

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOEMARIE CERILLA, APPELLANT.

G.R. No. 177147 [Formerly G.R. No. 147313]. November 28, 2007

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TINGA, J.:

For automatic review is the Decision[1] of the Court of Appeals[2] dated 26 October 2006 in CA-G.R. CR-HC No. 00032 which affirmed with modification the Decision[3] of the Regional Trial Court (RTC) of Iloilo City, Branch 23 dated 15 August 2000 in Criminal Case No. 496502 finding appellant Joemarie Cerilla guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.

On 6 July 1998, an Information was filed against appellant charging him of the crime of murder committed as follows:

That on or about April 24, 1998, in the Municipality of Leganes, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm with deliberate intent and decided purpose to kill and by means of treachery, did then and there willfully, unlawfully and feloniously shoot Alexander Parreño with the firearm which the accused was then provided, hitting and inflicting pellet wound at the right back portion of his body which caused his death.

CONTRARY TO LAW.[4]

The prosecution's evidence shows that at around 6:00 pm on 24 April 1998, the victim, Alexander Parreño (Alexander), his 14-year old daughter, Michelle, and neighbor, Phoebe Sendin (Sendin), went to the house of appellant. They were cordially welcomed and entertained by appellant and his wife.[5] An hour later, a blackout occurred. At this time, Alexander sought permission from the couple to leave, which the latter acknowledged.[6] On their way home, Michelle was walking ahead of Alexander with the latter closely following his daughter. Suddenly, after walking for about 100 meters from appellant's house, Michelle heard an explosion. Michelle immediately turned her back and saw appellant pointing a gun at Alexander who, at that moment, was staggering towards her.[7] Sendin, who was also with Alexander and Michelle, did not look back but instead ran away and proceeded to the house of Mrs. Parreño.[8] Meanwhile, Michelle was cuddling Alexander beside the road when the latter repeatedly told her that it was appellant who shot him.[9] Twenty minutes later, Alexander's other daughter, Novie Mae, arrived; she was also told by Alexander at that moment that it was appellant who shot him.[10]

SPO3 Frederick Dequito (SPO3 Dequito) and other police officers rushed to the crime scene and helped carry Alexander to an ambulance. SPO3 Dequito was able to ask Alexander who shot him to which he answered "Pato." "Pato" is an alias by which appellant is known.[11]

Alexander's wife, Susan, who rushed to the hospital was also told by Alexander that it was appellant who shot him.[12] Alexander died the following day.[13]

Dr. Tito D. Doromal, Philippine National Police medico-legal officer, performed an autopsy on the body of Alexander. The autopsy report stated the cause of death to be hemorrhage secondary to pellet wounds.[14]

Testifying on his report, Dr. Doromal explained that Alexander died from a gunshot wound which penetrated the ribs and lacerated the right lobe of the liver, colon, stomach, duodenum, and right kidney. The entrance wound was located at the middle-back portion of the body. Seven (7) pellets were recovered on the muscle of the upper and middle abdominal wall.[15]

The defense's evidence consists of the testimonies of appellant himself and of his wife, Madoline, his stepdaughter, Franlin, PO1 Manolito Javelora, PO3 Alberto Sarmiento, and PO3 Wilson Allona. Appellant interposed alibi as his main defense. He claimed that Alexander, together with his daughter and Sendin, had gone to his house on 24 April 1998 at around 6:00 p.m. where they were welcomed and offered snacks.[16] They were having a conversation when a blackout occurred. Alexander then asked permission to leave. After the visitors had left, appellant ordered his stepdaughter Franlin to buy candle at the store across their house. Appellant and Madoline posted themselves at their doorway holding a flashlight to light Franlin's path. Upon Franlin's return to the house, appellant heard an explosion and he immediately closed the door. Later, the policemen went to his house and told him that he was a suspect in the shooting of Alexander and was then brought to the police station.[17] The following day, he was subjected to paraffin test the result of which turned out to be negative.[18]

Appellant's testimony was corroborated by Madoline and Franlin. PO1 Javelora declared that when he asked Alexander who shot him, the latter did not answer.[19] Likewise, PO3 Sarmiento and Allona stated that when they went to the hospital to interrogate Alexander, the latter could not give a definite answer as to who shot him.[20]

