

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SAMSON VILLASAN Y BANATI, ACCUSED-APPELLANT.

G.R. No. 176527. October 09, 2009

Ponente: BRION, J.

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BRION, J.:

We review in this appeal the May 25, 2006 decision of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 00250.[1] The appellate court affirmed the May 29, 2001 decision of the Regional Trial Court (RTC), Branch 18, Cebu City,[2] that in turn found appellant Samson Villasan (appellant) guilty beyond reasonable doubt of the crime of murder and imposed on him the penalty of reclusion perpetua.

ANTECEDENT FACTS

The prosecution charged the appellant before the RTC with the crime of murder under the following Information:[3]

That on or about the 1st day of June, 2000, at about 6:30 in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a .357 caliber Magnum revolver S&W (Homemade), with treachery and evident premeditation, with deliberate intent, with intent to kill, did then and there attack, assault and shot one Jacinto T. Bayron, hitting him on his [sic] vital parts of his body, thereby inflicting upon him physical injuries, as a consequence of which said Jacinto T. Bayron died instantaneously.

CONTRARY TO LAW.

The appellant pleaded not guilty to the charge upon arraignment.[4] The prosecution presented the following witnesses in the trial on the merits that followed: Jose Secula (Jose); Gaudioso Quilaton (Gaudioso); Sergio Bayron (Sergio); and Dr. Rene Enriquez Cam (Dr. Cam). The appellant, Carlito Moalong (Carlito), and Police Senior Inspector Mutchit Salinas (P/Sr. Insp. Salinas) took the witness stand for the defense.

Jose, a security guard of PROBE Security Agency, testified that he was outside his employer's branch office at the Ayala Business Center, Siquijor Road, Cebu City at around 6:15 p.m. of June 1, 2000, when he heard three successive gunshots.[5] He mounted his motorcycle to go and investigate but before he could start it, he saw the appellant "walking fast" and carrying a gun. He ordered the appellant to stop and to drop his weapon. The latter obeyed and dropped his gun. He then approached the appellant, conducted a body search on him,[6] and turned him over to his (Jose's) supervisor who, in turn, contacted the police. The police forthwith brought the suspect to the police station. Jose recalled that he executed an affidavit on the shooting incident before the police.[7]

On cross examination, Jose clarified that he did not see the actual shooting; he only saw the victim's lifeless body after the appellant had been arrested.[8] On re-direct, Jose stated that before the appellant was brought to the police station, the latter told him that he had shot a fellow driver.[9]

Gaudioso, a store assistant at Healthy Options, narrated that he boarded a jeep at the waiting shed at the Ayala Business Center at around 6:30 p.m. of June 1, 2000.[10] He occupied the jeep's front seat, beside the driver Jacinto Bayron (Bayron). While so seated, he heard the appellant briefly converse with Bayron, requesting the latter to be allowed to ride the jeep because his own jeep conked out.[11] Soon after the appellant got into Bayron's jeep, Gaudioso heard a gunshot. He looked back and saw the appellant shoot Bayron twice in the head.[12] Gaudioso immediately jumped off but later returned to assist in bringing Bayron to the hospital.[13] It was then that he learned of Bayron's name. Thereafter, the police invited him to the police station for his statement regarding the shooting.[14]

On cross examination, Gaudioso recalled that there were three other passengers at that time inside the jeep. He immediately turned his head towards the passenger's side when he heard the first shot; two more shots followed. He got scared and jumped off the jeep together with the other passengers. He later returned and found that the driver was already dead.[15]

On re-direct, he reiterated that he was the only passenger at the jeep's front seat, and that the appellant was seated at the jeep's rear seats. He maintained that the appellant shot Bayron.[16]

Sergio, the victim's brother, testified that Bayron was a jeep driver earning more or less P500.00 daily. He further stated that the funeral and burial expenses for his brother amounted to P100,000.00. He also added that Bayron had a common-law wife and had a 1 ½ year-old son with her.[17]

