

ANTONIO F. TRILLANES IV, PETITIONER, VS. HON. OSCAR PIMENTEL, SR., IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT- BRANCH 148, MAKATI CITY; GEN. HERMOGENES ESPERON, VI...

G.R. No. 179817. June 27, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

At the wee hours of July 27, 2003, a group of more than 300 heavily armed soldiers led by junior officers of the Armed Forces of the Philippines (AFP) stormed into the Oakwood Premier Apartments in Makati City and publicly demanded the resignation of the President and key national officials.

Later in the day, President Gloria Macapagal Arroyo issued Proclamation No. 427 and General Order No. 4 declaring a state of rebellion and calling out the Armed Forces to suppress the rebellion.[1] A series of negotiations quelled the teeming tension and eventually resolved the impasse with the surrender of the militant soldiers that evening.

In the aftermath of this eventful episode dubbed as the "Oakwood Incident," petitioner Antonio F. Trillanes IV was charged, along with his comrades, with coup d'etat defined under Article 134-A of the Revised Penal Code before the Regional Trial Court (RTC) of Makati. The case was docketed as Criminal Case No. 03-2784, "People v. Capt. Milo D. Maestrecampo, et al."

Close to four years later, petitioner, who has remained in detention,[2] threw his hat in the political arena and won a seat in the Senate with a six-year term commencing at noon on June 30, 2007.[3]

Before the commencement of his term or on June 22, 2007, petitioner filed with the RTC, Makati City, Branch 148, an "Omnibus Motion for Leave of Court to be Allowed to Attend Senate Sessions and Related Requests"[4] (Omnibus Motion). Among his requests were:

(a)

To be allowed to go to the Senate to attend all official functions of the Senate (whether at the Senate or elsewhere) particularly when the Senate is in session, and to attend the regular and plenary sessions of the Senate, committee hearings, committee meetings, consultations, investigations and hearings in aid of legislation, caucuses, staff meetings, etc., which are normally held at the Senate of the Philippines located at the GSIS Financial Center, Pasay City (usually from Mondays to Thursdays from 8:00 a.m. to 7:00 p.m.);

(b)

To be allowed to set up a working area at his place of detention at the Marine Brig, Marine Barracks Manila, Fort Bonifacio, Taguig City, with a personal desktop computer and the appropriate communications equipment

(i.e., a telephone line and internet access) in order that he may be able to work there when there are no sessions, meetings or hearings at the Senate or when the Senate is not in session. The costs of setting up the said working area and the related equipment and utility costs can be charged against the budget/allocation of the Office of the accused from the Senate;

(c)

To be allowed to receive members of his staff at the said working area at his place of detention at the Marine Brig, Marine Barracks Manila, Fort Bonifacio, Taguig City, at reasonable times of the day particularly during working days for purposes of meetings, briefings, consultations and/or coordination, so that the latter may be able to assist (sic) him in the performance and discharge of his duties as a Senator of the Republic;

(d)

To be allowed to give interviews and to air his comments, reactions and/or opinions to the press or the media regarding the important issues affecting the country and the public while at the Senate or elsewhere in the performance of his duties as Senator to help shape public policy and in the light of the important role of the Senate in maintaining the system of checks and balance between the three (3) co-equal branches of Government;

(e)

With prior notice to the Honorable Court and to the accused and his custodians, to be allowed to receive, on Tuesdays and Fridays, reporters and other members of the media who may wish to interview him and/or to get his comments, reactions and/or opinion at his place of confinement at the Marine Brig, Marine Barracks Manila, Fort Bonifacio, Taguig City, particularly when there are no sessions, meetings or hearings at the Senate or when the Senate is not in session; and

(f)

To be allowed to attend the organizational meeting and election of officers of the Senate and related activities scheduled in the morning (9:00 or 10:00 a.m.) of 23 July 2007 at the Senate of the Philippines located at the GSIS Financial Center, Pasay City.[5]