On 15 August 2000, the RTC found appellant guilty beyond reasonable doubt of murder and sentenced him to suffer the penalty of reclusion perpetua. The dispositive portion of the decision read:

WHEREFORE, premises considered, and in the light of the facts obtaining and the jurisprudence aforecited, judgement is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of MURDER, hereby sentencing the said accused to the penalty of RECLUSION PERPETUA pursuant to Sec. 6 of Republic Act No. 7659[,] amending Article 248 of the Revised Penal Code. The said accused is further condemned to indemnify the surviving heirs of the deceased, Alexander Parreño, the sum of P257,774.75 by way of actual damages; the amount of P30,000.00 by way of moral damages and the sum of P50,000.00 by way of death compensation. The accused who is detained is entitled to be credited in full with the entire period of his preventive detention. The Jail Warden, Iloilo Rehabilitation Center is ordered to remit the said accused to the National Penitentiary at the earliest opportunity.

SO ORDERED.[21]

The trial court regarded the victim's dying declaration as the most telling evidence pointing to appellant as the assailant.[22] It appreciated the presence of treachery in qualifying the crime to murder because the victim was unarmed and walking on his way home when he was suddenly and unexpectedly shot from behind by appellant.[23] The trial court ruled that appellant's alibi and denial could not prevail over the positive testimonies of credible witnesses.[24] Moreover, it observed that appellant was not able to prove the impossibility of his presence at the crime scene which could have proven his alibi.[25]

In view of the penalty of reclusion perpetua imposed on appellant, the case was initially elevated to this Court for review. However, pursuant to our ruling in *People v. Mateo*,[26] the case was referred to the Court of Appeals.

The appellate court affirmed the trial court's ruling but modified the award of moral damages from Thirty Thousand Pesos to Fifty Thousand Pesos.[27] Hence, the instant appeal.

In a Resolution dated 16 July 2007, the Court required the parties to simultaneously submit their respective supplemental briefs if they so desired.[28] Both parties manifested that they would adopt their briefs filed before

the appellate court.[29] Thereafter, the case was deemed submitted for decision.

Appellant argues that the trial court erred in giving full credence to the testimony of the prosecution's eyewitness, Michelle, as well as the dying declaration of Alexander considering that the circumstances under which the crime was committed rendered the identification of the gunman impossible.

This argument essentially challenges the credibility of the witnesses, including the eyewitness, whose testimonies were relied upon by the trial court in convicting appellant. Basic is the principle that the findings of fact of a trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect, if not conclusive effect. This is because the trial court has the unique opportunity to observe the demeanor of a witness and is in the best position to discern whether they are telling the truth. This rule holds true especially when the trial court's findings have been affirmed by the appellate court.[30]

Appellant's authorship of the crime was proven by the positive identification of an eyewitness and the victim's dying declaration.

The prosecution presented Michelle, who categorically identified appellant as the one who shot Alexander, viz:

Q:

While you and your father were walking towards home, did you remember anything unusual that happened?

A:

Yes, Ma'am.

Q:

What was that?

A:

I heard an explosion.

Q:

Where were you in relation to your father when you heard that shot?

A:

I was in front of my Daddy and he was at my back.

Q:

You said you heard a shot, what did you do when you heard a shot?

A:

When I heard the shot, I turned back and I saw Joemarie pointing to my Dad.

COURT:

Q:

What did he point towards your Dad?

A:

Firearm.

PROSECUTOR PADILLA:

Q:

You said Joemarie was pointing a firearm to your father. Was it [a] long or short firearm?

A:

About 11 inches.

Q:

After you saw Joemarie pointing a firearm to your father, what happened next?

A:

I saw my father staggering towards me and I saw Joemarie Cerilla ran.

Q:

Where was he going?

A:

Maybe towards his house.[31]

x x x x

Q:

If this Joemarie Cerilla is inside the Courtroom, can you identify him?

A:

Yes, Ma'am.

