

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOURDES LO, ACCUSED.

G.R. No. 175229. January 29, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

For our consideration is an appeal from the Decision[1] dated January 31, 2006 of the Court of Appeals (CA) in CA-G.R. CR No. 00611. The challenged decision amended the May 21, 2001 Decision[2] of the Regional Trial Court, Manila, Branch 35 (RTC), in Criminal Case No. 00-179745 for illegal recruitment in large scale under Section 6 of Republic Act No. 8042, and in Criminal Case Nos. 00-180519, 00-180520 and 00-180521, all for the crime of estafa under paragraph 2(a), Article 315 of the Revised Penal Code.

On April 27, 1999, three separate complaint-affidavits were filed with the Philippine Overseas Employment Administration (POEA) charging Lourdes Lo (Lo) and accused-appellants Grace Calimon (Calimon) and Aida Comila (Comila) with illegal recruitment and estafa. The complaints were initiated by Fe Magnaye,[3] Lucila Agramon,[4] and Daisy Devanadera.[5] On May 6, 1999, the POEA, referred the matter to the Department of Justice (DOJ) and submitted evidence before it.[6]

After several months, accused-appellants were apprehended for their involvement in other cases of illegal recruitment and estafa. Private complainants Magnaye, Agramon and Devanadera were summoned to a preliminary investigation at the DOJ.

On October 8, 1999, the DOJ issued a Resolution[7] recommending the filing of the corresponding Information against Lo and the accused-appellants. Accordingly, on December 28, 1999, an Information[8] was filed with the RTC, charging Lo and accused-appellants with illegal recruitment in large scale defined and penalized under Sections 6 and 7, respectively, of Republic Act No. 8042,[9] docketed as Criminal Case No. 00-179745. The relevant portion of the Information follows:

Criminal Case No. 00179745:

That on or about September 1998, and thereafter in Manila, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously recruit the herein complainants, FE MAGNAYE, LUCILA AGRAMON and DAISY DEVANADERA to Italy as factory workers for the consideration thereof, they were required to pay placement fees, the complainants delivered and paid the total amount (P110,000.00) Philippine Currency for the consideration thereof, without accused having secured the necessary license and authority from the Department of Labor and Employment to recruit and deploy workers to Italy.

CONTRARY TO LAW.

Three separate Informations[10] for estafa arising from the same acts penalized under paragraph 2(a), Article 315 of the Revised Penal Code were also filed against the three, docketed as Criminal Case Nos. 00-180519,

00-180520, and 00-180521, thus:

Criminal Case No. 00-180519:

That on or about October 1998, and thereafter in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with each other, did then and there willfully, unlawfully and feloniously recruit and promise employment to FE MAGNAYE in Italy as factory worker for a total consideration of fifty five thousand pesos (P55,000.00) as placement and processing fees, knowing that they have no capacity whatsoever and with no intention to fulfill their promise, but merely as a pretext, scheme or excuse to get or exact money from the said complainant as they in fact collected and received the amount of P55,000.00 from said FE MAGNAYE to her damage, loss and prejudice for the aforesaid amount.

CONTRARY TO LAW.

Criminal Case No. 00-180520:

That on or about September 1998, and thereafter in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with each other, did then and there willfully, unlawfully and feloniously recruit and promise employment to LUCILA C. AGRAMON in Italy as factory worker for a total consideration of twenty seven thousand and five hundred pesos (P27,500.00) as placement and processing fees, knowing that they have no capacity whatsoever and with no intention to fulfill their promise, but merely as a pretext, scheme or excuse to get or exact money from the said complainant as they in fact collected and received the amount of P27,500.00 from said LUCILA C. AGRAMON to her damage, loss and prejudice for the aforesaid amount.

CONTRARY TO LAW.

Criminal Case No. 00-180521:

That on or about September 1998, and thereafter in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with each other, did then and there willfully, unlawfully and feloniously recruit and promise employment to DAISY DEVANADERA alias 'Renata P. Luciano' in Italy as factory worker for a total consideration of twenty seven thousand five hundred pesos (P27,500.00) as placement and processing fees, knowing that they have no capacity whatsoever and with no intention to fulfill their promise, but merely as a pretext, scheme or excuse to get or exact money from the said complainant as they in fact collected and received the amount of P27,500.00 from said DAISY DEVANADERA alias 'Renata P Luciano' to her damage, loss and prejudice for the aforesaid amount.