By Order of July 25, 2007,[6] the trial court denied all the requests in the Omnibus Motion. Petitioner moved for reconsideration in which he waived his requests in paragraphs (b), (c) and (f) to thus trim them down to three.[7] The trial court just the same denied the motion by Order of September 18, 2007.[8]

Hence, the present petition for certiorari to set aside the two Orders of the trial court, and for prohibition and mandamus to (i) enjoin respondents from banning the Senate staff, resource persons and guests from meeting with him or transacting business with him in his capacity as Senator; and (ii) direct respondents to allow him access to the Senate staff, resource persons and guests and permit him to attend all sessions and official functions of the Senate. Petitioner preliminarily prayed for the maintenance of the status quo ante of having been able hitherto to convene his staff, resource persons and guests[9] at the Marine Brig.

Impleaded as co-respondents of Judge Oscar Pimentel, Sr. are AFP Chief of Staff, Gen. Hermogenes Esperon (Esperon); Philippine Navy's Flag Officer-in-Command, Vice Admiral Rogelio Calunsag; Philippine Marines'

Commandant, Major Gen. Benjamin Dolorfino; and Marine Barracks Manila Commanding Officer, Lt. Col. Luciarido Obeña (Obeña).

Petitioner later manifested, in his Reply of February 26, 2008, that he has, since November 30, 2007, been in the custody of the Philippine National Police (PNP) Custodial Center following the foiled take-over of the Manila Peninsula Hotel[10] the day before or on November 29, 2007.

Such change in circumstances thus dictates the discontinuation of the action as against the above-named military officers-respondents. The issues raised in relation to them had ceased to present a justiciable controversy, so that a determination thereof would be without practical value and use. Meanwhile, against those not made parties to the case, petitioner cannot ask for reliefs from this Court.[11] Petitioner did not, by way of substitution, implead the police officers currently exercising custodial responsibility over him; and he did not satisfactorily show that they have adopted or continued the assailed actions of the former custodians.[12]

Petitioner reiterates the following grounds which mirror those previously raised in his Motion for Reconsideration filed with the trial court:

I.

THE JURISPRUDENCE CITED BY THE HONORABLE COURT A QUO IS CLEARLY INAPPLICABLE TO THE INSTANT CASE BECAUSE OF THE FOLLOWING REASONS:

A.

UNLIKE IN THIS CASE, THE ACCUSED IN THE JALOSJOS CASE WAS ALREADY CONVICTED AT THE TIME HE FILED HIS MOTION. IN THE INSTANT CASE, ACCUSED/PETITIONER HAS NOT BEEN CONVICTED AND, THEREFORE, STILL ENJOYS THE PRESUMPTION OF INNOCENCE;

B.

THE ACCUSED IN THE JALOSJOS (SIC) CASE WAS CHARGED WITH TWO (2) COUNTS OF STATUTORY RAPE AND SIX (6) COUNTS OF ACTS OF LASCIVIOUSNESS, CRIMES INVOLVING MORAL TURPITUDE. HEREIN ACCUSED/PETITIONER IS CHARGED WITH THE OFFENSE OF "COUP D'ETAT", A CHARGE WHICH IS COMMONLY REGARDED AS A POLITICAL OFFENSE;

C.

THE ACCUSED IN THE JALOSJOS CASE ATTEMPTED TO FLEE PRIOR TO BEING ARRESTED. THE ACCUSED/ PETITIONER VOLUNTARILY SURRENDERED TO THE

AUTHORITIES AND AGREED TO TAKE RESPONSIBILITY FOR HIS ACTS AT OAKWOOD;

II.

GEN. ESPERON DID NOT OVERRULE THE RECOMMENDATION OF THE MARINE BRIG'S COMMANDING OFFICER TO ALLOW PETITIONER TO ATTEND THE SENATE SESSIONS;

III.