Q:

Please point to him. (Witness pointing to the accused Joemarie Cerilla).[32]

Michelle's account of how her father was shot by appellant was corroborated by the post-mortem examination which reveals that the entrance wound is located at the back of the victim.[33] In the same vein, the medico-legal expert concluded that the gunshot was fired at a close range, as evidenced by the presence of a power burn measuring four (4) centimeters in diameter surrounding the periphery of the wound [34] and penetrating his internal organs.[35]

Significantly, the eyewitness's positive identification of appellant as the perpetrator of the crime is fully

supported the victim's dying declaration.

A dying declaration is a statement made by the victim of homicide, referring to the material facts which concern the cause and circumstances of the killing and which is uttered under a fixed belief that death is impending and is certain to follow immediately, or in a very short time, without an opportunity of retraction and in the absence of all hopes of recovery. In other words, it is a statement made by a person after a mortal wound has been inflicted, under a belief that death is certain, stating the facts concerning the cause and circumstances surrounding his/her death.[36]

As an exception to the rule against hearsay evidence, a dying declaration or ante mortem statement is evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation.[37] It is thus admissible to provide the identity of the accused and the deceased, to show the cause of death of the deceased, and the circumstances under which the assault was made upon him. The reasons for its admissibility is necessity and

trustworthiness. Necessity, because the declarant's death renders it impossible his taking the witness stand, and it often happens that there is no other equally satisfactory proof of the crime; allowing it, therefore, prevents a failure of justice. And trustworthiness, because the declaration is made in extremity, when the party is at the point of death and when every motive to falsehood is silenced and the mind is induced by the most powerful considerations to speak the truth. The law considers the point of death as a situation so solemn and awful as creating an obligation equal to that which is imposed by an oath administered in court.[38]

Of the doctrines that authorize the admission of special classes of hearsay, the doctrine relating to dying declarations is the most mystical in its theory and, traditionally, among the most arbitrary in its limitations. In the United States, the notion of the special likelihood of truthfulness of deathbed statements was widespread long before the recognition of a general rule against hearsay in the early 1700s. Not surprisingly, nearly as soon as we find a hearsay rule, we also find an exception for dying declarations.[39]

Four requisites must concur in order that a dying declaration may be admissible, thus: first, the declaration must concern the cause and surrounding circumstances of the declarant's death. This refers not only to the facts of the assault itself, but also to matters both before and after the assault having a direct causal connection with it. Statements involving the nature of the declarant's injury or the cause of death; those imparting deliberation and willfulness in the attack, indicating the reason or motive for the killing; justifying or accusing the accused; or indicating the absence of cause for the act are admissible.[40] Second, at the time the declaration was made, the declarant must be under the consciousness of an impending death. The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in point of fact that renders the dying declaration admissible. It is not necessary that the approaching death be presaged by the personal feelings of the deceased. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending.[41] Third, the declarant is competent as a witness. The rule is that where the declarant would not have been a competent witness had he survived, the proffered declarations will not be admissible. Accordingly, declarations made by a child too young to be a competent witness or by a person who was insane or incapable of understanding his own statements by reason of partial unconsciousness are not admissible in evidence.[42] Thus, in the absence of evidence showing that the declarant could not have been competent to be a witness had he survived, the presumption must be sustained that he would have been competent.[43] Fourth, the declaration must be offered in a criminal case for homicide, murder, or parricide, in which the declarant is the victim.[44] Anent this requisite, the same deserves no further elaboration as, in fact, the prosecution had caused its witnesses to take the stand and testify in open court on the substance of Alexander's ante mortem statement in the present criminal

case for murder.

The victim communicated his ante-mortem statement to three persons who testified with unanimity that they had been told by the victim himself that it was appellant who shot him. Michelle recounted:

Q:

You said your father moved towards you, what happened next?

A:

I approached my father and cuddled him.

Q:

You said your father moved towards you, what happened next?

A:

I approached my father and cuddled him.

Q:

How many time he said he was shot?

A:

Not once but about 10 times.[45]

Shortly thereafter, Novie Mae arrived and was told by Alexander that it was appellant who opened fire at him:

Q:

When you reached Confessor Street, what happened?

A:

I saw that my elder sister was assisting my father.

COURT:

Q:

What's the name of your sister?

