

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO VILLANUEVA BAGA, ACCUSED-APPELLANT.

G.R. No. 189844. November 15, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the August 26, 2009 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02946 entitled *People of the Philippines v. Mario Villanueva Baga*, which affirmed the August 17, 2007 Decision[2] in Criminal Case No. Q-02-110865 of the Regional Trial Court (RTC), Branch 80 in Quezon City. The RTC found accused-appellant Mario Villanueva Baga guilty of violation of Section 5, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The charge against Baga stemmed from the following Information:

That on or about the 22[nd] day of July, 2002, in Quezon City Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero four (0.04) gram of Methylamphetamine Hydrochloride, a dangerous drug.

Contrary to law.[3]

On November 11, 2002, accused-appellant was arraigned, and he pleaded "not guilty" to the offense charged.[4] Thereafter, trial on the merits ensued.

During trial, the prosecution presented as its witnesses Engr. Leonard M. Jabonillo, Police Officer 2 (PO2) Florante Manlapig, and Senior Police Officer 1 (SPO1) Wilfredo Hidalgo. Subsequently, the parties agreed to stipulate on the testimony of Engr. Jabonillo, the Forensic Chemist. On the other hand, the defense presented accused-appellant as its sole witness.

The Prosecution's Version of Facts

On July 22, 2002, the Station Drug Enforcement Unit (SDEU) of Police Station 1 in La Loma, Quezon City received an information from a police asset about the drug peddling activities of a certain Mario Baga. The chief of the SDEU then formed a buy-bust team composed of PO2 Manlapig, who was designated as poseur-buyer; and SPO1 Hidalgo and PO2 Romeo Paday, who would act as back-ups. The buy-bust money, PhP 100, was marked by PO2 Manlapig with his initials, "FM."

Afterwards, the team, whose members were all dressed in civilian clothes, was dispatched along with the informant on board an L-300 van. They left the police station at around 4:45 in the afternoon and reached the target area at 12-A Kaingin Bukid, Barangay Samson, Quezon City, 10 minutes later.

Upon arriving, PO2 Manlapig and the informant went ahead followed by the other members of the team. At the target area, PO2 Manlapig and the informant saw the target of the operation who turned out to be accused-appellant. The informant then introduced PO2 Manlapig to accused-appellant. Thereupon, PO2 Manlapig gave the marked money to accused-appellant, who, in turn, gave PO2 Manlapig a plastic sachet. PO2 Manlapig examined the plastic sachet, and when he determined that it contained shabu, he executed the pre-arranged signal by drawing his gun. The back-up officers then rushed to the scene, joining PO2 Manlapig, and together they arrested accused-appellant and took him to the police station.

While on their way to the police station, PO2 Manlapig took custody of the suspected illegal drug subject of the transaction, while SPO1 Hidalgo took the marked money with him. At the precinct, SPO1 Hidalgo marked the plastic sachet with "FM-MBVI," which stands for Florante Manlapig and Mario Baga, and forwarded it with a referral letter to the crime laboratory for examination. Likewise, he prepared the affidavit of the arresting officers. Accused-appellant was subjected to inquest proceedings at the City Prosecutor's Office and was charged accordingly.

Version of the Defense

In contrast, accused-appellant strongly denied having sold any illegal drug to the poseur-buyer. He insisted that on July 22, 2002, at around 5 o'clock in the afternoon, he was at Kaingin Road on his way to return some rented VCDs when two men in civilian clothes suddenly accosted him. He asked them why he was being arrested, but the two told him to do his explanation at the police station. He was then brought to La Loma Police Station, where he was informed by one of the apprehending officers, whom he came to know later as PO2 Manlapig, that charges would be filed against him for sale of illegal drugs.

Ruling of the Trial Court

After trial, the RTC found accused-appellant guilty of the crime. The dispositive portion of the Decision dated August 17, 2007 reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the offense charged. Accordingly, he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00, there being no mitigating nor aggravating circumstances that attended the commission of the offense.