ACCUSED/PETITIONER SUBMITS THAT THE FACT THAT THE PEOPLE, IN THEIR SOVEREIGN CAPACITY, ELECTED HIM TO THE POSITION OF SENATOR OF THE REPUBLIC PROVIDES THE PROPER LEGAL JUSTIFICATION TO ALLOW HIM TO WORK AND SERVE HIS MANDATE AS A SENATOR;

- AND -

IV.

MOREOVER, THERE ARE ENOUGH PRECEDENTS TO ALLOW LIBERAL TREATMENT OF DETENTION PRISONERS WHO ARE HELD WITHOUT BAIL AS IN THE CASE OF FORMER PRESIDENT JOSEPH "ERAP" ESTRADA AND FORMER ARMM GOV. NUR MISUARI.[13]

The petition is bereft of merit.

In attempting to strike a distinction between his case and that of Jalosjos, petitioner chiefly points out that former Rep. Romeo Jalosjos (Jalosjos) was already convicted, albeit his conviction was pending appeal, when he filed a motion similar to petitioner's Omnibus Motion, whereas he (petitioner) is a mere detention prisoner. He asserts that he continues to enjoy civil and political rights since the presumption of innocence is still in his favor.

Further, petitioner illustrates that Jalosjos was charged with crimes involving moral turpitude, i.e., two counts of statutory rape and six counts of acts of lasciviousness, whereas he is indicted for coup d'etat which is regarded as a "political offense."

Furthermore, petitioner justifies in his favor the presence of noble causes in expressing legitimate grievances against the rampant and institutionalized practice of graft and corruption in the AFP.

In sum, petitioner's first ground posits that there is a world of difference between his case and that of Jalosjos respecting the type of offense involved, the stage of filing of the motion, and other circumstances which demonstrate the inapplicability of Jalosjos.[14]

A plain reading of Jalosjos suggests otherwise, however.

The distinctions cited by petitioner were not elemental in the pronouncement in Jalosjos that election to Congress is not a reasonable classification in criminal law enforcement as the functions and duties of the office are not substantial distinctions which lift one from the class of prisoners interrupted in their freedom and restricted in liberty of movement.[15]

It cannot be gainsaid that a person charged with a crime is taken into custody for purposes of the administration of justice. No less than the Constitution provides:

All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.[16] (Underscoring supplied)

The Rules also state that no person charged with a capital offense,[17] or an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal action.[18]

That the cited provisions apply equally to rape and coup d'etat cases, both being punishable by reclusion perpetua,[19] is beyond cavil. Within the class of offenses covered by the stated range of imposable penalties, there is clearly no distinction as to the political complexion of or moral turpitude involved in the crime charged.

In the present case, it is uncontroverted that petitioner's application for bail and for release on recognizance was denied.[20] The determination that the evidence of guilt is strong, whether ascertained in a hearing of an application for bail[21] or imported from a trial court's judgment of conviction,[22] justifies the detention of an

accused as a valid curtailment of his right to provisional liberty. This accentuates the proviso that the denial of the right to bail in such cases is "regardless of the stage of the criminal action." Such justification for confinement with its underlying rationale of public self-defense[23] applies equally to detention prisoners like petitioner or convicted prisoners-appellants like Jalosjos.

As the Court observed in *Alejano v. Cabuay*,[24] it is impractical to draw a line between convicted prisoners and pre-trial detainees for the purpose of maintaining jail security; and while pre-trial detainees do not forfeit their constitutional rights upon confinement, the fact of their detention makes their rights more limited than those of the public.