CONTRARY TO LAW.

Upon arraignment, herein accused-appellants pleaded "not guilty" to the crimes charged. Accused Lo, however, has not yet been apprehended and has remained at large. Trial on the merits ensued thereafter.

The prosecution presented as witnesses the three private complainants, as well as Corazon Cristobal,[11] an employee of the POEA, and PO2 Edward Catalan.[12] A summary of facts, culled from their collective testimonies, follows:

Sometime in 1998, Lo persuaded private complainants to apply for a job in Italy through the services of accused-appellants.[13] Lo introduced them to accused-appellant Calimon who represented herself as a sub-agent of Axil International Services and Consultancy (AISC), a legitimate recruitment agency.[14] Calimon showed a job order of factory workers purportedly issued by an Italian firm.[15] Devanadera called up AISC to verify Calimon's representation. The person who answered the phone readily confirmed accused-appellant Calimon's claim.[16]

Thus, when accused Calimon asked P10,000.00 from each of the private complainants to cover expenses for medical examination and processing fees for travel documents, both Devanadera and Agramon readily parted with their money, as evidenced by receipts[17] duly signed by Calimon.[18] They likewise gave their respective passports, birth certificates, NBI clearances, resumes and other documents.[19] Thereafter, Calimon brought them to St. Martin's Clinic for medical examination.[20]

On October 24, 1998, upon the urging of Lo, private complainant Magnaye paid P20,000.00 to Calimon for the latter's recruitment services.[21]

On January 15, 1999, private complainants were subjected to another medical examination at St. Camillus Clinic, Pasig City, because according to Calimon the medical examinations at St. Martin's Clinic were not honored by the Italian Embassy. On the same date, Magnaye gave an additional amount of P15,000.00[22] to Calimon. While Devanadera and Agramon gave her an additional amount of P7,500.00[23] each.

At one time, in the course of following up the status of her overseas employment application, Calimon introduced complainant Devanadera to accused-appellant Comila who showed her file and informed her of the need to secure a visa with the Italian Embassy. Calimon then asked for more money to secure the visa, but Devanadera refused to pay.[24]

Private complainant Agramon's follow ups with Calimon were just met by repeated assurance that she will be deployed immediately once her papers are completely processed.[25] The other complainants received similar treatment.

Finally, in January 1999, Calimon gave private complainants their supposed individual employment contracts as factory workers in Italy. However, the contracts did not indicate an employer.[26] The three proceeded to the POEA to verify the status of their contract where they discovered that while AISC was a licensed recruitment agency, Lo and accused-appellants Calimon and Comila were not among its registered employees.[27]

The defense presented accused-appellants as witnesses.

Accused-appellant Calimon denied the accusations against her. She claimed that she was also an applicant for overseas job placement and that she never promised any work abroad to private complainants.[28] She averred that it was Lo who recruited her and private complainants.[29] She likewise denied having received any money from private complainants. She maintained that it was accused-appellant Comila who received the money from her amounting to P16,000.00 as payment for her placement fee.[30]

Accused-appellant Comila, on the other hand, denied having known or seen Lo.[31] However, she maintained that it was accused Lo who recruited and received money from private complainants.[32] She averred she could not have recruited private complainants because she gave birth in Baguio in October 1998.[33]

On May 21, 2001, the RTC rendered a Decision convicting the appellants of the crimes charged, thus:

"WHEREFORE, judgment is rendered:

- In Criminal Case No. 00-179745, (1) pronouncing accused GRACE CALIMON guilty beyond reasonable doubt of illegal recruitment in large scale and sentencing said accused to life imprisonment and to pay a fine of P800,000.00; and (2) pronouncing accused AIDA COMILA guilty beyond reasonable doubt of simple illegal recruitment and sentencing said accused to imprisonment from eight (8) to ten (10) years, and to pay a fine of P300,000.00. With costs against the two accused in proportionate shares;
- In Criminal Cases Nos. 00-180519 and 00-180521, pronouncing accused GRACE CALIMON guilty beyond reasonable doubt of two counts of estafa defined under paragraph 2 (a) of Article 315 of the Revised Penal

Code, and (1) sentencing said accused in Criminal Case No. 00-180519 to the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to nine (9) years of prision mayor as maximum; and (2) sentencing said accused in Criminal Case No. 00-180521, to the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to six (6) years, eight (8) months and twenty (20) days of prision mayor, as maximum; and to pay the costs for each case.