A:

Michelle.

COURT:

Proceed.

FISCAL:

Q:

When you saw your sister Michelle assisting your father, what [sic] happened next?

A:

And I immediately went near my father and asked him who shot him and he answered it was Joemarie Cerilla who shot him.

Q:

Before you reached your father, did you observe his physical appearance of what happened to him?

A:

Yes, Ma'am, he was supporting with his arm and when I asked him he still made a response.

Q:

You said [that] before you approached your father[,] you saw him supporting his body, what was his position at that time?

A:

He was in a position of lying with his hand on the road and my sister was assisting him.

x x x

Q:

Were you able to observe why your father was sitting on the ground and supporting himself not to fall.

A:

Yes, Ma'am.

Q:

Why, [sic] what did you observe?

A:

My father was supporting himself in order that blood will not [ooze] from his body and his body will not fall down.[46]

SPO3 Dequito, who responded immediately to the crime scene, corroborated the testimonies of the Alexander's children, to wit:

Q:

So, what did you do when you arrived at the crime scene?

A:

We advised the group to carry Mr. Parreño to the ambulance because the ambulance was on the way and after our mobile arrived, the ambulance arrived also [sic] so we carried Mr. Parreño to be brought to the hospital.

COURT:

Q:

Meaning you loaded the victim into the ambulance?

A:

Yes, Your Honor.

Q:

And after he was loaded, what did you do?

A:

Before the ambulance left the area, I questioned the victim who shot him and he answered Alias “Pato.” I am referring to Joemarie Cerilla, the accused.

Q:

The accused Cerilla, Alias “Pato”?

A:

Yes, Your Honor.

PROSECUTOR:

Q:

Can you remember the exact words uttered by the victim when you asked him who shot him?

A:

He answered me that: I questioned him, “Who shot you?” and he answered that it was Cerilla and I further asked him “The husband of Madoline” and he answered “Yes, Alias “Pato”, the husband of Madoline.[47]

Likewise, Alexander’s wife, Sonia, testified:

Q:

You said from your house when you were told by the girls that your husband was shot, what did you do?

A:

I looked for a taxi and proceeded to the hospital.

x x x

Q:

When you arrived at the hospital, where did you go first?

A:

To my husband.

x x x

Q:

When you reached that hospital and your own mother led you to where Alexander was, in what part of the hospital did you first see him.

A:

Outside the operating room.

Q:

What was the situation of your husband when you first saw him?

A:

He was leaning on his side and many nurses attending to him and saying “araguy.”

x x x

Q:

Between you and your husband who spoke first?

A:

My husband.

Q:

What were the exact words stated by your husband?

A:

He told me that it was Joemarie who shot him.[48]

These statements comply with all the requisites of a dying declaration. First, Alexander’s declaration pertains to the identity of the person who shot him. Second, the fatal quality and extent of the injuries[49] he suffered underscore the imminence of his death as his condition was so serious that his demise occurred the following morning after a thirteen (13)-hour operation. Third, he would have been competent to testify had he survived. Fourth, his dying declaration is offered in a criminal prosecution for murder where he was the victim.

Other police officers were presented by the defense to refute the dying declaration. PO1 Javelora alleged that he happened to pass by the crime scene and saw a young girl crying. The girl led him to her father who was sitting on the roadside. He asked the victim who shot him but he did not get any reply.[50] PO3 Allona and Sarmiento arrived at the hospital and questioned Alexander as to who shot him but the latter told them, “I am not sure because it was dark.”[51] These statements cannot be construed as a categorical statement of the victim denying knowledge as to the identity of his assailant. It can be recalled that at the time Alexander was being questioned, he was already being readied for surgery. At that point, he was understandably no longer fit to respond to questions. Between these two seemingly conflicting testimonies, it is the positive identification made by Alexander in his

dying declaration which must be sustained.

Appellant insists that there was an inherent impossibility in identifying the assailant with clarity since there was a power blackout at the time of the commission of the crime and was then a moonless night.

The fact that the crime was committed during a blackout does not cast doubt on Alexander's and Michelle's positive identification of appellant. While the place of occurrence was dark, this did not prevent the Alexander or Michelle from identifying the assailant, especially since the shot was delivered at close range.