The Court was more emphatic in *People v. Hon. Maceda*: [25]

As a matter of law, when a person indicted for an offense is arrested, he is deemed placed under the custody of the law. He is placed in actual restraint of liberty in jail so that he may be bound to answer for the commission of the offense. He must be detained in jail during the pendency of the case against him, unless he is authorized by the court to be released on bail or on recognizance. Let it be stressed that all prisoners whether under preventive detention or serving final sentence can not practice their profession nor engage in any business or occupation, or hold office, elective or appointive, while in detention. This is a necessary consequence of arrest and detention.[26] (Underscoring supplied)

These inherent limitations, however, must be taken into account only to the extent that confinement restrains the power of locomotion or actual physical movement. It bears noting that in *Jalosjos*, which was decided en banc one month after *Maceda*, the Court recognized that the accused could somehow accomplish legislative results.[27]

The trial court thus correctly concluded that the presumption of innocence does not carry with it the full enjoyment of civil and political rights.

Petitioner is similarly situated with *Jalosjos* with respect to the application of the presumption of innocence during the period material to the resolution of their respective motions. The Court in *Jalosjos* did not mention that the presumption of innocence no longer operates in favor of the accused pending the review on appeal of the judgment of conviction. The rule stands that until a promulgation of final conviction is made, the constitutional mandate of presumption of innocence prevails.[28]

In addition to the inherent restraints, the Court notes that petitioner neither denied nor disputed his agreeing to a consensus with the prosecution that media access to him should cease after his proclamation by the Commission on Elections.[29]

Petitioner goes on to allege that unlike *Jalosjos* who attempted to evade trial, he is not a flight risk since he voluntarily surrendered to the proper authorities and such can be proven by the numerous times he was allowed to travel outside his place of detention.

Subsequent events reveal the contrary, however. The assailed Orders augured well when on November 29, 2007 petitioner went past security detail for some reason and proceeded from the courtroom to a posh hotel to issue certain statements. The account, dubbed this time as the "Manila Pen Incident,"[30] proves that petitioner's argument bites the dust. The risk that he would escape ceased to be neither remote nor nil as, in fact, the cause for foreboding became real.

Moreover, circumstances indicating probability of flight find relevance as a factor in ascertaining the reasonable amount of bail and in canceling a discretionary grant of bail.[31] In cases involving non-bailable offenses, what is controlling is the determination of whether the evidence of guilt is strong. Once it is established that it is so, bail shall be denied as it is neither a matter of right nor of discretion.[32]

Petitioner cannot find solace in *Montano v. Ocampo*[33] to buttress his plea for leeway because unlike petitioner, the therein petitioner, then Senator Justiniano Montano, who was charged with multiple murder and multiple frustrated murder,[34] was able to rebut the strong evidence for the prosecution. Notatu dignum is this Court's pronouncement therein that "if denial of bail is authorized in capital cases, it is only on the theory that the proof being strong, the defendant would flee, if he has the opportunity, rather than face the verdict of the jury." [35] At the time Montano was indicted, when only capital offenses were non-bailable where evidence of guilt is strong,[36] the Court noted the obvious reason that "one who faces a probable death sentence has a particularly strong temptation to flee." [37] Petitioner's petition for bail having earlier been denied, he cannot rely on Montano to reiterate his requests which are akin to bailing him out.

Second, petitioner posits that, contrary to the trial court's findings, Esperon did not overrule Obeña's recommendation to allow him to attend Senate sessions. Petitioner cites the Comment[38] of Obeña that he interposed no objection to such request but recommended that he be transported by the Senate Sergeant-at-Arms with adequate Senate security. And petitioner faults the trial court for deeming that Esperon, despite professing non-obstruction to the performance of petitioner's duties, flatly rejected all his requests, when what Esperon only disallowed was the setting up of a political office inside a military installation owing to AFP's apolitical nature.[39]

The effective management of the detention facility has been recognized as a valid objective that may justify the imposition of conditions and restrictions of pre-trial detention.[40] The officer with custodial responsibility over a detainee may undertake such reasonable measures as may be necessary to secure the safety and prevent the escape of the detainee.[41] Nevertheless, while the comments of the detention officers provide guidance on security concerns, they are not binding on the trial court in the same manner that pleadings are not impositions upon a court.