- In Criminal Case No. 00-180520, pronouncing accused GRACE CALIMON and AIDA COMILA guilty beyond reasonable doubt of estafa defined under paragraph 2 (a) Article 315 of the Revised Penal Code, and sentencing each of the said accused to the indeterminate penalty of six (6) months of arresto mayor, as minimum, to two (2) years, eleven (11) months and ten (10) days of prision correccional, as maximum, and to pay the costs in equal shares.

In the service of her (accused Aida Comila) sentence in Criminal Case No. 00-179745, and the respective sentences of both accused in Criminal Cases Nos. 00-180519, 00-180520 and 00-180521, inclusive, the period during which they have been under preventive imprisonment should be credited in their favor provided that they agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, they should be credited with four-fifths only of the time they have been under preventive imprisonment.

In Criminal Cases Nos. 00-179745, 00-180519 and 00-180521, accused Grace Calimon is ordered to pay to complainants Fe Magnaye and Daisy Devanadera the sums of P35,000.00 and P17,500.00, respectively, as reparations for the damages she caused them.

In Criminal Cases Nos. 00-179745 and 00-180520, accused Grace Calimon and accused Aida Comila are ordered, jointly and severally, to pay offended party Lucila C. Agramon the sum of P10,000.00, as reparation for the damages she caused her.

SO ORDERED."

On appeal, the CA affirmed the Decision of the RTC but with modifications. The CA's reasoning for the modification and the dispositive portion of the CA Decision follow:

Summing up, in Criminal Case No. 00-179745, the RTC correctly convicted Calimon of Illegal Recruitment in Large Scale, which is punishable by the maximum penalty of life imprisonment and a fine of One Million Pesos (P1,000,000.00) when the offender is a non-licensee or non-holder of authority to recruit and deploy workers abroad, as in the instant case (Sec. 7, Republic Act No. 8042). Hence, the penalty imposed by the RTC must be modified to life imprisonment and a fine of One Million Pesos (P1,000,000.00).

Comila was likewise correctly convicted by the RTC of the crime of simple Illegal Recruitment. The sentence pronounced by the RTC, was proper.

In Criminal Case No. 00-180519, Grace Calimon was properly found guilty of Estafa through false pretenses. Since the amount defrauded from Fe Magnaye was P35,000.00, the penalty imposed by the RTC was proper.

In Criminal Case No. 00-180520, since the amount defrauded from Lucila Agramon is P17,500.00, the correct penalty that should be imposed upon Calimon and Comila, in the absence of any modifying circumstances, should be the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to six (6) years, eight (8) months and twenty (20) days of prision mayor, as maximum.

In Criminal Case No. 00-180521, the amount involved is P17,500.00. There being no modifying circumstances, the penalty imposed by the trial court on Calimon is correct. However, it has been duly proven that Comila was a conspirator to the crime subject of this case. In view of her acquittal by the RTC, this matter can no longer be questioned in this appeal on the ground of double jeopardy. However, Comila should be made solidarily liable with Calimon to indemnify P17,500.00 to Daisy Devanadera, since Comila's acquittal on the

ground of reasonable doubt did not declare whether the facts from which the civil liability might arise did not exist (Last paragraph, Section 2, Rule 120, Rules of Court).

