

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HERACLEO MANRIQUEZ Y ALIA AND GREGORIO CANOY Y ZAMORA @ GREG; HERMINIA HERRERA @ HERMIE, BUTONG DAE, AND PAT. PAULINO ROMARATE...

G.R. Nos. 122510-11. March 17, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

This is an appeal from the 27 April 1995 decision^[1] of the Regional Trial Court of Davao City, Branch 16, finding accused Heracleo Manriquez (hereafter HERACLEO) and Gregorio Canoy (hereafter GREGORIO) guilty of two counts of murder. They were indicted in two separate informations, together with Herminia Herrera and Butong Dae, who both remain at large, for stabbing to death Ernesto Gabuyan (hereafter GABUYAN) and Ferdinand Duay (hereafter DUAY) on 12 January 1990. The informations were docketed as Criminal Case No. 19, 615-90 and Criminal Case No. 19, 616-90.^[2] They were later amended to include as co-accused Patrolman Paulino Romarate.^[3] The amended informations were admitted by the trial court in its order of 10 June 1991.^[4] A warrant for the arrest of Romarate was issued. He was also ordered suspended from the service.^[5] However, like Herrera and Dae, Romarate remains at large.

After HERACLEO and GREGORIO entered a plea of not guilty at their arraignment,^[6] the cases were consolidated and jointly tried.

The witnesses presented by the prosecution were Emma Bangot, Ramon de Asis, Jeremias Baguhin, Rolando Latayada, Rodel Calo, Dr. Jose G. Ladrido, Jr., Concepcion Porras, Virginia Ocleda, Dulcesima Duay, and Atty. Ridgeway Tanjili.

Emma Bangot, a waitress of Kasiyahan pub house located along C.M. Recto St., Davao City, testified that at about 9:00 p.m. of 12 January 1990, she had a conversation with DUAY and GABUYAN. She knew them to be agents of the Metrodiscom Anti-Narcotics Unit (MANU) since they would usually post themselves along the area to observe persons buying prohibited drugs at the 5M drug store located across the pub house. A while later, Emma saw GABUYAN collared by Pat. Romarate, who was with HERACLEO and GREGORIO. DUAY approached Romarate, identifying himself as a MANU agent. Romarate ignored him and handcuffed both DUAY and GABUYAN. The two were then dragged into the group's vehicle. Emma immediately reported what she saw to the office of the MANU. Several days later, at the Anti-Crime Unit office, she positively identified Romarate, HERACLEO, and GREGORIO from pictures provided by the investigator as the persons who seized DUAY and GABUYAN.^[7]

Ramon de Asis was watching television at home on the night of 12 January 1990 when he saw four persons in the vicinity of his house, one of them already dead. He did not see the face of the dead person which was "lying face down," but he recognized HERACLEO and GREGORIO, who were his neighbors. Romarate told Ramon that "we killed him Nong because he is a sparrow." Ramon ordered the three to remove the dead body, then went

inside the house.[8]

Jeremias Baguhin, a member of the Philippine National Police, declared that at around 9:00 a.m. of 17 February 1990, while he and Police Officers Floribel and Paguidaton were patrolling the Bankerohan area of Davao City, he learned that the perpetrators in the killing of DUAY and GABUYAN wanted to surrender. Jeremias and his companions immediately went to "matadahan" where they found HERACLEO and GREGORIO waiting for them. The two told him they had knowledge of the death of DUAY and GABUYAN in the hands of Romarate, and that they wanted to surrender because their conscience was bothering them. Jeremias brought them to the Anti-Crime Office for investigation. In the afternoon of the same day, Romarate was apprehended, but he denied having killed DUAY and GABUYAN. During confrontation, HERACLEO and GREGORIO pointed to Romarate as the alleged mastermind.[9]

Rolando Latayada, a MANU agent who acted as a look-out of DUAY and GABUYAN, corroborated the testimony of Emma on the latter's apprehension by Romarate, HERACLEO, and GREGORIO.[10]

Rodel Calo, a member of the Anti-Crime Task Force of the Philippine National Police, Davao City, said that on 17 February 1990, HERACLEO and GREGORIO were referred to him for investigation regarding the death of DUAY and GABUYAN. After they were apprised of their constitutional rights, HERACLEO and GREGORIO told him they did not need the assistance of a lawyer and they were willing to give a statement. Nevertheless, Rodel called Atty. Rideway Tanjili, Assistant Regional Attorney of the Public Assistance Office (PAO), to assist them in signing a sworn statement waiving their rights to counsel and to remain silent. Atty. Tanjili substantially corroborated this point.[11] On 19 February 1990, HERACLEO and GREGORIO executed an extra-judicial confession in the presence of Fiscal Garcia, wherein they narrated their participation in the commission of the crime.[12]