Third, petitioner posits that his election provides the legal justification to allow him to serve his mandate, after the people, in their sovereign capacity, elected him as Senator. He argues that denying his Omnibus Motion is tantamount to removing him from office, depriving the people of proper representation, denying the people's will, repudiating the people's choice, and overruling the mandate of the people.

Petitioner's contention hinges on the doctrine in administrative law that "a public official can not be removed for administrative misconduct committed during a prior term, since his re-election to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor." [42]

The assertion is unavailing. The case against petitioner is not administrative in nature. And there is no "prior term" to speak of. In a plethora of cases,[43] the Court categorically held that the doctrine of condonation does not apply to criminal cases. Election, or more precisely, re-election to office, does not obliterate a criminal charge. Petitioner's electoral victory only signifies pertinently that when the voters elected him to the Senate, "they did so with full awareness of the limitations on his freedom of action [and] x x x with the knowledge that he could achieve only such legislative results which he could accomplish within the confines of prison." [44]

In once more debunking the disenfranchisement argument,[45] it is opportune to wipe out the lingering misimpression that the call of duty conferred by the voice of the people is louder than the litany of lawful restraints articulated in the Constitution and echoed by jurisprudence. The apparent discord may be harmonized by the overarching tenet that the mandate of the people yields to the Constitution which the people themselves ordained to govern all under the rule of law.

The performance of legitimate and even essential duties by public officers has never been an excuse to free a person validly in prison. The duties imposed by the "mandate of the people" are multifarious. The

accused-appellant asserts that the duty to legislate ranks highest in the hierarchy of government. The accused-appellant is only one of 250 members of the House of Representatives, not to mention the 24 members of the Senate, charged with the duties of legislation. Congress continues to function well in the physical absence of one or a few of its members. x x x Never has the call of a particular duty lifted a prisoner into a different classification from those others who are validly restrained by law.[46] (Underscoring supplied)

Lastly, petitioner pleads for the same liberal treatment accorded certain detention prisoners who have also been charged with non-bailable offenses, like former President Joseph Estrada and former Governor Nur Misuari who were allowed to attend "social functions." Finding no rhyme and reason in the denial of the more serious request to perform the duties of a Senator, petitioner harps on an alleged violation of the equal protection clause.

In arguing against maintaining double standards in the treatment of detention prisoners, petitioner expressly admits that he intentionally did not seek preferential treatment in the form of being placed under Senate custody or house arrest,[47] yet he at the same time, gripes about the granting of house arrest to others.

Emergency or compelling temporary leaves from imprisonment are allowed to all prisoners, at the discretion of the authorities or upon court orders.[48] That this discretion was gravely abused, petitioner failed to establish. In fact, the trial court previously allowed petitioner to register as a voter in December 2006, file his certificate of candidacy in February 2007, cast his vote on May 14, 2007, be proclaimed as senator-elect, and take his oath of office[49] on June 29, 2007. In a seeming attempt to bind or twist the hands of the trial court lest it be accused of taking a complete turn-around,[50] petitioner largely banks on these prior grants to him and insists on unending concessions and blanket authorizations.

Petitioner's position fails. On the generality and permanence of his requests alone, petitioner's case fails to compare with the species of allowable leaves. Jaloslos succinctly expounds:

x x x Allowing accused-appellant to attend congressional sessions and committee meetings for five (5) days or more in a week will virtually make him a free man with all the privileges appurtenant to his position. Such an aberrant situation not only elevates accused-appellant's status to that of a special class, it also would be a mockery of the purposes of the correction system.[51]

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] The validity of both issuances was decided by the Court in *SANLAKAS v. Executive Secretary Reyes*, 466 Phil. 482 (2004), notwithstanding the petitions' mootness occasioned by Proclamation No. 435 (August 1, 2003) that lifted the declaration of the state of rebellion. It ruled that the declaration of a state of rebellion is an utter superfluity devoid of any legal significance.

