fact that he was not assisted by counsel. Thereafter, the statement was subscribed before one of the officers.

The appellant claimed that he was released after five days of incarceration without a case having been filed against him. However, on March 26, 1995, or two days after being released, he was again brought to the police station for questioning. During his imprisonment, the parents of "AAA" allegedly admitted in a confrontation held in the presence of the jail warden and the investigating police officer that they filed the complaint due to the land dispute with the owners of the farm and not because of the death of their daughter, "AAA".

On April 4, 1995, the appellant further claimed that he was released from detention, again without any complaint being filed against him. However, on April 10, 1995 a warrant of arrest was issued against him based on the sworn statement of Juanito. The police attempted to serve the warrant at his workplace but failed since he was no longer an employee of the farm. It was only on October 30, 1997 that he was arrested in his home province of Northern Samar.

Ruling of the Regional Trial Court

On March 3, 1999, the RTC rendered judgment convicting the appellant of rape with homicide. The dispositive portion of the Decision reads:

WHEREFORE, all premises considered, this Court resolves that the prosecution has successfully undertaken its burden to prove the guilt of the accused beyond reasonable doubt. Accordingly, accused Erpascual Diega y Pajares is hereby found GUILTY of the crime of Rape with Homicide as charged. In view thereof and pursuant to Article 335 of the Revised Penal Code as amended, considering that by reason or on occasion of the Rape, Homicide [was] committed, the accused is sentenced to suffer the penalty of DEATH by lethal injection.

He is further directed to indemnify [the] heirs of "AAA" the sum of P50,000.00 for the latter's death, the amount of P42,000.00 for actual damages and the additional sum of P100,000.00 for moral damages.

With costs against the accused.[7]

The case was forwarded to this Court for automatic review and docketed as G.R. No. 138232. However, in consonance with our ruling in *People v. Mateo*,^[8] the case was transferred to the CA for proper disposition.

Ruling of the Court of Appeals

The CA affirmed with modification the trial court's Decision and disposed as follows:

WHEREFORE, in view of the foregoing, the Decision dated March 13, 1999 of the Regional Trial Court of Malolos, Bulacan, Branch 21 is AFFIRMED with MODIFICATION that the civil indemnity ex delicto be increased from P50,000.00 to P100,000.00 conformably with the ruling in *People vs. Paraiso*, 349 SCRA 335.

SO ORDERED.[9]

The case once again reached this Court and was docketed as G.R. No. 174099. Meanwhile, the appellant's counsel filed a motion for extension to file petition for review on certiorari which was docketed as G.R. No. 173510. The motion was granted^[10] and a petition for review was filed.^[11] G.R. Nos. 174099 and 173510 were subsequently consolidated since both cases involve the same parties and issues and assail the same Decision of the CA.^[12]

The Issue

Appellant attributes the following error to the appellate court:

THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN UPHOLDING THE FINDINGS OF THE REGIONAL TRIAL COURT THAT CIRCUMSTANTIAL EVIDENCE ARE STRONG ENOUGH TO CONVICT THE ACCUSED AND SENTENCED HIM TO DEATH.^[13]

Our Ruling

The appeal lacks merit.

In a special complex crime of rape with homicide, the following elements must concur: (1) the appellant had carnal knowledge of a woman; (2) carnal knowledge of a woman was achieved by means of force, threat or intimidation; and (3) by reason or on occasion of such carnal knowledge by means of force, threat or intimidation, the appellant killed a woman.[14] Both rape and homicide must be established beyond reasonable doubt.[15]

Considering that there were no witnesses to the commission of the crime charged herein, the weight of the prosecution's evidence must then be appreciated in light of the well-settled rule that an accused can be convicted even in the absence of an eyewitness, as long as sufficient circumstantial evidence is presented by the prosecution to prove beyond reasonable doubt that the accused committed the crime.[16]

Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience.[17] It is sufficient to sustain conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences were derived have been established; and (c) the combination of all circumstances is such as to warrant a finding of guilt beyond reasonable doubt.[18]

For circumstantial evidence to be sufficient to support a conviction, all the circumstances must be consistent with each other, consistent with the hypothesis that accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.[19] In other words, a judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator.[20]

Here, the circumstantial evidence presented by the prosecution leads to the inescapable conclusion that the appellant committed the complex crime of rape with homicide. When considered together, the circumstances point to the appellant as the culprit to the exclusion of all others.

First. The appellant lived and worked as a security guard in the farm where "AAA" was raped and killed. Due to the nature of his job, he had all the opportunity to observe the people who travelled to and from the farm.

Second. "AAA" routinely passed by the farm in going to school. She used the same path on her way home.

Third. The appellant displayed lewd interest whenever he saw "AAA" by touching her arms and making lewd comments.