Dr. Cam, the Medico-Legal Officer of the National Bureau of Investigation (NBI), Cebu City, testified that he conducted a post-mortem examination on the victim's body on June 2, 2000,[18] and made the following findings:

NECROPSY REPORT

x x x x

GUNSHOT WOUNDS:

1) ENTRANCE: 1.0 x 1.3 cms., ovaloid edges, with an area of tattooing around the wound, 8.0 x 10.0 cms., contusion collar widest supero-laterally, located at the right side of the face, below the right eye, 3.5 cms. x x x

2) ENTRANCE: 0.9 x 1.0 cm., ovaloid, edges inverted, contusion collar widest infero-posteriorly, located at the right side of the head, just in front of the right ear x x x

3) ENTRANCE: 0.6 x 0.8 cm. ovaloid, edges inverted, contusion collar widest, supero-medially, located at the right side of the head, occipital area, 4.0 cms., above 13.0 cms., behind the right external auditory meatus, x x x

POSTMORTEM FINDINGS

Hematoma, scalp, frontal area and right parietal.

Hemorrhage, intracranial, intracerebral, subdural, subarachnoidal, massive, generalized Internal Organs, congested

Stomach, empty

CAUSE OF DEATH: GUNSHOT WOUNDS OF THE HEAD

Remarks: Two (2) bullets were recovered and submitted to Firearm Investigation Section for Ballistic Examination.[19]

On cross-examination, Dr. Cam stated that the distance between the muzzle of the gun and the entrance wounds was two feet, more or less.[20]

The defense presented a different version of events.

Carlito testified that he was with the appellant at the parking lot of the Ayala Business Park at past 5:00 p.m. of June 1, 2000, when Bayron and another person approached the appellant. Bayron pointed to the appellant and said: "Pre, pagtarong sa imong pagkatawo, basig magkaaway ta" (Behave like a good man, otherwise we will become enemies). The appellant replied, "pre tell me who was the person who told you about that"?[21] Bayron's companion then accused the appellant of being a traitor.[22]

The jeepney dispatcher soon after called Bayron as it was his jeep's turn to load passengers.[23] Bayron and his companion boarded the jeep; Bayron sat at the driver's seat while his companion proceeded to the passengers' seats at the rear. The appellant followed them into the jeep and sat behind Bayron. There were 5-7 passengers on board the jeep, one of them at the front seat beside Bayron. Bayron then drove away, leaving the parking area.[24] According to Carlito, he learned of Bayron's death at 6:30 p.m. of that day.[25]

On cross examination, Carlito testified that he went to Ayala on June 1, 2000 to meet the appellant to ask for help on his application as a driver.[26] He saw the appellant and Bayron talking to each other when he arrived, and overheard Bayron warning the appellant to be careful. Bayron thereafter got into his jeep, followed by the appellant who sat behind him (Bayron). While inside the jeep, Bayron pointed his finger at the appellant and continued to argue with the appellant as he drove away.[27] He heard gunshots 15 minutes after the jeep left the parking area. Carlito later saw the appellant being apprehended by security guards.[28]

The appellant stated that he was a driver plying the Ayala-Colon route. At around 5:00-6:00 p.m. of June 1, 2000, he talked to "Lito" at the parking area of the Ayala Business Center. Lito was a friend of his son who had been asking for his assistance in applying as a driver.[29] He read a newspaper after talking to Lito. Not long after, Bayron and a certain Roel came and pointed their fingers at him. Roel uttered, "Even if you are double your body [sic], I am not afraid." [30] The appellant suspected that Roel was mad at him for an incident in 1999 when he reprimanded Roel for indiscriminately firing a gun.[31]