WHEREFORE, premises considered, the May 21, 2001 Decision of the Regional Trial Court (RTC) of Manila, Branch 35, in Criminal Cases Nos. 00-179745; 00-180519; 00-180520; and 00-180521, is hereby AMENDED to read as follows:

WHEREFORE, judgment is rendered:

A. In Criminal Case No. 00-179745, (1) pronouncing accused GRACE CALIMON guilty beyond reasonable doubt of illegal recruitment in large scale and sentencing said accused to life imprisonment and to pay a fine of P1,000,000.00; and (2) pronouncing accused AIDA COMILA guilty beyond reasonable doubt of simple illegal recruitment and sentencing said accused to imprisonment from eight (8) to ten (10) years, and to pay a fine of P300,000.00. With costs against the two accused in proportionate shares;

B. In Criminal Cases Nos. 00-180519 and 00-180521, pronouncing accused GRACE CALIMON guilty beyond reasonable doubt of two counts of estafa defined under paragraph 2 (a) of Article 315 of the Revised Penal Code, and (1) sentencing said accused in Criminal Case No. 00-180519 to the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to nine (9) years of prision mayor as maximum; and (2) sentencing said accused in Criminal Case No. 00-180521, to the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to six (6) years, eight (8) months and twenty (20) days of prision mayor, as maximum; and to pay the costs for each case.

C. In Criminal Case No. 00-180520, pronouncing accused GRACE CALIMON and AIDA COMILA guilty beyond reasonable doubt of estafa defined under paragraph 2 (a) Article 315 of the Revised Penal Code, and sentencing each of the said accused to the indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to six (6) years, eight (8) months and Twenty (20) days of prision mayor, as maximum, and to pay the costs in equal shares.

In the service of her (accused Aida Comila) sentence in Criminal Case No. 00-179745, and the respective sentences of both accused in Criminal Cases Nos. 00-180519, 00-180520 and 00-180521, inclusive, the period during which they have been under preventive imprisonment should be credited in their favor provided that they agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise, they should be credited with four-fifths only of the time they have been under preventive imprisonment.

In Criminal Cases Nos. 00-179745 and 00-180519, accused Grace Calimon is ordered to pay to complainant Fe Magnaye the sum of P35,000.00, as reparations for the damages she caused her.

In Criminal Cases Nos. 00-179745 and 00-180521, accused Grace Calimon is ordered to pay jointly and severally with Aida Comila to complainant Daisy Devanadera the sum of P17,500.00, as reparation for the damages she caused her.

In Criminal Cases Nos. 00-179745 and 00-180520, accused Grace Calimon and accused Aida Comila are ordered, jointly and severally, to pay offended party Lucila C. Agramon the sum of P10,000.00, as reparation for the damages they caused her.

SO ORDERED."

Hence, the present appeal based on the following lone assignment of error:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT GRACE CALIMON FOR ILLEGAL RECRUITMENT IN LARGE SCALE AND THREE (3) COUNTS OF ESTAFA AND AIDA COMILA FOR SIMPLE ILLEGAL RECRUITMENT AND ONE (1) COUNT OF ESTAFA DESPITE THE

FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

In their brief[34], accused-appellants contend that the prosecution witnesses established that only Lo recruited private complainants and promised to deploy them abroad. They deny having collected placement fees, but ironically admitted that the amount collected was for medical examination, visa and passport fees. Further, they insist that they are not guilty of estafa through false pretenses because they did not commit any act of deceit as it was only accused Lo who promised to deploy private complainants to Italy for a fee.

The people, through the Office of the Solicitor General (OSG), maintains that accused-appellant Calimon committed the crime of illegal recruitment in large scale while accused-appellant Comila committed the crime of simple illegal recruitment. By her conduct, Calimon successfully gave private complainants the impression that she had the ability to send workers abroad although she did not in fact have the authority to do so. She was also able to induce private complainants to tender payment for fees. Since there were three (3) workers involved in the transaction, she committed the crime of illegal recruitment in large scale. As to Comila, the OSG argues that there is clear and convincing evidence that she conspired with Calimon. The OSG, however, points out that conspiracy was not alleged in the Information. Hence, Comila can only be convicted for simple illegal recruitment, not for illegal recruitment in large scale in conspiracy with Calimon.[35]

Additionally, the OSG submits that accused-appellant Calimon committed two counts of estafa through false pretenses while accused-appellant Comila committed one count of estafa through false pretenses. Accused-appellants' acts of deliberately misrepresenting themselves to private complainants as having the necessary authority or license to recruit applicants for overseas employment, and collecting money from them allegedly for processing fees and travel documents, but failing to deploy them and to return the money they had collected despite several demands clearly amount to estafa.

After a thorough review of the records, we hold that the present appeal is plainly unmeritorious.