[2] Petitioner had been detained at the Marine Brig, Marine Barracks Manila, Fort Bonifacio, Taguig City since June 13, 2006. Prior thereto, he was detained at the ISAFP Detention Cell; rollo, pp. 8, 278.

[3] Garnering 11,189,671 votes, petitioner was proclaimed the 11th Senator-Elect in the May 2007 Elections by Resolution No. NBC 07-28 of June 15, 2007; rollo, pp. 8, 33, 58-59; CONSTITUTION, Art. VI, Sec. 4.

[4] Rollo, pp. 61-65.

[5] Id. at 62-64. For items (d) and (e), petitioner further manifested that he is willing to abide by the restrictions previously imposed by the trial court when it previously granted him access to media, to wit: (a) that he will not make any comments relating to the merits of the instant case or otherwise make statements tending to prejudice or affect the outcome of the case (i.e., sub judice statements); and (b) that he will not make any libelous statements or seditious remarks against the Government.

[6] Id. at 89-99.

[7] Id. at 114-115. Petitioner reiterated only his requests in paragraphs (a), (d), (e) with the additional concession that "the Senate Sgt-at-Arms or his duly authorized representative (with adequate Security) be authorized to pick up and transport herein accused from his place of detention at the Marine Brig, Marine Barracks Manila, Fort Bonifacio, Taguig City, to the Senate and back every time he needs to attend the official functions of the Senate when the Senate is in regular session[.]"

[8] Id. at 137-147.

[9] Id. at 14-15. Petitioner alleges that several government officials and private individuals met with him at the Marine Brig from July 2, 2007 to September 26, 2007. The initial organizational meeting of the Senate Committee on the Civil Service and Government Reorganization, of which he is the Chairperson, was held inside the Marine Brig on September 20, 2007. On September 27, 2007, however, petitioner's staff, resource persons and guests were refused entry, causing the cancellation of the meeting.

[10] Id. at 297.

[11] Cf. *Allied Banking Corporation v. Court of Appeals*, G.R. No. 56279, February 9, 1993, 218 SCRA 578; *Matuguina Integrated Wood Products, Inc. v. CA*, 331 Phil. 795 (1996) following the legal axiom that no person shall be affected by proceedings to which he is a stranger.

[12] Vide RULES OF COURT, Rule 3, Sec. 17 which also accords the party or officer to be affected a reasonable notice and an opportunity to be heard; *Heirs of Mayor Nemencio Galvez v. CA*, 325 Phil. 1028 (1996); *Rodriguez v. Jardin*, G.R. No. 141834, July 30, 2007, 528 SCRA 516.

[13] Rollo, pp. 22-24.

[14] 381 Phil. 690 (2000).

[15] Vide *People v. Jalosjos*, supra at 707.

[16] Art. III, Sec. 13.

[17] Defined in the RULES OF COURT, Rule 114, Sec. 6; vide REPUBLIC ACT NO. 7659 (1993); but cf. REPUBLIC ACT NO. 9346 (2006).

[18] RULES OF COURT, Rule 114, Sec. 7.

[19] Vide REVISED PENAL CODE, Arts. 266-B & 135.

[20] Rollo, pp. 86, 257 citing the RTC Orders of July 24, 2004 and June 13, 2006, respectively.

[21] RULES OF COURT, Rule 114, Sec. 8; vide *Estrada v. Sandiganbayan*, 427 Phil. 820, 864 (2002); *People v. Manes*, 362 Phil. 569, 576 (1999).

[22] SC ADMINISTRATIVE CIRCULAR NO. 2-92 (January 20, 1992); *People v. Divina*, G.R. Nos. 93808-09, April 7, 1993, 221 SCRA 209, 223; *People v. Fortes*, G.R. No. 90643, June 25, 1993, 223 SCRA 619, 625-626;

Padilla v. CA, 328 Phil. 1266, 1269-1270 (1996); People v. Gomez, 381 Phil. 870 (2000).