Fourth. Although the appellant reported for duty on the day the crime was committed, he was not on his post and could not be located.

Fifth. On March 17, 1995, at around 1:00 to 2:00 o'clock in the afternoon, Juanito identified the appellant, clad only in short pants, as the only person beside the unconscious "AAA", whose blouse was unbuttoned and crumpled, and whose skirt was raised above her knees, near the banana grove inside the farm.

Sixth. The appellant threatened to kill Juanito, and with the use of a pistol, ordered him to touch the body of "AAA" and to tie a vine around her neck.

Seventh. When Juanito obeyed, he noticed that "AAA" no longer had undergarments.

Eighth. The threat on the life of Juanito by the appellant was persistent. Prosecution witnesses Martin and Arnel testified that the appellant continued to threaten Juanito on several occasions.

Ninth. During the police investigation, the appellant had several scratches on his arms, neck, and body, which the

investigators determined to have been caused by fingernails.

Tenth. The autopsy revealed that "AAA" was raped, beaten and strangled to death on or about the time and date Juanito saw the appellant beside the unconscious body of "AAA".

Eleventh. The appellant was observed to be restless after the crime.

Twelfth. As soon as the waiver was withdrawn by the former counsel of the appellant, the latter abandoned his job and never returned.

Thirteenth. The appellant also fled his residence before the warrant of arrest could be served by the police. The case was even delayed for two years until his capture in a remote barangay in Northern Samar.

The appellant however assails the sufficiency of the circumstantial evidence and alleges that Juanito was the perpetrator of the crime. According to appellant, on the day the crime was committed, Juanito left the office at 1:00 o'clock in the afternoon, which is the time "AAA" usually passes through the farm every school day. At 1:30 o'clock in the afternoon, he was seen by his co-workers scampering towards the forest. Thereafter, the police invited him for questioning and thus had the opportunity to tell the police what he witnessed. However, he remained silent. Juanito even went into hiding momentarily after the discovery of the crime.

The appellant also claims that he could not have threatened Juanito since he was already detained pending police investigation of the incident. The threat against Juanito was merely imagined. Further, the appellant argues that the testimonies of Martin and Arnel that they saw Juanito run from the scene of the crime are unworthy of credence because they did not inform the police of this incident at the very instance they were invited for questioning.

The appellant likewise posits that the police imputed the rape and murder of "AAA" to him since there was no other lead in solving the case. There were also no pieces of physical evidence recovered from the crime scene. The police instead relied on the alleged scratches found on his back and arms to link him to the crime. However, the appellant argues that this is unbelievable since he was not subjected to a medical examination to determine whether the alleged scratches were indeed inflicted by fingernails. At the very least, the police should have taken pictures of said scratches, but they did not do so.

The appellant assails the trial court's finding that he had a motive for committing the crime in view of the testimony of "AAA's" aunt that he touched "AAA" maliciously and uttered lewd remarks. He claims that if the testimony of "AAA's" aunt were true, then a complaint should have been filed against him or, at least, the aunt should have told the parents of "AAA" of this incident. However, she did not do so. Appellant likewise alleges that the family of the victim had ill motives in filing the case against him because they had a previous land dispute.

The appellant further insists that his voluntary submission to a polygraph examination despite the absence of a lawyer is indicative of his innocence. Moreover, he claims to have been in the office at around 10:00 o'clock in the morning on the day the crime was committed. He was also seen on the same day by the prosecution witness on board a truck at around 3:00 o'clock in the afternoon and again sometime around 5 o'clock in the afternoon.

Lastly, the appellant contends that he was denied due process since it was only the sworn statements of the prosecution witnesses that the police investigators prepared that served as basis for the issuance of a warrant for his arrest. The appellant claims that Juanito and the other witnesses should have been presented to the Municipal Trial Court judge, who, in turn, should have examined them personally by way of probing questions. He further avers that the illegality of his arrest is also apparent from his detention for five days without being charged with

any offense.

The appellant's arguments fail to impress.

Juanito's presence at the crime scene at the time "AAA" was raped and killed does not necessarily mean that he was the author of the crime. Juanito has sufficiently explained in a clear and categorical manner his presence thereat. He testified on how he unexpectedly found the appellant clad only in his shorts stooping down on the grassy portion of the banana grove inside the farm. He recounted how the appellant told him to approach the unconscious body of "AAA" and forced him under threat of death, to tie her with a wood vine. He also narrated his flight after the appellant decided to let him go. Juanito's testimony deserves credence since it was unshaken by cross-examination and unflawed by contradictions.

The credibility of Juanito is not adversely affected by his initial silence since he was under constant threat by the appellant. After learning of the fate suffered by "AAA" at the hands of the appellant, it was only natural for Juanito to take the threat against him and his family seriously. The threat was real and present even after Juanito left. In fact, appellant told Martin and Arnel that he would kill Juanito.