The pertinent provisions of Republic Act No. 8042 state:

SEC. 6. Definition. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, that any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. x x x

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group. x x x

Sec. 7. Penalties. -

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than

eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

In a litany of cases,[36] we held that to constitute illegal recruitment in large scale three (3) elements must concur: (a) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers; (b) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Art. 13, par. (b), of the Labor Code, or any of the prohibited practices enumerated under Art. 34 of the same Code (now Sec. 6, RA 8042); and, (c) the offender committed the same against three (3) or more persons, individually or as a group.

Corollarily, Article 13, paragraph (b) of the Labor Code enumerates the acts which constitute recruitment and placement:

(b) 'Recruitment and placement' refer to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

Here, we are convinced that the three elements were sufficiently proved beyond reasonable doubt.

First, accused-appellants, undoubtedly, did not have any license to recruit persons for overseas work. This is substantiated by the POEA, Licensing Branch which issued a Certification[37] to this effect and the testimony of an employee of the POEA, Corazon Cristobal.[38]

Second, accused-appellants engaged in illegal recruitment activities, offering overseas employment for a fee. This is supported by the testimonies of the private complainants, particularly Devanadera[39] who categorically testified that accused-appellants promised private complainants employment and assured them of placement overseas.

Magnaye and Agramon also corroborated the testimony of Devanadera.[40] Their narration undoubtedly established that accused-appellants promised them employment in Italy as factory workers and they (accused-appellants) asked money from them (private complainants) to allegedly process their papers and visas. Private complainants were deceived as they relied on accused-appellants' misrepresentation and scheme that caused them to entrust their money to them in exchange of what they later discovered was a vain hope of obtaining employment abroad.

Accused-appellants' mere denials, as well as their self-serving and uncorroborated testimonies, cannot stand against the straightforward testimonies of private complainants who positively identified[41] them in court as the persons who enticed them to part with their money upon their fraudulent representations that they (accused-appellants) would be able to secure for the former employment abroad. In the absence of any evidence that the prosecution witnesses were motivated by improper motives, the trial court's assessment of the credibility of the witnesses shall not be interfered with by this Court.[42]

Third, accused-appellant Calimon committed illegal recruitment activities involving at least three persons, i.e., the three private complainants herein. On the part of Comila, this third element was not proved and thus, she was properly convicted of simple illegal recruitment only.

This Court is likewise convinced that the prosecution proved beyond reasonable doubt that accused-appellants are guilty of estafa under Article 315(2)(a) of the Revised Penal Code:

ART. 315. Swindling (estafa).

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions; or by means of other similar deceits.

....

There are three ways of committing estafa under the above-quoted provision: (1) by using a fictitious name; (2) by falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions; and (3) by means of other similar deceits. Under this class of estafa, the element of deceit is indispensable.[43] In the present case, the deceit consists of accused-appellants' false statement or fraudulent representation which was made prior to, or at least simultaneously with, the delivery of the money by the complainants. To convict for this type of crime, it is essential that the false statement or fraudulent representation constitutes the very cause or the only motive which induces the complainant to part with the thing of value.[44]

Accused-appellants led private complainants to believe that they possessed the power, means and legal qualifications to provide the latter with work in Italy, when in fact they did not. Private complainants parted with their hard-earned money and suffered damage by reason of accused-appellants deceitful and illegal acts. The elements of deceit and damage for this form of estafa are indisputably present, hence their conviction for estafa was proper.

WHEREFORE, the petition is DENIED for lack of merit and the assailed Decision of the Court of Appeals in CA-G.R. CR No. 00611 dated January 31, 2006 is AFFIRMED.

SO ORDERED.

Corona,[****] (Acting Chairperson), Quisumbing,[**] Austria-Martinez,[***] and Carpio-Morales,[***] JJ., concur.

Puno, C.J., on official leave.

** Additional Member in lieu of Justice Antonio T. Carpio as per Special Order No. 547.

*** Additional Members in lieu of Chief Justice Reynato S. Puno and Justice Adolfo S. Azcuna as per Special Order No. 553.