The illegal drug subject of this case is hereby forfeited in favor of the Government [and to be] turned over to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED.[5]

On appeal to the CA, accused-appellant disputed the lower court's finding of guilt beyond reasonable doubt of the crime charged. He argued that the testimonial evidence presented by the prosecution was contradictory and insufficient to overturn the presumption of innocence.

Ruling of the Appellate Court

On August 26, 2009, the CA affirmed the judgment of the lower court. The dispositive portion of the CA Decision reads:

WHEREFORE, the decision dated August 17, 2007 of the Regional Trial Court, Branch 80, Quezon City, in Criminal Case No. Q-20-110865 is AFFIRMED in toto.

SO ORDERED.[6]

Accused-appellant timely filed a notice of appeal from the CA Decision.

The Issue

Accused-appellant assigns the following lone assignment of error:

The court a quo erred in finding the accused-appellant guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

Our Ruling

The appeal is meritorious.

Accused-appellant argues that the lower court erred in relying on the testimony of prosecution witnesses while totally disregarding the version of the defense. He stresses that the police officers who testified in the case are seasoned witnesses who can deliver practiced testimonies and parry cross-examination, and, thus, posits that it was the duty of the lower court to minutely examine said testimonies. He likewise faults the lower court for giving credence to the testimony of poseur-buyer PO2 Manlapig which is uncorroborated, and points out the alleged contradictory testimonies of SPO2 Hidalgo and PO2 Manlapig on the role of the former in the buy-bust operation.

We agree with accused-appellant.

As a rule, the trial court's evaluation of the credibility of the witnesses and their testimonies is entitled to great weight and will not be disturbed on appeal. This rule does not apply where it is shown that any fact of weight and substance has been overlooked, misapprehended, or misapplied by the trial court.[7] In the instant case, there are circumstances, which, when properly appreciated, would warrant accused-appellant's acquittal.

Nothing less than the Constitution itself mandates that an accused shall be presumed innocent until the contrary is proved.[8] The prosecution has the burden to overcome such presumption and prove the guilt of accused-appellant beyond reasonable doubt. In doing so, it must rely on the strength of its own evidence and not on the weakness of the defense.

In fact, if the prosecution fails to meet the required quantum of evidence, the defense may not even present any defense on its behalf, in which case, the presumption of innocence prevails and the accused is acquitted.[9]

In the crime of sale of dangerous drugs, the prosecution must be able to successfully prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it.[10] Likewise, it is fundamental to prove that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti. The term corpus delicti means the actual commission by someone of the particular crime charged.[11]

Moreover, the existence of dangerous drugs is a condition sine qua non for conviction for the illegal sale of dangerous drugs, it being the very corpus delicti of the crime.[12] In fact, the existence of the dangerous drug is essential to a judgment of conviction. It is, therefore, essential that the identity of the prohibited drug be established beyond doubt. Even more than this, what must also be established is the fact that the substance bought during the buy-bust operation is the same substance offered in court as exhibit. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.[13]

The importance of establishing the chain of custody cannot be overemphasized. In *Malillin v. People*,[14] the Court explained its significance, thus:

Prosecutions for illegal possession of prohibited drugs necessitates that the elemental act of possession of a

prohibited substance be established with moral certainty, together with the fact that the same is not authorized by law. The dangerous drug itself constitutes the very corpus delicti of the offense and the fact of its existence is vital to a judgment of conviction. Essential therefore in these cases is that the identity of the prohibited drug be established beyond doubt. Be that as it may, the mere fact of unauthorized possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering--without regard to whether the same is advertent or otherwise not--dictates the level of strictness in the application of the chain of custody rule.

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives. *Graham vs. State* positively acknowledged this danger. In that case where a substance later analyzed as heroin--was handled by two police officers prior to examination who however did not testify in court on the condition and whereabouts of the exhibit at the time it was in their possession--was excluded from the prosecution evidence, the court pointing out that the white powder seized could have been indeed heroin or it could have been sugar or baking powder. It ruled that unless the state can show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into the possession of police officers until it was tested in the laboratory to determine its composition, testimony of the state as to the laboratory's findings is inadmissible.

