

RUBEN DEL CASTILLO @ BOY CASTILLO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 185128 [Formerly UDK No. 13980]. January 30, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

For this Court's consideration is the Petition for Review[1] on Certiorari under Rule 45 of Ruben del Castillo assailing the Decision[2] dated July 31, 2006 and Resolution[3] dated December 13, 2007 of the Court of Appeals (CA) in CA-G.R. CR No. 27819, which affirmed the Decision[4] dated March 14, 2003 of the Regional Trial Court (RTC), Branch 12, Cebu, in Criminal Case No. CBU-46291, finding petitioner guilty beyond reasonable doubt of violation of Section 16, Article III of Republic Act (R.A.) 6425.

The facts, as culled from the records, are the following:

Pursuant to a confidential information that petitioner was engaged in selling shabu, police officers headed by SPO3 Bienvenido Masnayan, after conducting surveillance and test-buy operation at the house of petitioner, secured a search warrant from the RTC and around 3 o'clock in the afternoon of September 13, 1997, the same police operatives went to Gil Tudtud St., Mabolo, Cebu City to serve the search warrant to petitioner.

Upon arrival, somebody shouted "raid," which prompted them to immediately disembark from the jeep they were riding and went directly to petitioner's house and cordoned it. The structure of the petitioner's residence is a two-storey house and the petitioner was staying in the second floor. When they went upstairs, they met petitioner's wife and informed her that they will implement the search warrant. But before they can search the area, SPO3 Masnayan claimed that he saw petitioner run towards a small structure, a nipa hut, in front of his house. Masnayan chased him but to no avail, because he and his men were not familiar with the entrances and exits of the place.

They all went back to the residence of the petitioner and closely guarded the place where the subject ran for cover. SPO3 Masnayan requested his men to get a barangay tanod and a few minutes thereafter, his men returned with two barangay tanods.

In the presence of the barangay tanod, Nelson Gonzalado, and the elder sister of petitioner named Dolly del Castillo, searched the house of petitioner including the nipa hut where the petitioner allegedly ran for cover. His men who searched the residence of the petitioner found nothing, but one of the barangay tanods was able to confiscate from the nipa hut several articles, including four (4) plastic packs containing white crystalline substance. Consequently, the articles that were confiscated were sent to the PNP Crime Laboratory for examination. The contents of the four (4) heat- sealed transparent plastic packs were subjected to laboratory examination, the result of which proved positive for the presence of methamphetamine hydrochloride, or shabu.

Thus, an Information was filed before the RTC against petitioner, charging him with violation of Section 16, Article III of R.A. 6425, as amended. The Information[5] reads:

That on or about the 13[th] day of September 1997, at about 3:00 p.m. in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his possession and control four (4) packs of white crystalline powder, having a total weight of 0.31 gram, locally known as "shabu," all containing methamphetamine hydrochloride, a regulated drug, without license or prescription from any competent authority.

CONTRARY TO LAW.[6]

During arraignment, petitioner, with the assistance of his counsel, pleaded not guilty.[7] Subsequently, trial on the merits ensued.

To prove the earlier mentioned incident, the prosecution presented the testimonies of SPO3 Bienvenido Masnayon, PO2 Milo Arriola, and Forensic Analyst, Police Inspector Mutchit Salinas.

The defense, on the other hand, presented the testimonies of petitioner, Jesusa del Castillo, Dalisay del Castillo and Herbert Aclan, which can be summarized as follows:

On September 13, 1997, around 3 o'clock in the afternoon, petitioner was installing the electrical wirings and airconditioning units of the Four Seasons Canteen and Beauty Parlor at Wacky Bldg., Cabancalan, Cebu. He was able to finish his job around 6 o'clock in the evening, but he was engaged by the owner of the establishment in a conversation. He was able to go home around 8:30-9 o'clock in the evening. It was then that he learned from his wife that police operatives searched his house and found nothing. According to him, the small structure, 20 meters away from his house where they found the confiscated items, was owned by his older brother and was used as a storage place by his father.