Moreover, it is not true that Juanito kept the matter to himself. He told his mother of the crime he witnessed and even wrote a letter to her before leaving for the province to avoid the appellant.[21]

Similarly, the belated disclosure of Martin and Arnel that they saw Juanito run from the banana grove at the time "AAA" was raped and slain does not diminish their credibility. People react differently to what they observed depending on their situation and state of mind. Martin and Arnel did not bother to report to the police investigators that they saw Juanito running from the plantation because, at that time, they did not know that it was somehow related to the fateful incident. They also knew that Juanito was a good-natured boy incapable of committing misdemeanors. It was, therefore, difficult for them to link him to the rape and murder of "AAA".

Further, these prosecution witnesses would not fabricate and concoct such a tale against a man with whom they had no previous misunderstanding or quarrel, and are in fact telling the truth, motivated by a sincere desire to obtain justice for the criminal acts committed by the appellant on the young and defenseless "AAA".

We find absurd the contention of the appellant that he was implicated by the police since the latter had no other leads in their investigation. Among the 12 employees of the farm who were questioned by the police investigators, the appellant became the prime suspect due to his inability to explain the fingernail scratches discovered on different parts of his body. Although he vehemently denied having scratches, the prosecution sufficiently established the contrary. At the police station, he explained that the scratches on his arm were caused by a barbwire while the scratches in other parts of his body were caused by mosquito bites. However, the ocular inspection conducted by the police investigators revealed that the barbwire was only knee-high and could not have caused the scratches on appellant's arms. Moreover, it was clear from the appearance of the fresh scratches on the appellant's body that the same were not caused by mosquito bites. They were more compatible with fingernail marks. The lack of a medical examination does not diminish their evidentiary weight. After all, it was the appellant's counsel who refused to have him examined.[22]

Motive has also been proven by the prosecution. "AAA's" aunt testified that prior to the commission of the crime, the appellant maliciously stared at and uttered remarks with sexual overtones to "AAA" on several occasions. Her failure to relay these incidents to "AAA's" parents did not render her testimony unworthy of credence. While it may have been best for the aunt to report the malicious acts of the appellant to the parents of "AAA", there was no legal imperative to do so.

Conversely, the evil motive imputed to the aunt of "AAA" due to a land dispute between the appellant's employer

and the parents of "AAA" deserves scant consideration. The charge of revenge and resentment is nothing more than unmitigated speculation as not a shred of evidence was offered in support thereof. While there was evidence of an existing land dispute between the family of the victim and the employer of the appellant, there was no proof to substantiate the allegation that the said hostility motivated the aunt of "AAA" to testify falsely against him. Besides, the land dispute was between the plantation owner and the family of "AAA" and not between the latter and the appellant. In the absence of evidence that the prosecution witnesses were actuated by improper motive, the presumption is that they were not so actuated and that their testimonies are entitled to credence.[23]

Appellant's voluntary submission to a polygraph test even without the assistance of counsel also deserves scant consideration. When he was taken to the polygraph section of the police department, appellant was declared unfit for a polygraph test. Thus, he was told to return on another day, but did not comply. Consequently, no polygraph examination was ever conducted on the appellant.

Against the prosecution's evidence, the appellant presents the defense of denial and alibi. Denial is intrinsically a weak defense and must be supported by strong evidence of non-culpability in order to be credible. Courts likewise view the defense of alibi with suspicion and caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.[24] For alibi to prevail, it must also be established by positive, clear and satisfactory proof that it was physically impossible for the appellant to have been at the scene of the crime at the time of its commission, and not merely that the appellant was somewhere else.[25]

Here, the appellant stated that he was about 400 meters away from the crime scene at the approximate time "AAA" was raped and murdered. An hour later, the appellant was with a certain Capt. Antonio Dionisio at a place that was two kilometers away from the crime scene. Thus, it was not at all physically impossible for the appellant to be at the place of the incident at the time it occurred. The fact that Capt. Antonio Dionisio did not corroborate the appellant's alibi puts more doubt in the latter's defense.

Thus, the appellant's twin defenses of denial and alibi pale in the light of the array of circumstantial evidence presented by the prosecution.[26] The positive assertions of the prosecution witnesses deserve more credence and evidentiary weight than the negative averments of the appellant.

Lastly, the appellant's contention that his arrest was attended with irregularity is unworthy of credence. Records show that the "prepared statements" were given by the witnesses after they answered the questions of the police authorities.[27] His arrest, therefore, was not based merely on statements prepared by the police authorities for the prosecution witnesses.