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases--by accident or otherwise--in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.

A careful review of the records of the instant case raises serious doubts as to the identity of the drug in question. While a buy-bust operation is legal and has been proved to be an effective method of apprehending drug peddlers, due regard to constitutional and legal safeguards must be undertaken.[15] It is the duty of the courts to ascertain if

the operation were subject to any police abuse.

As aptly pointed out by accused-appellant, the testimonies of the prosecution witnesses were contradictory and uncorroborated. The prosecution only presented one witness to testify about the alleged buy-bust operation. Although jurisprudence provides that the testimony of a single witness, if credible and positive, is sufficient to produce a conviction, such is not enough to overturn the constitutional mandate of presumption of innocence.

The following testimonies highlight the contradictory testimonies of the witnesses:

Testimony of PO2 Manlapig

July 1, 2003

(DIRECT)

Q-

On July 22, 2002, did you report for work?

A-

Yes, sir.

Q-

What were the things assigned to you when you reported for work on said date and time?

A-

I was assigned by our chief as poseur buyer, sir.

Q-

For what?

A-

In a buy-bust operation, sir.[16]

x x x x

Q-

Who would be your companions?

A-

SPO1 Wilfredo Hidalgo and PO2 Romeo Paday, sir.

Q-

What preparation if any did you do as designated poseur buyer?

A-

We prepared a buy bust money, sir.[17] (Emphasis supplied.)

x x x x

Q-

I am showing to you a photocopy of the php100.00, kindly go over the same and tell the court what is the relation of the photocopy with the one you are referring to?

A-

This is the buy bust money sir, we used in the buy bust operation.

Q-

Why did you say so?

A-

Because of my secret marking, sir.

Q-

Where is it placed?

Witness pointing to the lower right corner portion. What is this marking?

A-

"FM", sir.

Q-

What does "FM" [stand] for, Mr. Witness?

A-

Florante Manlapig, sir.[18]

x x x x

Q-

When you were dispatched, what do you mean by that?

A-

It was recorded in the blotter book, sir.[19]

x x x x

Q-

Who were your companions?

A-

SPO1 Wilfredo Hidalgo and PO2 Romeo Paday, sir.[20]

x x x x

Q-

When you reached the target area, what did you do?

A-

I was introduced by our informant, sir.

Q-

To whom?

A-

To Mario Baga, sir.

Q-

After you were introduced, what happened next?

A-

After I handed the buy bust money, I received on plastic sachet and after I received the plastic sachet and it was positive of shabu, I gave my pre-arranged signal, sir.

Q-

Mr. Witness, why did you give the money to the person you just described?

A-

To buy shabu.

Q-

So, there was a transaction between you?

A-

Yes, sir.[21] (Emphasis supplied.)

x x x x

Q-

So after your companions arrived, what happened next?

A-

We arrested Mario Baga, sir.

Q-

What did you do when you arrested him?

A-

We brought him to the office for proper disposition, sir.

Q-

How about the buy bust money, where was it after he was arrested?

A-

It was with SPO1 Wilfredo Hidalgo, sir.

Q-

How about the drug you purchased, who was in possession of the same when you left the target area going to the precinct?

A-

It was with me, sir.

Q-

When you reached the precinct, what did you do with it?

A-

I put my marking, sir.

Q-

What happened with the shabu?

A-

We brought it to the PNP Crime Laboratory, sir.

Q-

How about the marked money, what was done in the marked money at the precinct? What did he do with it?

A-

It was in his custody, sir.[22] (Emphasis supplied.)

x x x x

Q-

Where is now the shabu?

A-

It was in the custody of the PNP Crime Laboratory, sir.

Q-

How about the original buy bust money?

A-

With the investigator.[23] (Emphasis supplied.)

x x x x

(CROSS)

Q-

These officers, what is the purpose of the back-up officers? Why did they have to accompany you in the target area?