After trial, the RTC found petitioner guilty beyond reasonable of the charge against him in the Information. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, this Court finds the accused Ruben del Castillo "alyas Boy Castillo," GUILTY of violating Section 16, Article III, Republic Act No. 6425, as amended. There being no mitigating nor aggravating circumstances proven before this Court, and applying the Indeterminate Sentence Law, he is sentenced to suffer the penalty of Six (6) Months and One (1) Day as Minimum and Four (4) Years and Two (2) Months as Maximum of Prison Correccional.

The four (4) small plastic packets of white crystalline substance having a total weight of 0.31 gram, positive for the presence of methamphetamine hydrochloride, are ordered confiscated and shall be destroyed in accordance with the law.

SO ORDERED.[8]

Aggrieved, petitioner appealed his case with the CA, but the latter affirmed the decision of the RTC, thus:

WHEREFORE, the challenged Decision is AFFIRMED in toto and the appeal is DISMISSED, with costs against accused-appellant.

SO ORDERED.[9]

After the motion for reconsideration of petitioner was denied by the CA, petitioner filed with this Court the present petition for certiorari under Rule 45 of the Rules of Court with the following arguments raised:

1. THE COURT OF APPEALS ERRED IN ITS APPLICATION OF THE PROVISIONS OF THE CONSTITUTION, THE RULES OF COURT AND ESTABLISHED JURISPRUDENCE VIS-A-VIS VALIDITY OF SEARCH WARRANT NO. 570-9-1197-24;

2. THE COURT OF APPEALS ERRED IN RULING THAT THE FOUR (4) PACKS OF WHITE CRYSTALLINE POWDER ALLEGEDLY FOUND ON THE FLOOR OF THE NIPA HUT OR STRUCTURE ARE ADMISSIBLE IN EVIDENCE AGAINST THE PETITIONER, NOT ONLY BECAUSE THE SAID COURT SIMPLY PRESUMED THAT IT WAS USED BY THE PETITIONER OR THAT THE PETITIONER RAN TO IT FOR COVER WHEN THE SEARCHING TEAM ARRIVED AT HIS RESIDENCE, BUT ALSO, PRESUMING THAT THE SAID NIPA HUT OR STRUCTURE WAS INDEED USED BY THE PETITIONER AND THE FOUR (4) PACKS OF WHITE CRYSTALLINE POWDER WERE FOUND THEREAT. THE SUBJECT FOUR (4) PACKS OF WHITE CRYSTALLINE POWDER ARE FRUITS OF THE POISONOUS TREE; and

3. THE COURT OF APPEALS ERRED IN ITS APPLICATION OF THE ELEMENT OF "POSSESSION" AS AGAINST THE PETITIONER, AS IT WAS IN VIOLATION OF THE ESTABLISHED JURISPRUDENCE ON THE MATTER. HAD THE SAID COURT PROPERLY APPLIED THE ELEMENT IN QUESTION, IT COULD HAVE BEEN ASSAYED THAT THE SAME HAD NOT BEEN PROVEN.[10]

The Office of the Solicitor General (OSG), in its Comment dated February 10, 2009, enumerated the following counter-arguments:

I

SEARCH WARRANT No. 570-9-11-97-24 issued by Executive Judge Priscilla S. Agana of Branch 24, Regional Trial Court of Cebu City is valid.

II

The four (4) packs of shabu seized inside the shop of petitioner are admissible in evidence against him.

III

The Court of Appeals did not err in finding him guilty of illegal possession of prohibited drugs.[11]

Petitioner insists that there was no probable cause to issue the search warrant, considering that SPO1 Reynaldo Matillano, the police officer who applied for it, had no personal knowledge of the alleged illegal sale of drugs during a test-buy operation conducted prior to the application of the same search warrant. The OSG, however, maintains that the petitioner, aside from failing to file the necessary motion to quash the search warrant pursuant to Section 14, Rule 127 of the Revised Rules on Criminal Procedure, did not introduce clear and convincing evidence to show that Masnayan was conscious of the falsity of his assertion or representation.

Anent the second argument, petitioner asserts that the nipa hut located about 20 meters away from his house is no longer within the "permissible area" that may be searched by the police officers due to the distance and that the search warrant did not include the same nipa hut as one of the places to be searched. The OSG, on the other hand, argues that the constitutional guaranty against unreasonable searches and seizure is applicable only against government authorities and not to private individuals such as the barangay tanod who found the folded paper containing packs of shabu inside the nipa hut.