The appellant further narrated that Bayron went to the jeep's driver's seat after the dispatcher called him. Roel followed Bayron but sat on the rear passenger seat. The appellant also got into the jeep and sat across Roel because he was bothered by what was happening between Bayron and Roel.[32] He asked Roel to get off the jeep so they could settle their differences, but Roel instead drew a gun from his waist.[33] The appellant and Roel wrestled for the gun which discharged while they were grappling for its possession. Thereafter, Roel immediately alighted from the jeep. The appellant followed but was unable to catch up with Roel.[34]

On cross examination, the appellant recalled that he read a newspaper at the parking lot after conversing with Lito. At that point, Bayron and Roel came; Roel pointed a finger at him and blamed him for his (Roel's) arrest for illegal possession of firearms.[35] Bayron went to board his jeep when the dispatcher called him; Roel followed him inside the jeep. The appellant then also boarded the jeep, sitting across Roel to "clear the matter" with him.[36] When the jeep was already on its way, Roel suddenly drew a gun from his waist. The appellant held Roel's hand, but the gun went off while they were grappling for its possession. He did not notice if anyone had been hit. The passengers, including Roel, ran out of the jeep.[37] The appellant saw the gun on the ground and picked it up. The appellant tried to follow Roel, but the latter was able to board another jeep. Thereafter, the security guards arrested appellant and then turned him over to the police.[38]

P/Sr. Insp. Salinas testified that he conducted a paraffin test on the appellant at the PNP Regional Crime Laboratory on June 2, 2000 to determine the presence of gunpowder nitrates. The appellant tested negative for the presence of gunpowder nitrates.[39]

On cross examination, P/Sr. Insp. Salinas explained that the absence of gunpowder nitrates was not conclusive proof that person did not fire a gun. According to him, a person could remove traces gunpowder nitrates by washing his hands.[40]

The RTC convicted the appellant of the crime of murder in its decision of May 29, 2001, as follows:

WHEREFORE, in view of the foregoing facts and circumstances, accused Samsom B. Villasan is found guilty beyond reasonable doubt of the crime of Murder and is hereby imposed the penalty of RECLUSION PERPETUA, with the accessory penalties of the law; to indemnify the heirs of the deceased Jacinto Bayron in the sum of P50,000.00 and to pay the costs.

The accused is, however, credited in full during the whole period of his detention provided that he will signify in writing that he will abide by all the rules and regulations of the penitentiary.

SO ORDERED.[41]

The appellant directly appealed to this Court in view of the penalty of reclusion perpetua that the RTC imposed. We referred the case to the Court of Appeals for intermediate review pursuant to our ruling in *People v. Mateo*.[42]

The CA affirmed the RTC Decision in toto in its May 25, 2006 Decision.[43]

In his brief,[44] the appellant argued that the prosecution failed to prove his guilt beyond reasonable doubt.

THE COURT'S RULING

We deny the appeal but modify the awarded indemnities.

Sufficiency of Prosecution Evidence

An established rule in appellate review is that the trial court's factual findings, including its assessment of the credibility of the witnesses and the probative weight of their testimonies, as well as the conclusions drawn from the factual findings, are accorded respect, if not conclusive effect. These factual findings and conclusions assume greater weight if they are affirmed by the CA. Despite the RTC and the CA's unanimity in the findings of fact, we nevertheless carefully scrutinized the records of this case, as the penalty of reclusion perpetua demands no less than this kind of scrutiny.[45]

Gaudioso, in his July 25, 2000 testimony, positively identified the appellant as the person who shot Bayron inside the latter's own jeepney on June 1, 2000; he never wavered in pointing to the appellant as the assailant. To directly quote from the records:

FISCAL VICTOR LABORTE:

Q:

At about 6:30 in the evening of June 1, 2000, can you recall where you were?

GAUDIOSO QUILATON:

A:

Yes, I can remember.

Q:

Please tell the Court where you were at that particular date and time.

A:

When I went out of my work place, I boarded a jeep.

Q:

In what place did you board the jeep?

A:

At the waiting shed at the Ayala, where the jeepney stop is located.