In dismissing appellant's contention, the trial court rationalized:

x x x This argument deserves scant consideration. In the case of *People v. Hillado*, G.R. No. 122838[,] promulgated on May 24, 1999[,] citing the case of *People v. Oliano*, "visibility at nighttime is possible not only at the exact minute and date when the moon is full as indicated in the calendar. Thus, a person's nocturnal eyesight, is not necessarily diminished just because there is no illumination from the moon, because it is a fact that our eyes can actually adjust to the darkness so that we can still see objects clearly even without sufficient lighting. In the case at bar, it would not be so hard for Michelle to identify a person's face especially if the latter – as in the present case – was barely two (2) arms length away from them which is confirmed by the presence of gunpowder nitrates on the body of the victim. We stress, that the normal reaction of the person is to direct his sight towards the source of a startling [shot] or occurrence. As held in *People v. Dolar*, the most natural reaction of the victims in criminal violence is to strive to see the looks and faces of their assailants and to observe the manner in which the crime is committed. Added to this is the fact that the accused Joemarie Cerilla and the victim Alexander Parreño have known each other quite well before the incident so that they became familiar with each other's face and physical features. x x x [52]

Moreover, the prosecution witnesses were not shown to be impelled by ill motive to testify falsely against appellant. Besides, Susan, Michelle and Novie Mae, being immediate relatives of the deceased, would naturally be interested in having the real culprit punished.[53]

The positive identification of appellant must necessarily prevail over his alibi.[54] It was not physically impossible for appellant to have been present at the scene of the crime at the time of its commission. The distance of his house, where he supposedly was, from the locus criminis is only 120-150 meters, more or less.[55]

Appellant counters that there was absence of any motive on his part to kill the victim; that it was not clearly proven that he fired a gun, based on the paraffin test; and that he appeared calm and composed and showed no indication of guilt when he was invited by the police officers shortly after the commission of the crime.

Time and again, we have ruled that a negative finding on paraffin test is not a conclusive proof that one has not fired a gun because it is possible for a person to fire a gun and yet bear no traces of nitrates or gunpowder, as when the culprit washes his hands or wears gloves.[56] The trial court correctly rejected the result of the paraffin test in light of the positive identification of appellant.

The trial court held that the killing was qualified by treachery because Alexander, who was unarmed, was suddenly and unexpectedly shot from behind by appellant without any risk to the latter from any defense which the former might make. There was no opportunity given to Alexander to repel the assault or offer any defense of his person. There was not the slightest provocation on his part.[57] We agree with the findings of the trial court. The presence of treachery was evident in the execution of the crime. Appellant suddenly, and without warning, shot Alexander from his back.

Under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, murder is punishable with reclusion perpetua to death. Because the killing of Alexander, although qualified by treachery, was not attended by any other aggravating circumstance, the proper imposable penalty is reclusion perpetua.

We deem it proper to further impose exemplary damages in the amount of P25,000.00 which is recoverable in the presence of an aggravating circumstance, whether qualifying or ordinary, in the commission of the crime.[58]

WHEREFORE, the Decision of the Court of Appeals dated 26 October 2006, affirming with modification the Regional Trial Court Judgment dated 15 August 2000 finding appellant, Joemari Cerilla, guilty beyond reasonable doubt of murder, is **AFFIRMED** with the **MODIFICATION** that appellant is further ordered to pay the heirs of Alexander Parreño P25,000.00 as exemplary damages.

SO ORDERED.

Sandoval-Gutierrez, Carpio, Carpio-Morales, and Velasco, Jr., concur.

[1] Rollo, pp. 4-17. Penned by Associate Justice Agustin S. Dizon and concurred in by Associate Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla.

[2] Twentieth Division, Court of Appeals Cebu City.

[3] Penned by Judge Tito G. Gustilo.

[4] CA rollo, p. 10.

[5] TSN, 15 October 1998, p. 4.

[6] Id. at 5-6.

[7] Id. at 6-7.

[8] TSN, 16 December 1999, p. 5.

[9] Id. at 8-9.

[10] TSN, 7 January 1999, p. 7.