Dr. Jose Ladrido, Jr., a medico-legal officer, testified that he conducted an autopsy on the cadavers of DUAY and GABUYAN on 15 January 1990. He found rope marks on DUAY's wrists and the wrists of GABUYAN were tied with a "tire wire." Both sustained multiple stab wounds. Dr. Ladrido then prepared a Necropsy report.[13]

DUAY's wife Dulcesima testified that she cried and collapsed upon learning of the death of her husband and that she spent P25,000, more or less, during the wake. Prior to his death, DUAY had been working as a security guard and as an agent of the MANU.[14]

On the other hand, the witnesses for the defense were GREGORIO, HERACLEO, Pedrita Manriquez, and Police Officer Teodoro Paguiducon, a member of the Anti-Crime Unit.

GREGORIO, neighbor of both HERACLEO and Romarate at Bankerohan, Davao City, testified that on 12 January 1990, Herminia Herrera told him to see her common-law husband Romarate. Later, GREGORIO and HERACLEO met Romarate, who was having a drinking session with Butong and Dida Dae, Rolando Corsonado, and Herrera. At about 7:00 p.m., Romarate and his group stopped drinking. He asked GREGORIO to accompany him in a buy-bust operation to be conducted at 5M drug store. GREGORIO and HERACLEO went with Romarate, Corsonado, Butong Dae, and Herrera. Romarate tried to buy at the Rose Pharmacy a drug known as "Pidol," which he described as an appetizer, but failed, so he proceeded to the 5M drug store. Again, Romarate was not given the drug. HERACLEO offered to buy the drug after being assured by Romarate that there was nothing to worry about. Having bought the drug, HERACLEO crossed the street toward his companions, but was arrested by GABUYAN. Upon seeing the incident, Romarate, with a drawn gun approached GABUYAN and ordered the latter to release HERACLEO. GABUYAN was handcuffed and brought near a theatre. Thereafter, Romarate went toward DUAY, poked a gun at him, and frisked him for weapons. A gun tucked in DUAY's waist was confiscated by Romarate. DUAY and GABUYAN were brought to the residence of HERACLEO, where

GREGORIO watched Romarate, Corsonado, and Butong Dae tie the hands of DUAY and GABUYAN with wires and gag their mouths with handkerchiefs to prevent them from shouting. Meanwhile, HERACLEO left to play basketball.

GREGORIO further testified that at about 10:00 p.m., GABUYAN and DUAY were brought near the river situated 15 meters from HERACLEO's house. He saw Romarate, Corsonado, and Butong Dae take turns in repeatedly stabbing the two. He could not run away because Romarate's gun was pointed at him. Romarate even ordered HERACLEO to shoot DUAY whose body was thrown into the river. HERACLEO only fired a shot into the air. A while later, Ramon de Asis arrived and was told by Romarate that the victims were killed because they were members of the NPA.

After the incident, GREGORIO and HERACLEO still saw each other while Romarate, Corsonado, and Butong Dae avoided them. At one time, they decided to seek the aid of HERACLEO's mother, Pedrita Manriquez, so that they could surrender to the proper authorities and "to know who is at fault." On 17 February 1990, GREGORIO and HERACLEO surrendered to Police Officer Teodoro Paguiducon. GREGORIO alleged that during investigation, he was not informed of his rights to counsel and to remain silent. He denied having admitted before the National Police Commission that he had any participation in the killing of the victims.[15]

For his part, HERACLEO asserted that he had no participation in the killing of GABUYAN and DUAY. His testimony mostly corroborated that of GREGORIO concerning the incident of 12 January 1990. He confirmed that he and GREGORIO voluntarily surrendered to the police on 17 February 1990, and that they executed a sworn statement at the residence of Atty. Tanjili on the latter's promise that they would not be implicated in the crime but, instead, be utilized as state witnesses.[16]

Their story was corroborated by Pedrita Manriquez[17] and Officer Teodoro Paguiducon.[18]