Q:

Where is this Ayala situated, in what city?

A:

Cebu City.

Q:

Were you the only one who boarded that jeepney?

A:

We were four (4), sir.

Q:

I see. In what particular seat of the jeepney were you seated?

A:

Front seat, sir.

Q:

While you were on board that jeepney, what happened?

A:

First, the driver had conversation.

Q:

With whom did that driver have conversation?

A:

The one who shot. [sic]

Q:

So, what happened afterwards, while that man and the jeepney driver were talking with each other?

A:

First, I heard there was a request that he would be boarding a jeepney because his jeep conked up. [sic]

Q:

Who made that request?

A:

That one person who shot. [sic]

Q:

And what happened afterwards, after that request was made by the person to the driver?

A:

He was able to board.

Q:

And then what happened next?

A:

Then I heard one (1) gunshot.

Q:

And what did you do when you heard that gunshot?

A:

I turned towards my back.

Q:

And what did you see, if any, when you turned your head?

A:

When I turned back, there were two (2) gunshots I heard, two (2) gunshots. [sic]

Q:

You only heard two (2) gunshots?

A:

Three (3), sir: the first one, and then followed by two (2) gunshots.

Q:

Who caused that gunshot?

A:

That person who shot the driver.

Q:

Did you actually see that person shot the driver?

A:

Yes.

Q:

How far were you to that person who shot the driver?

A:

Very near.

Q:

How near?

A:

Two (2) "dangaw" only, which may be loosely translated as thumb and forefinger extended, is less than, from the thumb to the forefinger, because he was sitting at my back. [sic]

Q:

Was the driver hit?

A:

Yes, he was hit.

Q:

In what portion of his body was the driver hit?

A:

On his head.

Q:

Now, if that person, whom you said you saw shot the driver, is in the courtroom now, can you point to him?

A:

Yes, I can.

Q:

Please point to that person.

A:

That man, third (3rd) from the left.

(Witness pointed to the person who stood up and identified himself as Samson Villasan)

x x x x

Q:

Now you told the Court Mr. Witness that you were the only one seated at the front of the jeepney, Right?

A:

Yes.

Q:

And three other passengers were at the back of the jeepney?

A:

Yes.

Q:

And one of the three passengers at the back shot the driver?

A:

That's right, sir.

Q:

Is that person whom you saw shot the driver inside the courtroom now?

A:

He is around.

Q:

Can you point to him again?

A:

Yes.

Q:

Please do.

A:

That person.

(Witness pointing to the person who stood up and identified himself as Samson Villasan).

x x x x[46] [Emphasis supplied]

Time and again, we have ruled that the credibility of witnesses is a matter best left to the determination of the trial court as this tribunal had the actual opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude. The trial court's assessment of the credibility of witnesses is binding on this Court, except when that tribunal overlooked facts and circumstances of weight and influence that can alter the result.[47]

We carefully scrutinized the records of this case and found no reason to disbelieve Gaudioso's straightforward narration of the events surrounding Bayron's death. Nor did we see anything on record indicating any improper motive that could have led Gaudioso to falsely testify against the appellant. In fact, the appellant never imputed any ill motive on Gaudioso. To reiterate, Gaudioso and the appellant were in the same jeep during the shooting incident; there was light inside the jeep. More importantly, Gaudioso saw the actual shooting because he was "very near" the appellant when the latter shot Bayron. To Gaudioso, what he witnessed must have been a shocking and startling event he would not forget in a long, long time. Under these circumstances, we entertain no doubt on the positive identification of the appellant as the assailant.

The Appellant's Defenses

The appellant sought to exculpate himself by claiming that the shooting of Bayron was accidental; and that he (appellant) was not sure who pulled the trigger because the gun went off when he and Roel were grappling for its possession.