**** Acting Chairperson of the First Division in lieu of Chief Justice Reynato S. Puno as per Special Order No. 552.

[1] Penned by then Associate Justice Elvi John S. Asuncion and concurred in by Associate Justices Noel G. Tijam and Mariflor P. Punzalan Castillo; rollo, pp. 168-179.

[2] Penned by Judge Ramon P. Makasiar; id. at 24-39.

[3] Records, pp. 8-11.

[4] Id. at 12-15.

[5] Id. at 16-19.

[6] Id. at 6-7.

[7] Id. at 3-5.

[8] Id. at 1-2.

[9] Migrant Workers and Overseas Filipinos Act of 1995.

[10] Records, pp. at 5-10.

[11] Transcript of Stenographic Notes (TSN), August 14, 2000, pp. 2-6

[12] TSN, August 7, 2000, pp. 2-7.

[13] TSN, August 1, 2000, pp. 1-3 and 7; TSN, July 24, 2001, pp. 4 and 17; TSN, July 18, 2000, pp. 21-22; TSN, July 12, 2000, pp. 2 and 4-6.

[14] TSN, August 1, 2000, p. 3; TSN, July 24, 2000, p. 4; TSN, July 12, 2000, pp. 4-5.

[15] TSN, July 12, 2000, p. 6; TSN, July 18, 2000, pp. 6-7; Exhibits "I" and "H."

[16] TSN, July 18, 2000, p. 7.

[17] TSN, August 1, 2000, pp. 5-6; Exhibits "J" & "J-1."

[18] TSN, July 12, 2000, pp. 5-6; TSN, July 18, 2000, p. 7; TSN, August 1, 2000, pp. 5-6.

[19] TSN, August 1, 2000, pp. 5-6; TSN, July 24, 2000, p. 14.

[20] TSN, July 12, 2000, pp. 7-8; TSN, July 24, 2000, p. 5; TSN, August 1, 2000, pp. 3 and 7.

[21] TSN, July 18, 2000, pp. 7-9.

[22] Id., pp. 8-9.

[23] Id., pp. 2-3; TSN, August 1, 2002, p. 14.

[24] TSN, July 12, 2000, pp. 15-17.

[25] TSN, August 1, 2000, pp. 6-7.

[26] TSN, July 24, 2000, pp. 12-13.

[27] Id., p. 13; TSN, August 14, 2000, pp. 2-5; TSN, August 7, 2000, pp. 3-7; Exhibit "A"; TSN, August 14, 2000, pp. 2-6; TSN, August 14, 2000, pp. 2-6.

[28] TSN, September 20, 2000, pp. 3-22.

[29] Id., pp. 6-7.

[30] TSN, September 20, 2000, p. 10.

[31] TSN, January 26, 2001, p. 11.

[32] Id., p. 15.

[33] Id.

[34] Rollo, pp. 63-100.

[35] Id. at 134-160.

[36] People v. Gamboa, G.R. No. 135382, September 29, 2000, 341 SCRA 458, citing People v. Enriquez, G.R. No. 127159, May 5, 1999; People v. Reyes, G.R. Nos. 104739-44, November 18, 1997, 282 SCRA 105; People v.

Diaz, G.R. No. 112175, July 26, 1996, 259 SCRA 441; *People v. Calonzo*, G.R. Nos. 115150-55, September 27, 1996, 262 SCRA 535; *People v. Bautista*, G.R. No. 113547, February 9, 1995, 241 SCRA 216; *People v. Cabacang*, G.R. No. 113917, July 17, 1995, 246 SCRA 530.

[37] Records, p. 15.

[38] TSN, August 14, 2000, pp. 2-6

[39] TSN, July 12, 2000, pp. 2-17; July 18, 2000, pp. 1-18.

[40] TSN, July 18, 2000, pp. 21-23; TSN, July 24, 2001, pp. 2-19; TSN, August 1, 2000, pp. 1-15.

[41] TSN, July 12, 2000, pp. 3-4; TSN, July 24, 2000, pp. 3-4; TSN, August 1, 2000, pp. 1-2.

[42] *People v. Saulo*, G.R. No. 125903, November 15, 2000, 344 SCRA 605, 614.

[43] *People v. Olermo*, G.R. No. 127848, 17 July 2003, 406 SCRA 412, 429.

[44] *Ibid.*

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