The trial court gave full faith and credit to the evidence for the prosecution. It admitted in evidence the extra-judicial confessions of HERACLEO and GREGORIO and upheld the validity of the waiver of their right to counsel since the same was executed intelligently and voluntarily in the presence of their mothers and Atty. Tanjili, and with full comprehension of the import, meaning, and consequences of what they had signed. The court also found sufficient evidence showing that the two had acted in concert with and had "willingly followed every command of Romarate." The collective responsibility of the conspirators having been established, it became unnecessary to prove who inflicted the fatal blow.[19] In order to insure that DUAY and GABUYAN could not resist the attack, and to facilitate the execution of the crime without risk to themselves, the conspirators, armed with knives and a gun, tied the hands of DUAY and GABUYAN and gagged their mouths to silence them. To the trial court, this clearly constituted treachery and abuse of superior strength. Lastly, the trial court regarded as mere afterthought the claim of HERACLEO and GREGORIO that they were only witnesses to the crime and had no part in the death of the victims.

Thus, in its decision[20] of 27 April 1995, the trial court convicted HERACLEO and GREGORIO and disposed of the cases as follows:

WHEREFORE, in Criminal Case No. 19, 615-90, finding the two accused Heracleo Manriquez and Gregorio Canoy guilty beyond reasonable doubt of the crime of Murder punishable under Article 248 of the Revised Penal Code with no modifying circumstance, both are hereby sentenced to a penalty of reclusion perpetua and to pay the cost; to pay the offended party Dulcesima Duay jointly and severally the amount of P25,920.00 as actual damages; to indemnify the offended party P50,000.00 as compensatory damages and P50,000.00 as moral damages.

In Criminal Case No. 19, 616-90, finding the two accused Heracleo Manriquez and Gregorio Canoy guilty beyond reasonable doubt of the crime of Murder punishable under Article 248 of the Revised Penal Code with no modifying circumstance, both are hereby sentenced to a penalty of reclusion perpetua and to pay the cost; to pay compensatory damages of P50,000.00.[21]

On 16 May 1995,[22] GREGORIO filed a notice of appeal to the Court of Appeals; however, said Court referred it to us pursuant to Section 5, Article VIII, of the Constitution.

HERACLEO chose not to appeal from the decision.

In his Appellant's Brief, GREGORIO contends that the trial court erred in:

I.

DECLARING THAT ACCUSED-APPELLANT'S WAIVER TO HIS RIGHT TO A COUNSEL OF HIS OWN CHOICE WAS VALID AND IN ADMITTING ACCUSED-APPELLANT'S EXTRAJUDICIAL CONFESSION AS EVIDENCE AGAINST HIM.

II.

FINDING THE EXISTENCE OF A CONSPIRACY AMONG THE ACCUSED WITHOUT INDEPENDENT EVIDENCE DESPITE ACCUSED-APPELLANT'S DENIAL OF CONCERT AND UNITY OF PURPOSE WITH THE OTHER ACCUSED PAUL ROMARATE.

GREGORIO maintains that the oral admission and extra-judicial confession he gave before the police authorities cannot be used as evidence against him because his waiver of his rights to remain silent and to counsel during custodial interrogation cannot be characterized as one made knowingly, voluntarily, and intelligently since: (1) the sworn statement was written in English and there was no proof that the preliminary questions and answers therein were translated, much less a translation after every question and answer in his alleged waiver, into the Visayan-Cebuano dialect, a language spoken and understood by him; (2) there was no proof that he, then only 18 years old and a 4th grader, clearly understood the import and consequences of the waiver which was "couched in broad and general terms"; (3) the sworn statement related only to his alleged disinterest to be represented by a counsel but it did not signify an agreement to make a confession of the crime with which he was charged; (4) he executed the sworn statement not knowing that an extra-judicial confession was attached thereto and; (5) the presence of his mother during the signing of the waiver did not guarantee that the same was done voluntarily and intelligently.