We do not find the appellant's claim of accidental shooting believable as it contradicts the available physical evidence provided by Dr. Cam that the victim suffered three gunshot wounds on the face and head. Dr. Cam's Necropsy Report corroborated by the Autopsy Report of the Cosmopolitan Funeral Homes showing that the victim suffered a total of three gunshot wounds, supported the testimony of Gaudioso that the appellant shot the victim thrice. Jose notably also testified that he heard three successive gunshots. These pieces of evidence are clearly inconsistent with the appellant's claim that the victim's shooting was accidental and that only one shot was fired.

The nature, number and location of the victim's gunshot wounds also belie the appellant's claim of accidental shooting. The three wounds, all sustained in the head and the face from shots coming from the rear, are clearly indicative of a determined effort to end the victim's life.

The appellant nonetheless claims that his identity as the assailant was not proven with certainty as no trace of gunpowder nitrates was found in his hand.

We do not find the appellant's claim persuasive.

While the appellant tested negative for gunpowder nitrates, Forensic Chemist Salinas testified that a paraffin test is not conclusive proof that one has not fired a gun. This view is fully in accord with past findings and observations of this Court that paraffin tests, in general, are inconclusive; the negative findings in paraffin tests do not conclusively show that a person did not discharge a firearm.[48] Our ruling in *People v. Teehankee, Jr.*[49] on this point is particularly instructive:

Scientific experts concur in the view that the paraffin test has "... proved extremely unreliable in use. The only thing that it can definitely establish is the presence or absence of nitrates or nitrites on the hand. It cannot be established from this test alone that the source of the nitrates or nitrites was the discharge of a firearm. The person may have handled one or more of a number of substances which give the same positive reaction for nitrates or nitrites, such as explosives, fireworks, fertilizers, pharmaceuticals, and leguminous plants such as peas, beans, and alfalfa. A person who uses tobacco may also have nitrate or nitrite deposits on his hands since these substances are present in the products of combustion of tobacco." In numerous rulings, we have also recognized several factors which may bring about the absence of gunpowder nitrates on the hands of a gunman, viz: when the assailant washes his hands after firing the gun, wears gloves at the time of the shooting, or if the direction of a strong wind is against the gunman at the time of firing. x x x x [Emphasis ours]

In sum, the positive, clear and categorical testimonies of the prosecution witnesses deserve full merit in both probative weight and credibility over the negative results of the paraffin test conducted on the appellant.

The Crime Committed

Article 248 of the Revised Penal Code defines the crime of murder as follows:

Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

1. With treachery, x x x

In convicting the appellant of murder, the courts a quo appreciated treachery. This circumstance exists when the offender commits any of the crimes against persons, employing means, method or forms which tend directly and

especially to ensure its execution, without risk to the offender, arising from the defense that the offended party might make. This definition sets out what must be shown by evidence to conclude that treachery existed, namely: (1) the employment of means of execution that gives the person attacked no opportunity for self-defense or retaliation; and (2) the deliberate and conscious adoption of this means of execution.[50] The essence of this qualifying circumstance is in the elements of suddenness and surprise, and the lack of expectation that the attack would take place, thus depriving the victim of any real opportunity for self-defense while ensuring the commission of the crime without risk to the offender.[51]

The evidence in this case showed that the appellant briefly talked with Bayron as the latter sat on the jeep's driver's seat preparatory to driving off. Thereafter, the appellant entered the jeep through its rear entrance, and sat behind Bayron. Not long after Bayron started his jeep, the appellant shot him three times, hitting him in the head and at the side of the face. This manner and mode of attack by the appellant, to our mind, indicate treachery. The appellant's attack came without warning, and was swift and sudden. The appellant attacked Bayron from behind; the unsuspecting victim had no expectation of the coming attack and was totally defenseless against it. From these facts, the appellant clearly and purposely DENIED the victim of any real chance to defend himself and secured the commission of the crime without risk to himself.[52]

In *People v. Vallespin*,[53] we explained:

The essence of treachery is the sudden and unexpected attack by the aggressor on the unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim. It can exist even if the attack is frontal, if it is sudden and unexpected, giving the victim no opportunity to defend himself against such attack. In essence, it means that the offended party was not given an opportunity to make a defense.