[23] People v. Jalosjos, supra at 703, which states the rationale that society must protect itself.

[24] G.R. No. 160792, August 25, 2005, 468 SCRA 188, 212.

[25] 380 Phil. 1 (2000).

[26] People v. Hon. Maceda, 380 Phil. 1, 5 (2000).

[27] People v. Jalosjos, supra at 706, even while remarking that the accused should not even have been allowed by the prison authorities to perform certain acts in discharge of his mandate.

[28] Mangubat v. Sandiganbayan, 227 Phil. 642 (1986).

[29] Rollo, pp. 68, 91.

[30] Supra note 10.

[31] Vide RULES OF COURT, Rule 114, Secs. 5, 8.

[32] Obosa v. Court of Appeals, 334 Phil. 253, 271 (1997). In exceptional cases, the court may consider serious illness or an ailment of such gravity that his continued confinement will endanger his life or permanently impair his health. [De la Rama v. People's Court, 77 Phil. 461 (1946) cited in Borinaga v. Tamin, A.M. No. RTJ-93-936, September 10, 1993, 226 SCRA 206, 213; vide People v. Fitzgerald, G.R. No. 149723, October 27, 2006, 505 SCRA 573, 585-586].

[33] No. L-6352, January 29, 1953, 49 O.G. No. 5 (May 1953), 1855.

[34] Notably, at that time, "reclusion temporal in its maximum period to death" was the imposable penalty for murder under Article 248 of the Revised Penal Code prior to Republic Act No. 7659 (1993) which, inter alia, increased the penalty.

[35] Supra note 33.

[36] Vide RULES ON CRIMINAL PROCEDURE (1940), Rule 110, Sec. 6; RULES ON CRIMINAL PROCEDURE (1964), Rule 114, Sec. 6.

[37] Bravo, Jr. v. Borja, No. L-65228, February 18, 1985, 134 SCRA 466, 472; vide Obosa v. Court of Appeals, supra at 268-269 citing De la Camara v. Enage, 41 SCRA 1, 6-7 (1971). It must be understood, however, that the standard of strong evidence of guilt is markedly higher than the standard of probable cause sufficient to initiate criminal cases. (Vide Cabrera v. Marcelo, G.R. Nos. 157419-20, December 13, 2004, 446 SCRA 207, 217).

[38] Rollo, pp. 71-74. Obeña rejected, however, his request to set up a working area at his place of detention, citing space and security reasons, but stated that other areas within the Marine Barracks Manila can be considered as an immediate and temporary working area.

[39] Id. at 31-32.

[40] Alejano v. Cabuay, supra at 206.

[41] REPUBLIC ACT NO. 7438 (1992) or "An Act Defining Certain Rights of the Person Arrested, Detained or Under Custodial Investigation, as well as the Duties of the Arresting, Detaining, and Investigating Officers and Providing Penalties for Violations Thereof," Sec. 4, last par.

[42] Aguinaldo v. Santos, G.R. No. 94115, August 21, 1992, 212 SCRA 768, 773; Salalima v. Guingona, 326

Phil. 847, 919-920 (1996).

[43] Aguinaldo v. Santos, supra at 773-774; People v. Jalosjos, supra at 703; Cabrera v. Marcelo, supra at 21-6-217; People v. Toledano, 387 Phil. 957 (2000).

[44] People v. Jalosjos, supra at 706.

[45] People v. Jalosjos, supra; cf. Government of the United States of America v. Puruganan, 438 Phil. 417, 456-458 (2002).

[46] People v. Jalosjos, supra at 707.

[47] Rollo, pp. 75-76.

[48] People v. Jalosjos, supra at 704.

[49] Rollo, p. 60; before Barangay Chairman Ruben Gatchalian of Barangay 169, Deparo, Caloocan City.

[50] Id. at 34-35.

[51] People v. Jalosjos, supra at 704.

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