As to the third argument raised, petitioner claims that the CA erred in finding him guilty beyond reasonable doubt of illegal possession of prohibited drugs, because he could not be presumed to be in possession of the same just because they were found inside the nipa hut. Nevertheless, the OSG dismissed the argument of the petitioner, stating that, when prohibited and regulated drugs are found in a house or other building belonging to and occupied by a particular person, the presumption arises that such person is in possession of such drugs in violation of law, and the fact of finding the same is sufficient to convict.

This Court finds no merit on the first argument of petitioner.

The requisites for the issuance of a search warrant are: (1) probable cause is present; (2) such probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized.[12] According to petitioner, there was no probable cause. Probable cause for a search warrant is defined as such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place sought to be searched.[13] A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed and that it was committed by the accused. Probable cause demands more than bare suspicion; it requires less than evidence which would justify conviction.[14] The judge, in determining probable cause, is to consider the totality of the circumstances made known to him and not by a fixed and rigid formula,[15] and must employ a flexible, totality of the circumstances standard.[16] The existence depends to a large degree upon the finding or opinion of the judge conducting the examination. This Court, therefore, is in no position to disturb the factual findings of the judge which led to the issuance of the search warrant. A magistrate's determination of probable cause for the issuance of a search warrant is paid great deference by a reviewing court, as long as there was substantial basis for that determination.[17] Substantial basis means that the questions of the examining judge brought out such facts and circumstances as would lead a reasonably discreet and prudent man to believe that an offense has been committed, and the objects in connection with the offense sought to be seized are in the place sought to be searched.[18] A review of the records shows that in the present case, a substantial basis exists.

With regard to the second argument of petitioner, it must be remembered that the warrant issued must particularly describe the place to be searched and persons or things to be seized in order for it to be valid. A designation or description that points out the place to be searched to the exclusion of all others, and on inquiry unerringly leads the peace officers to it, satisfies the constitutional requirement of definiteness.[19] In the present case, Search Warrant No. 570-9-1197-24[20] specifically designates or describes the residence of the petitioner as the place to be searched. Incidentally, the items were seized by a barangay tanod in a nipa hut, 20 meters away from the residence of the petitioner. The confiscated items, having been found in a place other than the one described in the search warrant, can be considered as fruits of an invalid warrantless search, the presentation of which as an evidence is a violation of petitioner's constitutional guaranty against unreasonable searches and seizure. The OSG argues that, assuming that the items seized were found in another place not designated in the search warrant, the same items should still be admissible as evidence because the one who discovered them was a barangay tanod who is a private individual, the constitutional guaranty against unreasonable searches and seizure being applicable only against government authorities. The contention is devoid of merit.

It was testified to during trial by the police officers who effected the search warrant that they asked the assistance of the barangay tanods, thus, in the testimony of SPO3 Masnayon:

Fiscal Centino:

Q

For how long did the chase take place?

A

Just a very few moments.

Q

After that, what did you [do] when you were not able to reach him?

A

I watched his shop and then I requested my men to get a barangay tanod.

Q

Were you able to get a barangay tanod?

A

Yes.

Q

Can you tell us what is the name of the barangay tanod?

A

Nelson Gonzalado.

Q

For point of clarification, how many barangay tanod [did] your driver get?

A

Two.

Q

What happened after that?

A

We searched the house, but we found negative.

Q

Who proceeded to the second floor of the house?

A

SPO1 Cirilo Pogoso and Milo Areola went upstairs and found nothing.

Q

What about you, where were you?

A

I [was] watching his shop and I was with Matillano.

Q

What about the barangay tanod?

A

Together with Milo and Pogoso.

Q

When the search at the second floor of the house yielded negative what did you do?

A

They went downstairs because I was suspicious of his shop because he ran from his shop, so we searched his shop.

Q

Who were with you when you searched the shop?

A

The barangay tanod Nilo Gonzalado, the elder sister of Ruben del Castillo named Dolly del Castillo.

Q

You mean to say, that when (sic) SPO1 Reynaldo Matillano, Barangay Tanod Nilo Gonzalado and the elder sister of Ruben del Castillo were together in the shop?

A

Yes.