No Evident Premeditation

The Information alleged that the crime was committed with evident premeditation. We do not find any evidentiary support for this allegation.

Evident premeditation, like other qualifying circumstances, must be established by clear and positive evidence showing that planning and preparation took place prior to the killing. For evident premeditation to be appreciated, the prosecution must show the following: (1) the time the accused determined to commit the crime; (2) an act manifestly indicating that the accused clung to this determination; and (3) a sufficient lapse of time between the resolve to kill and its execution that would have allowed the killer to reflect on the consequences of his act.[54] Significantly, the prosecution did not even attempt to prove the presence of these elements. In *People v. Sison*,[55] we held that evident premeditation should not be appreciated where there is neither evidence of planning or preparation to kill nor of the time when the plot was conceived.

The Proper Penalty

The crime of murder qualified by treachery is penalized under Article 248 of the Revised Penal Code (as amended by Republic Act No. 7659) with reclusion perpetua to death.

While evident premeditation was alleged in the Information, this circumstance was not adequately proven. Hence, in the absence of mitigating and aggravating circumstances in the commission of the felony, the courts a quo correctly sentenced the appellant to reclusion perpetua, conformably with Article 63(2) of the Revised Penal Code.

Civil Liability

The grant of civil indemnity as a consequence of the crime of murder requires no proof other than the fact of death as a result of the crime and proof of the appellant's responsibility therefor. While the RTC and the CA commonly awarded P50,000.00 as death indemnity to the murder victim's heirs, prevailing jurisprudence dictates an award of P75,000.00.[56] Hence, we modify the award of civil indemnity to this extent, to be paid by the appellant to the victim's heirs.

Moral damages are likewise mandatory in cases of murder and homicide. We award P50,000.00 as moral damages to the victim's heirs in accordance with prevailing rules.[57]

The heirs of the victim are likewise entitled to exemplary damages since the qualifying circumstance of treachery was firmly established. When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code.[58]

The lower courts were correct in not awarding actual damages to the victim's heirs because they failed to present any supporting evidence for their claim. To be entitled to actual damages, it is necessary to prove the actual amount of loss with reasonable certainty, based on competent proof and the best evidence obtainable by the injured party. In the absence of proof, jurisprudence dictates an award of P25,000.00 as temperate damages for the victim's heirs on the reasonable assumption that when death occurs, the family of the victim incurred expenses for the wake and the funeral.[59]

We cannot award indemnity for loss of earning capacity to the victim's heirs because no documentary evidence was presented to substantiate this claim. As a rule, documentary evidence should be presented to substantiate a claim for this type of damages. While there are exceptions to the rule, these exceptions do not apply; although self-employed, Bayron did not earn less than the current minimum wage under current labor laws.[60]

WHEREFORE, in light of all the foregoing, we hereby AFFIRM the May 25, 2006 Decision of the Court of Appeals in CA-G.R. CR H.C. No. 00250 with the following MODIFICATIONS:

- (1) the awarded civil indemnity is INCREASED to P75,000.00;
- (2) the appellant is ORDERED to PAY the heirs of the victim P50,000.00 as moral damages;
- (3) the appellant is ORDERED to PAY the heirs of the victim P25,000.00 as exemplary damages; and
- (4) the appellant is ORDERED to PAY the heirs of the victim P25,000.00 as temperate damages.

SO ORDERED.

Carpio-Morales[**], (Acting Chairperson), Corona[*], Nachura[***], and Abad, JJ., concur.

[*] Designated additional Member of the Second Division per Special Order No. 718 dated October 2, 2009.

[**] Designated Acting Chairperson of the Second Division per Special Order No. 690 dated September 4, 2009.