Likewise, GREGORIO vehemently denies the existence of a conspiracy in the commission of the felony. He argues that conceding that he dutifully followed the orders of Romarate, it was only because the latter was a police officer and armed while he was a minor and in no position to dispute or oppose the orders of Romarate. Apart from his extra-judicial confession, which became the sole basis for the trial court's judgment of conviction, there was no proof that a conspiracy existed in blatant disregard of the rule that independent evidence and proof beyond reasonable doubt are required in order to establish a conspiracy.[23]

The crux of the first assignment of error is the validity of the so-called waiver and extra-judicial confession[24] executed by GREGORIO. Section 12, paragraph 1, Article III of the Constitution provides:

SEC. 12 (1). Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

This paragraph is reinforced by R.A. No. 7438.[25]

Anent the aforementioned constitutional mandate, it is settled that one's right to be informed of the right to remain silent and to counsel contemplates the transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle. It is not enough for the interrogator to merely repeat to the person under investigation the provisions of Section 12, Article III of the 1987 Constitution; the former must also explain the effects of such provision in practical terms — e.g., what the person under interrogation may or may not do — and in a language the subject fairly understands. The right to be informed carries with it a correlative obligation on the part of the police investigator to explain, and contemplates effective communication which results in the subject's understanding of what is conveyed. Since it is comprehension that is sought to be attained, the degree of explanation required will necessarily vary and depend on the education, intelligence, and other relevant personal circumstances of the person undergoing investigation. In further ensuring the right to counsel, it is not enough that the subject is informed of such right; he should also be asked if he wants to avail of the same and should be told that he could ask for counsel if he so desired or that one could be provided him at his request. If he decides not to retain a counsel of his choice or avail of one to be provided for him and, therefore, chooses to waive his right to counsel, such waiver, to be valid and effective, must still be made with the assistance of counsel, who, under prevailing jurisprudence, must be a lawyer.[26]

We are convinced that the foregoing constitutional rights of GREGORIO were violated in these cases.

The records show that the document of Waiver (Exh. "F") signed by GREGORIO was prepared on 7 February 1990 but was subscribed and sworn to on 19 February 1990 before Asst. City Prosecutor Jose Garcia, Jr. Over the signature of Atty. Ridgeway Tanjili, the following words were typed: "Declarant assisted by counsel."

The Waiver reads as follows:

PRELIMINARY: Gregorio Canoy you are now in this office undergoing investigation in connection with the crime of Murder which you have committed. Before we ask you any question I must apprise you of your Constitutional rights as provided for in our Constitution.

Q

Do you understand that you have the right to remain silent?

A

Yes, I understand.

Q

Do you know that anything you may say might be used as evidence against you in any proceeding?

A

Yes, I know.

Q

Do you know that you have the right to the assistance of a counsel of your own choice and if you want one a lawyer will be appointed for you?

A

Yes, I understand.

Q

Do you wish to proceed with this investigation?

A

Yes, sir.

Q

Now do you wish to be assisted by a counsel?

A

No, sir.

Q

You mean to say you are waiving your rights?

A

Yes, sir.

WAIVER

I have been advised of my right to remain silent; that anything that I may say may be used as evidence against me; and that I have the right to a lawyer to be present with me while I am being questioned. I understand these rights and I am willing to make a statement and answer questions. I do not want the assistance (of a lawyer) and know what I am doing. No promises or threats have been made to me and no force or pressure of any kind have been used against me.

It is evidently clear that no meaningful information as to his rights under custodial interrogation was conveyed to GREGORIO. He was not asked if he wanted to avail of his rights and was not told that if he has no lawyer of his own choice he could avail of one to be appointed for him. Furthermore, the waiver states that he does not want the assistance of counsel and it is not shown that he agreed to be assisted by Atty. Tanjili. The testimony of Atty. Tanjili also eloquently reveals his cavalier attitude and the insufficiency of the assistance given. His explanation to GREGORIO on his constitutional rights during custodial interrogation and of the effects of the waiver thereof is unsatisfactory. In response to the inquiry of the trial court whether the contents of the waiver were explained and interpreted to GREGORIO, Atty. Tanjili simply said:

Q

Before you allowed them to sign the waiver, did you explain and interpret to the two accused the contents of that waiver?

A

Actually when this was brought to me, this was the only page that was shown to me, the waiver.[27]

Atty. Tanjili also admitted during cross-examination that GREGORIO and HERACLEO agreed to confess because of the promise that they would turn state witnesses. Thus:

Q

Did you not ask them why they were doing this in making a confession of a crime?

A

I would like to correct that. They were brought to me in not to make confession but to sign.

Q

Yes, but the sworn statement and the confession is a preparation to, did you not ask them what are they going to confess?

A

This is the story they told me that they were offered to be utilized as state witnesses by the authorities against the policeman whom they said is their "godfather." That is what they told me.[28]

Finally, it is obvious that the so-called extrajudicial confession, which is a sworn statement marked as Exhibit "F-2," and made to appear as "page 2," was not yet prepared when Atty. Tanjili was approached to "assist" GREGORIO. As clearly shown therein, another typewriter was used for Exhibit "F-2," and then merely attached as "page 2" of the waiver.