A-

So that there are persons that would assist me in case I could not handle the situation.

Q-

When you alighted from the vehicle, where were your back-up officers?

A-

They followed us.

Q-

So they were behind you?

A-

Yes, ma'am.

Q-

They were walking beside you?

A-

Yes, ma'am.

Q-

How many [were] you then?

A-

3 plus the informant 4, ma'am.

Q-

So you have two back-up officers, is that correct?

A-

Yes, ma'am.

Q-

What are the names?

A-

Wilfredo Hidalgo and PO2 Romeo Paday, ma'am.[24] (Emphasis supplied.)

x x x x

(RE-DIRECT)

Q-

You mentioned the drug purchased from the accused, if shown to you, would you be able to identify it?

A-

Yes, sir.

Q-

Showing to you a plastic sachet containing the substance, previously marked as Exhibit F, kindly go over the same and tell the court, what relation has this from the one you purchased from the accused?

A-

This is the plastic sachet, sir.

Q-

Why do you say so?

A-

Because of my marking FM, sir.

Q-

What does FM [stand] for?

A-

Florante Manlapig, sir.[25] (Emphasis supplied.)

x x x x

August 17, 2006

(DIRECT)

Q-

As poseur buyer what did you bring then?

A-

The buy bust money.

Q-

Do you have this buy bust money with you right now?

A-

It is not with me right now. It is with the investigator.

Q-

Who is the investigator?

A-

SPO2 Wilfredo Hidalgo.[26] (Emphasis supplied.)

(CROSS)

Q-

And did you, Mr. Witness, report to the PDEA that a certain One Hundred Peso bill will be used as a buy bust money in connection with anti illegal drug operation against Mario Baga?

A-

Yes, sir.

Q-

So when did you do that, Mr. Witness?

A-

Before we conducted the operation.

Q-

And so considering that the alleged buy bust operation took place on July 22, 2002 are you now trying to imply that you coordinated with the PDEA the use of that One Hundred Peso bill sometime in July 21, 2002?

A-

Yes, sir.

Q-

Do you have tangible proof to show to this Honorable Court that you really coordinated with the PDEA?

A-

There was a pre-operation report.

Q-

Where is that pre-operation report you are saying, Mr. Witness?

A-

It is stated in our affidavit.

COURT:

Q-

Where is that report?

A-

In our office, Your Honor.

ATTY. GAYAPA

Q-

x x x Mr. Witness, who is now in possession of that pre-operation report?

A-

It is with the investigator.[27]

x x x x

(REDIRECT)

Q-

So are you now telling us that you did not coordinate with the local officials then and the PDEA?

A-

We coordinated with the barangay.

Q-

How about the PDEA?

A-

Insofar as PDEA is concerned, sir, we did not coordinate with them. But with respect to the PDEA, I don't know if our desk officer coordinated with them.[28]

Testimony of SPO2 Hidalgo

August 17, 2006

(DIRECT)

Q-

Mr. Witness, as investigator in this case on the date of 22 of July 2202, what did you receive? What confiscated items did you receive from the arresting officer and the poseur buyer?

A-

White heat sealed transparent sachet of undetermined quantity of the known shabu.

Q-

What else, Mr. Witness, other than heat sealed transparent sachet?

A-

Buy bust money which was recovered by the apprehending officers.[29]

x x x x

Q-

In whose possession the buy bust money right now, Mr. Witness?

A-

During the inquest procedure, Your Honor, it was the apprehending officer or the affiant who were accompanied by SPO2 Romeo Paday.[30]

x x x x

Q-

In whose possession the buy bust money?

A-

As far as I know it is with SPO1 Florante Manlapig because he was the one who brought the suspect to the Office of the Prosecutor for inquest.[31] (Emphasis supplied.)

x x x x

Q-

What other documents did you prepare?

A-

I prepared the documents for the crime laboratory.