Further, we agree with the CA that, even if his arrest was unlawful because of the absence of a valid warrant of arrest, he was deemed to have waived his right to assail the same as he never bothered to question the legality thereof and, in fact, even voluntarily entered his plea.[28] The appellant was deemed to have waived his right to assail the legality of his arrest when he voluntarily submitted himself to the court by entering a plea instead of filing a motion to quash the information for lack of jurisdiction over his person.[29]

The Proper Imposable Penalty

Rape with Homicide under Article 335 of the Revised Penal Code in relation to RA 7659, provides that when by reason or on the occasion of rape, homicide is committed, the penalty shall be death. However, in view of the subsequent passage of RA 9346, entitled "An Act Prohibiting the Imposition of the Death Penalty in the Philippines," we are mandated to impose on the appellant the penalty of reclusion perpetua without eligibility for parole.[30]

The Damages

As to damages, civil indemnity ex delicto in the amount of P100,000.00 was correctly awarded by the CA. However, the award of actual damages amounting to P42,000.00 is not proper since it was not sufficiently proven. It is settled that actual damages must be substantiated by documentary evidence, such as receipts to prove the expenses incurred as a result of the death of the victim.[31] Here, the amount is not supported by any document on record. In lieu of actual damages, we award temperate damages in the amount of P25,000.00.[32] Moral damages in the amount of P100,000.00 awarded by the trial court and affirmed by the CA must be reduced to P75,000.00 in line with current jurisprudence.[33] An award of exemplary damages in the amount of P50,000.00 is, however, justified.[34] Article 2229 of the Civil Code grants an award of exemplary damages in order to deter the commission of similar acts and to allow the courts to forestall behavior that can have grave and deleterious consequences on society.[35]

WHEREFORE, the Decision of the Court of Appeals dated February 9, 2006 in CA-G.R. CR-H.C. No. 01384 is AFFIRMED with MODIFICATIONS. Appellant Erpascual Diega y Pajares is found GUILTY beyond reasonable doubt of the complex crime of rape with homicide and sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. Appellant is ordered to pay the heirs of "AAA" the amounts of P100,000.00 as civil indemnity, P75,000.00 as moral damages, P50,000.00 as exemplary damages, and P25,000.00 as temperate damages.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, Bersamin, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Brion, J., no part.

[1] *People v. Asis*, 439 Phil. 707, 717-718 (2002).

[2] CA rollo, pp. 203-236; penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Arturo D. Brion (now a Member of this Court) and Mariflor Punzalan Castillo.

[3] Records, pp. 204-211; penned by Judge Cesar M. Solis.

[4] *Id.* at 53. Emphasis in the original text.

[5] Pursuant to Section 44 of Republic Act (RA) No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, and Section 63, Rule XI of the Rules and Regulations Implementing R.A. No. 9262, the real name of the child-victim is withheld to protect his/her privacy. Fictitious initials are used instead to represent him/her. Likewise, the personal circumstances or any other information tending to establish or compromise his/her identity, as well as those of his/her immediate family or household members shall not be disclosed.

[6] CA rollo, pp. 138-172.

[7] Records, p. 211.

[8] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[9] CA rollo, p. 236.

[10] Rollo (G.R. No. 173510), p. 7

[11] *Id.* at 9-23.

- [12] Per Resolution dated October 16, 2006.
- [13] Rollo (G.R. No. 173510), p. 15.
- [14] *People v. Yatar*, G.R. No. 150224, May 19, 2004, 428 SCRA 504, 521.
- [15] *People v. Nanas*, 415 Phil. 683, 696 (2001).
- [16] *People v. Yatar*, *supra* note 14 at 513.
- [17] *People v. Darilay*, 465 Phil. 747, 767 (2004).
- [18] Rules of Court, Rule 133, Section 4.
- [19] *People v. Darilay*, *supra*.
- [20] *People v. Pascual*, G.R. No. 172326, January 19, 2009, 576 SCRA 242 252.
- [21] TSN, April 29, 1998, p. 7.
- [22] TSN, March 6, 1998, p. 7.
- [23] *People v. Diaz*, 443 Phil. 67, 86 (2003).
- [24] *People v. Pascual*, *supra* note 20 at 259.
- [25] *People v. De la Cruz*, G.R. No. 173308, June 25, 2008, 555 SCRA 329, 340.
- [26] *People v. Pascual*, *supra* note 20 at 259.
- [27] TSN, February 25, 1998, p. 8.
- [28] *People v. De la Cruz*, *supra* at 338.
- [29] *Id.*
- [30] *People v. Pascual*, *supra* note 20 at 260.
- [31] *People v. Sison*, G.R. No. 172752, June 28, 2008, 555 SCRA 156, 173.
- [32] *People v. Bascugin*, G.R. No. 184704, June 30, 2009.
- [33] *Id.*
- [34] *Id.*
- [35] *Id.*

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