Since the waiver of GREGORIO was intrinsically flawed and, therefore, null and void, the alleged extrajudicial confession, "Exh. F-2," is inadmissible in evidence.

Nonetheless, the nullity of the waiver and the expurgation of the extrajudicial confession do not absolve

GREGORIO from any criminal responsibility. The evidence on record satisfies us with moral certainty that he and his co-accused conspired together to kill DUAY and GABUYAN and that GREGORIO was not a mere witness to the acts of the others; he himself materially contributed to the pursuit of the conspiracy.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. To establish the existence of a conspiracy, direct proof is not essential since it may be shown by facts and circumstances from which may be logically inferred the existence of a common design among the accused to commit the offense charged, or it may be deduced from the mode and manner in which the offense was perpetrated.[29] The confluence of the following factual incidents sufficiently established the alliance between and among GREGORIO and his co-accused: (1) GREGORIO agreed to the proposal that he together with HERACLEO, Herrera, Corsonado, and Butong Dae shall buy "Pidol," a drug; (2) the group went to Rose Pharmacy which was located in Claveria; GREGORIO and others waited for Romarate while the latter was buying the drug at Rose Pharmacy; (3) since Romarate was not given the drug at Rose Pharmacy the group proceeded to 5M drugstore, which was also located in Claveria; (4) GREGORIO and the group waited for Romarate's return; (5) Romarate accosted GABUYAN and brought the latter to the group; (6) GREGORIO and others, upon instruction of Romarate, took their captives, DUAY and GABUYAN, to Bolton Street and waited for a ride; (7) the group brought DUAY and GABUYAN on a vehicle to Bankerohan and were kept at the house of HERACLEO; (8) Romarate and Butong Dae mauled the victims while Herrera stayed outside the house and acted as a look-out to prevent people from coming inside; (9) meanwhile, GREGORIO stayed near Romarate and watched his companions beat DUAY and GABUYAN; (10) GREGORIO furnished Romarate with a tie wire which was used by the latter to hogtie the victims; (11) upon instruction of Romarate, GREGORIO moved GABUYAN outside the house and brought him near the river; (12) at the river, GREGORIO released GABUYAN; (13) immediately thereafter, GREGORIO watched his companions Romarate, Corsonado, and Butong Dae stab GABUYAN to death.

The trial court concluded that treachery attended the killing of DUAY and GABUYAN. We agree. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make, which means that no opportunity was given to the latter to do so.[30]

The evidence on record shows that during the assault, GABUYAN was unarmed and hogtied before and during the time he was repeatedly stabbed to death. GABUYAN was utterly defenseless and cannot in any manner render any form of resistance to prevent or parry the fatal blows of the accused. DUAY was likewise hogtied and stabbed in the back, and when he fell down and in such a helpless position the accused took turns in stabbing the victim. Treachery, duly alleged in the information and proved during the trial, qualified the killing to murder, pursuant to Article 248 of the Revised Penal Code.

GREGORIO cannot benefit from the mitigating circumstance of voluntary surrender. He surrendered to the authorities to clear his name in connection with the alleged unlawful death of his fellow conspirator Corsonado.[31] It was never his intention to submit himself to the authorities and assume responsibility for the crimes with which he was indicted, that is, for the untimely demise of DUAY and GABUYAN. An accused may be credited the mitigating circumstance of a surrender provided that the surrender must be spontaneous, i.e., the accused unconditionally submits himself to the authorities either because he acknowledges his criminal culpability or he wants to save them the trouble and expense necessarily incurred in his search and capture.[32] None of these elements is present in this case.