[***] Designated additional Member of the Second Division per Special Order No. 730 dated October 5, 2009.

[1] Penned by Associate Justice Isaias P. Dicdican, and concurred in by Associate Justice Ramon M. Bato, Jr. and Associate Justice Apolinario D. Bruselas, Jr.; rollo, pp. 4-12.

[2] Penned by Judge Galicano Arriesgado; CA rollo; pp. 23-31.

[3] Id. at 7.

- [4] Records, pp. 14-15.
- [5] TSN, July 18, 2000, p. 4.
- [6] Id. at 5-6.
- [7] Id. at 6-7.
- [8] TSN, July 20, 2000, pp. 4-5.
- [9] Id. at 5.
- [10] TSN, July 25, 2000, p. 4.
- [11] Id. at 5.
- [12] Id. at 6.
- [13] Id. at 7.
- [14] Id., at 8.
- [15] TSN, August 4, 2000, pp. 4-5.
- [16] Id. at 5-6.
- [17] TSN, August 17, 2000, pp. 5-15.
- [18] TSN, September 14, 2000, pp. 3-6.
- [19] Records, p. 37-A.
- [20] TSN, September 14, 2000, p. 7.
- [21] TSN, November 16, 2000, pp. 3-4.
- [22] Id. at 5.
- [23] Id.
- [24] TSN, December 5, 2000, pp. 2-3.
- [25] Id. at 3.
- [26] TSN, January 9, 2001, p. 3.
- [27] Id. at 4.
- [28] Id. at 5.
- [29] TSN, February 1, 2001, p. 3.
- [30] Id. at 4.
- [31] Id. at. 5-6.
- [32] Id. at 7.
- [33] Id. at 8.
- [34] Id. at 9.

[35] TSN, February 22, 2001, pp. 2-3.

[36] Id. at 4.

[37] Id. at 4-5.

[38] Id. at 6-8.

[39] TSN, April 17, 2001, pp. 4-5.

[40] Id. at 6-8.

[41] CA rollo, pp. 30-31.

[42] Per our Resolution dated October 13, 2004; rollo, p. 3.

[43] CA rollo, pp. 4-12.

[44] Id. at 49-61.

[45] See *People v. Ballesteros*, G.R. No. 172696, August 11, 2008.

[46] TSN, July 25, 2000, pp. 4-10; TSN, August 8, 2000, pp. 2-6.

[47] See *People v. Nueva*, G.R. No. 173248, November 3, 2008.

[48] *People v. Baltazar*, G.R. No. 129933, February 26, 2001, 352 SCRA 678.

[49] G.R. Nos. 111206-08, October 6, 1995, 249 SCRA 54.

[50] See *People v. Garcia*, G.R. No. 174479, June 17, 2008, 554 SCRA 616.

[51] See *People v. Felipe*, G.R. No. 142205, December 11, 2003, 418 SCRA 146.

[52] See *People v. Balisoro*, G.R. No. 124980, May 12, 1999, 307 SCRA 48.

[53] G.R. No. 132030, October 18, 2002, 391 SCRA 213.

[54] See *People v. Aytalin*, G.R. No. 134138, June 21, 2001, 359 SCRA 325.

[55] G.R. No. 172752, June 18, 2008.

[56] *People v. De Guzman*, G.R. No. 173477, February 4, 2009.

[57] See *People v. Honor*, G.R. No. 175945, April 7, 2009.

[58] See *People v. Tolentino*, G.R. No. 176385, February 26, 2008, 546 SCRA 671.

[59] See *People v. Abrazaldo*, G.R. No. 124392, February 7, 2003, 397 SCRA 137.

[60] The current daily minimum wage rate in Region VII (non-agriculture) as of August 2009 is P222.00-P267.00.

[*] Designated Acting Chief Justice from October 6 to 11, 2009 per Special Order No. 721 dated October 5, 2009.

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