[11] TSN, 14 January 1999, pp. 6-7.

[12] TSN, 12 November 1998, p. 6.

[13] Id. at 7.

[14] Records, p. 11.

[15] TSN, 29 October 1998, pp. 5-8.

[16] TSN, 2 September 1999, p. 5.

[17] Id. at 6-10.

[18] Id. at 11.

[19] TSN, 24 June 1999, pp. 13-14.

[20] TSN, 30 September 1999, pp. 19-20.

[21] CA rollo, p. 45.

[22] Id. at 39.

[23] Id. at 44-45.

[24] Id. at 41.

[25] Id. at 42.

[26] G.R. Nos. 147678-87, July 7, 2004, 464 SCRA 640.

[27] Rollo, pp. 16-17.

[28] Id. at 21.

[29] Id. at 22-27.

[30] *People v. Aguila*, G.R. No. 171017, 6 December 2006, 510 SCRA 642, 661.

[31] TSN, 15 October 1998, pp. 6-7.

[32] Id. at 3.

[33] Records, p. 12.

[34] TSN, 29 October 1998, p. 8.

[35] *Supra* note 11.

[36] R.J. Francisco, *Evidence Rules* 128-134, 3rd ed., 1996, p. 257.

[37] *People v. Cortezano*, 425 Phil. 696, 715 (2002).

[38] *United States v. Gil*, 13 Phil. 530, 549 (1909); *People v. Saliling*, 161 Phil. 559, 572-573 (1976); 5 Moran's *Comments on the Rules of Court*, 1970 ed., p. 306, citing *United States v. Gil*, *supra*, which in turn cites Lord Byron Eyre and the Roman law rule, "Morti proximum, sive moribundum, non praesumendum est mentiri, nec esse immemorem salutis aeternae; licet non praesumatur semper vicere verum."

[39] J. Strong, *McCormick on Evidence* (1990) ed. at 463.

[40] See *People v. Ortiz and Zausa*, 55 Phil. 993 (1931); *People v. Araja, et al.*, 192 Phil. 412, 424 (1981).

[41] *People v. Almeda*, 209 Phil. 393, 398 (1983); See also *People v. Devaras*, 147 Phil. 664, 673 (1971).

[42] See *People v. Sagario, et al.*, 121 Phil. 1257 (1965); *People v. Araja, et al.*, 192 Phil. 412 (1981).

[43] See *People v. Elizaga*, G.R. No. 78794, 21 November 1988.

[44] *People v. Manguera*, 446 Phil. 808 (2003); *People v. Aliben*, 446 Phil. 349 (2003).

[45] TSN, 15 October 1998, pp. 7-8.

[46] TSN, 7 January 1999, pp. 4-6.

[47] TSN, 14 January 1999, pp. 5-6.

[48] TSN, 12 November 1998, pp. 25-29.

[49] *Supra* note 11. "6. Pellet wound 2.5 x 3.0 cm. in diameter 121 cm from the right heel, 7.0 cm. from the posterior median line, with powder burn 0.4 cm. in diameter surrounding its periphery, penetrating the abdominal cavity by fracturing the 10[th] and 11[th] ribs, lacerating the diaphragm, macerating the right lobe of the liver, perforating the ascending colon, stomach, duodenum, right kidney (nephrectomy) and 7 pellets were recovered on

the muscle of the upper and middle abdominal wall.

“CAUSE OF DEATH:

“HEMORRHAGE, SECONDARY TO PELLET WOUNDS.” (Autopsy Report (Exh. “B”). Record, p. 150.

[50] TSN, 24 June 1999, pp. 11-14.

[51] TSN, 30 September 1999, pp. 18-19.

[52] CA rollo, pp. 42-43.

[53] *People v. Ansus*, 453 Phil. 1030 (2003).

[54] *People v. Malejana*, G.R. No. 145002, 24 January 2006, 479 SCRA 610.

[55] CA rollo, p. 42.

[56] *People v. SPO 1Brecinio*, 469 Phil. 654, 665 (2004).

[57] CA rollo, pp. 44-45.

[58] *People v. Dulanas*, G.R. No. 159058, 3 May 2006, 489 SCRA 58.

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