Q-

What are these documents? Can you specify, Mr. Witness, to determine the confiscated item if it is a dangerous drug?

A-

I sent the confiscated specimen to the crime laboratory for them to determine if it is dangerous drugs or not.[32]

x x x x

Q-

How sure are you that this is the sachet you are referring to a while ago?

A-

I have my markings there, sir, FM-MBV1.[33] (Emphasis supplied.)

x x x x

(CROSS)

Q-

Am I correct in saying now that as an investigator you did not go to the place where the alleged buy bust took place to determine whether indeed buy bust operation was undertaken then, am I correct?

A-

Yes, sir.

Q-

So what you just prepared here your investigation is only a paper investigation conducted in the precinct?

A-

Yes, sir.

Q-

And so, Mr. Witness, by the way you identified before this Honorable Court the alleged confiscated shabu. Am I correct in saying that you did not prepare any physical inventory of the shabu?

A-

I did not prepare.[34] (Emphasis supplied.)

Several inconsistencies in the testimonies of the prosecution witnesses can easily be spotted. First, PO2 Manlapig testified that SPO1 Hidalgo acted as one of his back-up officers in the buy-bust operation, but SPO1 Hidalgo refuted this in his testimony and testified that he never went to the place where the buy-bust operation took place. He said that he was only the investigator, tasked with preparing documents.

PO2 Manlapig

SPO1 Hidalgo

Q-

So you have two back-up officers, is that correct?

Q-

Am I correct in saying now that as an investigator you did not go to the place where the alleged buy bust took place to determine whether indeed buy bust operation was undertaken then, am I correct?

A-

Yes, ma'am.

Q-

What are the names?

A-

Wilfredo Hidalgo and PO2 Romeo Paday, ma'am.[35]

A-

Yes, sir.[36]

This alone casts doubt on whether the buy-bust operation actually took place. The other alleged back-up, PO2 Romeo Paday, was never presented to shed light on what actually happened.

Second, PO2 Manlapig stated that he marked the plastic sachet containing the illegal drug with his markings,

"FM," and sent it to the crime laboratory. On the other hand, SPO1 Hidalgo similarly testified to marking the sachet with "FM-MBV1" and sent it to the crime laboratory as well.

PO2 Manlapig

SPO1 Hidalgo

Q-

What happened with the shabu?

Q-

What are these documents? Can you specify, Mr. Witness, to determine the confiscated item if it is a dangerous drug?

A-

We brought it to the PNP Crime Laboratory, sir.[37]

x x x x

Q-

Showing to you a plastic sachet containing the substance, previously marked as Exhibit F, kindly go over the same and tell the court, what relation has this from the one you purchased from the accused?

A-

I sent the confiscated specimen to the crime laboratory for them to determine if it is dangerous drugs or not.[39]

A-

This is the plastic sachet, sir.

x x x x

Q-

Why do you say so?

Q-

How sure are you that this is the sachet you are referring to a while ago?

A-

Because of my marking FM, sir.[38]

A-

I have my markings there, sir, FM-MBV1.[40]

This contradiction raises the question: Is the sachet of shabu allegedly seized from accused-appellant the very same object tested by the crime laboratory and offered in court as evidence? The evidence presented by the

prosecution is clearly insufficient to provide an affirmative answer. Both PO1 Manlapig and SPO2 Hidalgo testified to turning the plastic sachet over to the crime laboratory. Because of this inconsistency, there is no reasonable guaranty as to the integrity and evidentiary value of the confiscated illegal drug.

More importantly, Section 21 of the Implementing Rules and Regulations (IRR) of RA 9165 clearly outlines the post-procedure in taking custody of seized drugs, viz:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

Even though non-compliance with Sec. 21 of the IRR may be excused, such cannot be relied upon when there is lack of any acceptable justification for failure to do so. The Court, citing *People v. Sanchez*,^[41] explained that "the saving clause applies only where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds."^[42] In this case, the prosecution provided no explanation as to why there was a contradiction as to the markings on the confiscated drugs. This is similar to what happened in *Zarraga v. People*,^[43] where the Court held that the material inconsistencies with regard to when and where the markings on the shabu were made and the lack of inventory on the seized drugs created reasonable doubt as to the identity of the corpus delicti.