Q

What happened at the shop?

A

One of the barangay tanods was able to pick up white folded paper.

Q

What [were] the contents of that white folded paper?

A

A plastic pack containing white crystalline.

Q

Was that the only item?

A

There are others like the foil, scissor.

Q

Were you present when those persons found those tin foil and others inside the electric shop?

A

Yes.[21]

The fact that no items were seized in the residence of petitioner and that the items that were actually seized were

found in another structure by a barangay tanod, was corroborated by PO2 Arriola, thus:

FISCAL:

Q

So, upon arriving at the house of Ruben del Castillo alias Boy, can you still recall what took place?

A

We cordoned the area.

Q

And after you cordoned the area, did anything happen?

A

We waited for the barangay tanod.

Q

And did the barangay tanod eventually appear?

A

Yes. And then we started our search in the presence of Ruben del Castillo's wife.

Q

What is the name of the wife of Ruben del Castillo?

A

I cannot recall her name, but if I see her I can recall [her] face.

Q

What about Ruben del Castillo, was she around when [you] conducted the search?

A

No. Ruben was not in the house. But our team leader, team mate Bienvenido Masnayon saw that Ruben ran away from his adjacent electronic shop near his house, in front of his house.

Q

Did you find anything during the search in the house of Ruben del Castillo?

A

After our search in the house, we did not see anything. The house was clean.

Q

What did you do afterwards, if any?

A

We left (sic) out of the house and proceeded to his electronic shop.

Q

Do you know the reason why you proceeded to his electronic shop?

A

Yes. Because our team leader Bienvenido Masnayan saw that (sic) Ruben run from that store and furthermore the door was open.

Q

How far is the electronic shop from the house of Ruben del Castillo?

A

More or less, 5 to 6 meters in front of his house.

x x x x

Q

So, who entered inside the electronic shop?

A

The one who first entered the electronic shop is our team leader Bienvenido Masnayan.

Q

You mentioned that Masnayan entered first. Do you mean to say that there were other persons or other person that followed after Masnayan?

A

Then we followed suit.

Q

All of your police officers and the barangay tanod followed suit?

A

I led Otadoy and the barangay tanod.

Q

What about you?

A

I also followed suit.

Q

And did anything happen inside the shop of Ruben del Castillo?

A

It was the barangay tanod who saw the folded paper and I saw him open the folded paper which contained four shabu deck.

Q

How far were you when you saw the folded paper and the tanod open the folded paper?

A

We were side by side because the shop was very small.[22]

SPO1 Pogoso also testified on the same matter, thus:

FISCAL CENTINO:

Q

And where did you conduct the search, Mr. Witness?

A

At his residence, the two-storey house.

Q

Among the three policemen, who were with you in conducting the search at the residence of the accused?

A

I, Bienvenido Masnayan.

Q

And what transpired after you searched the house of Ruben del Castillo?

A

Negative, no shabu.

Q

And what happened afterwards, if any?

A

We went downstairs and proceeded to the small house.

Q

Can you please describe to this Honorable Court, what was that small house which you proceeded to?

A

It is a nipa hut.

Q

And more or less, how far or near was it from the house of Ruben del Castillo?

A

5 to 10 meters.

Q

And could you tell Mr. Witness, what was that nipa hut supposed to be?

A

That was the electronic shop of Ruben del Castillo.

Q

And what happened when your team proceeded to the nipa hut?

A

I was just outside the nipa hut.

Q

And who among the team went inside?

A

PO2 Milo Areola and the Barangay Tanod.[23]

Having been established that the assistance of the barangay tanods was sought by the police authorities who effected the searched warrant, the same barangay tanods therefore acted as agents of persons in authority. Article 152 of the Revised Penal Code defines persons in authority and agents of persons in authority as:

x x x any person directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, board or commission, shall be deemed a person in authority. A barangay captain and a barangay chairman shall also be deemed a person in authority.

A person who, by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as barrio councilman, barrio policeman and barangay leader, and any person who comes to the aid of persons in authority, shall be deemed an agent of a person in authority.