Conspiracy among the accused having been sufficiently established in these cases, it matters not who among the

accused actually inflicted the fatal blow on DUAY and GABUYAN since the criminal act may be attributable to all of them and the act of one is the act of all.[33]

However, GREGORIO is entitled to the benefit of the privileged mitigating circumstance of minority under the second paragraph of Article 13 of the Revised Penal Code. According to him he was born on 12 June 1972; he was then above fifteen but below eighteen years of age on the date the crimes in question were committed on 12 January 1990. He was not cross-examined on this point. The prosecution did not offer any contrary evidence. Pursuant then to Article 68 of the Revised Penal Code, the penalty imposable on him would be that next lower in degree than that prescribed for the murder for which GREGORIO and his co-accused were indicted below. At the time of the commission of the crime, the penalty prescribed for the crime of murder under Article 248 of the Revised Penal Code was reclusion temporal in its maximum period to death. The penalty next lower is prision mayor in its maximum period to reclusion temporal medium. No modifying circumstances having been proved, the penalty may be imposed in its medium period pursuant to Article 64 of the Revised Penal Code. Applying the Indeterminate Sentence Law, GREGORIO may be sentenced to an indeterminate penalty ranging from eight (8) years and one (1) day of prision mayor minimum, as minimum, to fourteen (14) year and eight (8) months of reclusion temporal minimum, as maximum.

WHEREFORE, the challenged decision of 27 April 1995 of Branch 16, Regional Trial Court of Davao City, in Criminal Case No. 19,615-90 and Criminal Case No. 19,616-90, finding accused-appellant GREGORIO CANOY guilty in each case beyond reasonable doubt, as principal, of the crime of murder defined and penalized under Article 248 of the Revised Penal Code, is hereby AFFIRMED, with the modification that the penalty imposed in each case is reduced from reclusion perpetua to an indeterminate penalty ranging from eight (8) years and one (1) day of prision mayor minimum, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal minimum, as maximum.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.

Pardo, J., abroad on official leave.

[1] Original Record (OR), Criminal Case Nos. 19, 615-90, 19, 616-90, 75-90; Rollo, 23-38. Per Judge Romeo Marasigan.

[2] OR, 1, 368.

[3] Rollo, 7.

[4] OR, 1, 398.

[5] Id., 404, 405.

[6] Id., 12-13; 375-376.

[7] TSN, 5 March 1992, 2 et seq.

[8] TSN, 5 March 1992, 42-51.

[9] TSN, 6 March 1992, 2-15.

[10] TSN, 11 March 1992, 3-29.

[11] TSN, 4 November 1994, 2-11.

[12] TSN, 11 March 1992, 30-51.

[13] Exhibits "H" and "I"; OR, 480-481.

[14] TSN, 14 October 1992, 11-16.

[15] TSN, 29 September 1993, 2-30; TSN, 11 February 1994, 2-10.

[16] TSN, 28 May 1993, 2-19; TSN, 7 June 1993, 1-17.

[17] TSN, 12 August 1993, 7-20.

[18] *Id.*, 2-7.

[19] Citing *People v. Magalang*, 217 SCRA 571 [1993].

[20] OR, 75-90; Rollo, 23-38. Per Judge Romeo D. Marasigan.

[21] OR, 90; Rollo, 38.

[22] *Id.*, 73; *Id.*, 39.

[23] Citing *People v. Quizon*, 256 SCRA 325 [1996]; *Fonacier v. Sandiganbayan*, 238 SCRA 655 [1994].

[24] Exhibit "F", Exhibits "F-2" and "F-3"; OR, 476-478.

[25] Entitled "An act defining certain rights of person arrested, detained or under custodial investigation as well as the duties of the arresting, detaining, and investigating officers and providing penalties for violation thereof."

[26] *People v. Basay*, 219 SCRA 404, 418 [1993], citing *People v. Nicandro*, 141 SCRA 289 [1986]. See *People v. Mahinay*, 302 SCRA 455, 487-489 [1999] for the detailed guidelines on what arresting officers should do.

[27] TSN, 4 November 1994, 7.

[28] *Id.*, 10.

[29] *People v. Silvestre*, 244 SCRA 479, 493 [1995]; *People v. Hubilla*, 252 SCRA 471, 481 [1996]; *People v. Pecho*, 262 SCRA 518, 530-531 [1996].

[30] *People v. Tiozon*, 198 SCRA 368, 387 [1991]; *People v. Simon*, 209 SCRA 148, 163 [1992]; *People v. Kempis*, 221 SCRA 628, 646 [1993].

[31] TSN, 26 July 1990, 50-51.

[32] *People v. Lee*, 204 SCRA 900, 911 [1991]; *People v. Tismo*, 204 SCRA 535, 558-559 [1991]; *People v. Devaras*, 205 SCRA 676, 695 [1992].

[33] *People v. Pama*, 216 SCRA 385, 401 [1992]; *People v. Liquiran*, 228 SCRA 62, 74 [1993]; *People v. Sequino*, 264 SCRA 79, 102 [1996].

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