Third, there was also confusion as to who has custody of the original buy-bust money; and finally, there were inconsistencies on whether a pre-operation report was actually prepared or not.

Summing up all these circumstances, it behooves this Court not to blindly accept the testimony of a lone witness, as we ruled: "When moral certainty as to culpability hangs in the balance, acquittal on reasonable doubt inevitably becomes a matter of right."^[44]

WHEREFORE, the CA Decision dated August 26, 2009 affirming the judgment of conviction of the RTC, Branch 80 in Quezon City is REVERSED and SET ASIDE. Accused-appellant Mario Baga y Villanueva is hereby ACQUITTED on reasonable doubt and is accordingly ordered immediately released from custody, unless he is being lawfully held for another offense.

The Director of the Bureau of Corrections is directed to implement this Decision and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED.

Corona, (Chairperson), Leonardo-De Castro, Peralta,[*] and Perez, JJ., concur.

[*] Additional member per Special Order No. 913 dated November 2, 2010.

[1] Rollo, pp. 2-14. Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Isaias P. Dicdican and Romeo F. Barza.

[2] CA rollo, pp. 15-24. Penned by Judge Ma. Theresa Dela Torre-Yadao.

[3] Records, p. 1.

[4] Id. at 13.

[5] CA rollo, p. 24.

[6] Rollo, pp. 13-14.

[7] *People v. Casimiro*, G.R. No. 146277, June 20, 2002, 383 SCRA 390, 398; citing *People v. Laxa*, G.R. No. 138501, July 20, 2001, 361 SCRA 622 and *People v. de los Santos*, G.R. No. 126998, September 14, 1999, 314 SCRA 303.

[8] Constitution, Art. II, Sec. 14(2).

[9] *People v. Lorenzo*, G.R. No. 184760, April 23, 2010.

[10] Id.; *People v. Ong*, G.R. No. 175940, February 6, 2008, 544 SCRA 123, 132.

[11] *Cruz v. People*, G.R. No. 164580, February 6, 2009, 578 SCRA 147, 152-153.

[12] *People v. Robles*, G.R. No. 177220, April 24, 2009, 586 SCRA 647, 654.

[13] *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632.

[14] Id. at 631-634.

[15] *People v. Herrera*, G.R. No. 93728, August 21, 1995, 247 SCRA 433, 439; *People v. Tadepa*, G.R. No. 100354, May 26, 1995, 244 SCRA 339, 341.

[16] TSN, July 1, 2003, p. 4.

[17] Id. at 5.

[18] Id. at 5-6.

[19] Id. at 6.

[20] Id. at 7.

[21] Id. at 8.

[22] Id. at 9-10.

[23] Id. at 10-11.

[24] Id. at 14-15.

[25] TSN, August 10, 2006, p. 7.

[26] TSN, August 17, 2006, p. 2.

[27] Id. at 4-5.

[28] Id. at 9.

[29] Id. at 14-15.

[30] Id. at 15.

[31] Id. at 16.

[32] Id. at 16-17.

[33] Id. at 18.

[34] Id. at 21-22.

[35] TSN, July 1, 2003, pp. 14-15.

[36] TSN, August 17, 2006, p. 21.

[37] TSN, July 1, 2003, p. 10.

[38] TSN, August 10, 2006, p. 7.

[39] TSN, August 17, 2006, p. 17.

[40] Id. at 18.

[41] G.R. No. 175832, October 15, 2008, 569 SCRA 194.

[42] *People v. Lorenzo*, G.R. No. 184760, April 23, 2010.

[43] G.R. No. 162064, March 14, 2006, 484 SCRA 639, 647-648; cited in *People v. Lorenzo*, *supra*.

[44] *Malillin v. People*, *supra* note 13, at 639.

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