The Local Government Code also contains a provision which describes the function of a barangay tanod as an agent of persons in authority. Section 388 of the Local Government Code reads:

SEC. 388. Persons in Authority. - For purposes of the Revised Penal Code, the punong barangay, sangguniang barangay members, and members of the lupong tagapamayapa in each barangay shall be deemed as persons in authority in their jurisdictions, while other barangay officials and members who may be designated by law or ordinance and charged with the maintenance of public order, protection and security of life and property, or the maintenance of a desirable and balanced environment, and any barangay member who comes to the aid of persons in authority, shall be deemed agents of persons in authority.

By virtue of the above provisions, the police officers, as well as the barangay tanods were acting as agents of a person in authority during the conduct of the search. Thus, the search conducted was unreasonable and the confiscated items are inadmissible in evidence. Assuming *ex gratia argumenti* that the barangay tanod who found the confiscated items is considered a private individual, thus, making the same items admissible in evidence, petitioner's third argument that the prosecution failed to establish constructive possession of the regulated drugs seized, would still be meritorious.

Appellate courts will generally not disturb the factual findings of the trial court since the latter has the unique opportunity to weigh conflicting testimonies, having heard the witnesses themselves and observed their deportment and manner of testifying,[24] unless attended with arbitrariness or plain disregard of pertinent facts or circumstances, the factual findings are accorded the highest degree of respect on appeal[25] as in the present case.

It must be put into emphasis that this present case is about the violation of Section 16 of R.A. 6425. In every prosecution for the illegal possession of shabu, the following essential elements must be established: (a) the accused is found in possession of a regulated drug; (b) the person is not authorized by law or by duly constituted authorities; and (c) the accused has knowledge that the said drug is a regulated drug.[26]

In *People v. Tira*,[27] this Court explained the concept of possession of regulated drugs, to wit:

This crime is *mala prohibita*, and, as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.[28]

While it is not necessary that the property to be searched or seized should be owned by the person against whom the search warrant is issued, there must be sufficient showing that the property is under appellant's control or possession.[29] The CA, in its Decision, referred to the possession of regulated drugs by the petitioner as a constructive one. Constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found.[30] The records are void of any evidence to show that petitioner owns the nipa hut in question nor was it established that he used the said structure as a shop. The RTC, as well as the CA, merely presumed that petitioner used the said structure due to the presence of electrical materials, the petitioner being an electrician by profession. The CA, in its Decision, noted a resolution by the investigating prosecutor, thus:

x x x As admitted by respondent's wife, her husband is an electrician by occupation. As such, conclusion could be arrived at that the structure, which housed the electrical equipments is actually used by the respondent. Being the case, he has control of the things found in said structure.[31]

In addition, the testimonies of the witnesses for the prosecution do not also provide proof as to the ownership of the structure where the seized articles were found. During their direct testimonies, they just said, without stating their basis, that the same structure was the shop of petitioner.[32] During the direct testimony of SPO1 Pogoso, he even outrightly concluded that the electrical shop/nipa hut was owned by petitioner, thus:

FISCAL CENTINO:

Q

Can you please describe to this Honorable Court, what was that small house which you proceeded to?

A

It is a nipa hut.

Q

And more or less, how far or near was it from the house of Ruben del Castillo?

A

5 to 10 meters.

Q

And could you tell Mr. Witness, what was that nipa hut supposed to be?

A

That was the electronic shop of Ruben del Castillo.

Q

And what happened when your team proceeded to the nipa hut?

A

I was just outside the nipa hut.[33]

However, during cross-examination, SPO3 Masnayan admitted that there was an electrical shop but denied what he said in his earlier testimony that it was owned by petitioner, thus:

ATTY. DAYANDAYAN:

Q

You testified that Ruben del Castillo has an electrical shop, is that correct?

A

He came out of an electrical shop. I did not say that he owns the shop.

Q

Now, this shop is within a structure?

A

Yes.

Q

How big is the structure?

A

It is quite a big structure, because at the other side is a mahjong den and at the other side is a structure rented by a couple.[34]

The prosecution must prove that the petitioner had knowledge of the existence and presence of the drugs in the place under his control and dominion and the character of the drugs.[35] With the prosecution's failure to prove that the nipa hut was under petitioner's control and dominion, there casts a reasonable doubt as to his guilt. In considering a criminal case, it is critical to start with the law's own starting perspective on the status of the accused - in all criminal prosecutions, he is presumed innocent of the charge laid unless the contrary is proven beyond reasonable doubt.[36] Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment, is indispensable to overcome the constitutional presumption of innocence.[37]

WHEREFORE, the Decision dated July 31, 2006 of the Court of Appeals in CA-G. R. No. 27819, which affirmed the Decision dated March 14, 2003 of the Regional Trial Court, Branch 12, Cebu, in Criminal Case No. CBU-46291 is hereby REVERSED and SET ASIDE. Petitioner Ruben del Castillo is ACQUITTED on reasonable doubt.

SO ORDERED.

Velasco, Jr., (Chairperson), Mendoza, Reyes,[*] and Perlas-Bernabe, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1178 dated January 26, 2012.

[1] Dated August 23, 2008, rollo, pp. 32-44.

[2] Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla, concurring; id. at 54-70.

[3] Dated August 23, 2008, id. at 71-72.

[4] Penned by Presiding Judge Aproniano B. Taypin; id. at 45-53.

[5] Records, pp. 1-2.

[6] Id. at 1.

[7] Id. at 57.

[8] Id. at 254.

[9] Rollo, p. 70.

[10] Id. at 37.

[11] Id. at 98-103.

[12] Abuan v. People, G.R. No. 168773, October 27, 2006, 505 SCRA 799, 822, citing People v. Francisco, G.R. No. 129035, August 22, 2002, 387 SCRA 569, 575.

[13] Santos v. Pryce Gases, Inc., G.R. No. 165122, November 23, 2007, 538 SCRA 474, 484, citing Columbia Pictures, Inc. v. Court of Appeals, 329 Phil. 875, 903 (1996).

[14] Id., citing Sarigumba v. Sandiganbayan, G.R. Nos. 154239-41, February 16, 2005, 451 SCRA 533, 550.

[15] Abuan v. People, supra note 12, citing People v. Tampis, 467 Phil. 582, 590 (2003); Massachusetts v. Upton, 466 US 727, 104 S.Ct. 2085 (1984).

[16] Id., citing US v. Canan, 48 F.3d 954 (1995).

[17] People v. Estela Tuan, G.R. No. 176066, August 11, 2011.

[18] Id. citing People v. Tee, 443 Phil. 521, 540 (2003).

[19] People v. Tee, supra.

[20] Records, p. 114.

[21] TSN, July 16, 1998, pp. 8-9. (Emphasis supplied.)

[22] TSN, February 4, 1999, pp. 4-6. (Emphasis supplied.)

[23] TSN, May 12, 1999, pp. 3-4. (Emphasis supplied.)

[24] People v. Baygar, 376 Phil. 466, 473 (1999).

[25] *People v. Matito*, 468 Phil. 14, 24 (2004).

[26] *Quelnan v. People*, G.R. No. 166061, July 6, 2007, 526 SCRA 653, 662, citing *Abuan v. People*, *supra* note 12, and *People v. Torres*, G.R. No. 170837, September 12, 2006, 501 SCRA 591, 610.

[27] G.R. No. 139615, May 28, 2004, 430 SCRA 134.

[28] *Id.* at 151-152.

[29] *People v. Del Castillo*, G.R. No. 153254, September 30, 2004, 439 SCRA 601, 613-614, citing *People v. Dichoso*, G.R. Nos. 101216-18, June 4, 1993, 223 SCRA 174, 191, citing *Burgos v. Chief of Staff*, 133 SCRA 800 (1984).

[30] *People v. Tira*, *supra* note 27.

[31] *Rollo*, p. 65.

[32] TSN, July 16, 1998, pp. 7-9; TSN, February 4, 1999, pp. 5-6.

[33] TSN, May 12, 1999, pp. 3-4.

[34] TSN, July 16, 1998, p. 15.

[35] See *People v. Tira*, *supra* note 27.

[36] *People v. Sanchez*, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 207, citing Article III (Bill of Rights), Section 14(2) of the 1987 Constitution which reads: In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[37] *People v. Villanueva*, G.R. No. 131773, February 13, 2002, 376 SCRA 615, 637, citing *People v. Gomez*, G.R. No. 101817, March 26, 1997, 270 SCRA 432, 444.

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