PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BERNARDINO ARANZADO, ACCUSED-APPELLANT.

G.R. Nos. 132442-44. September 24, 2001

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

In a joint decision of Branch 19 of the Regional Trial Court of Isulan, Sultan Kudarat, in Criminal Cases Nos. 2384, 2385 and 2386 promulgated on 21 November 1997,[1] accused-appellant Bernardino Aranzado (hereafter BERNARDINO) was convicted of three counts of rape committed against her twelve-year-old daughter Zeny Aranzado (ZENY). He was sentenced to suffer the death penalty in each count. The decision is now before this Court for automatic review pursuant to Article 47 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659.

The accusatory portion of the information in Criminal Case No. 2384 reads as follows:

> That in the evening of March 7, 1997, at Poblacion, Municipality of Esperanza, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd and unchaste designs and by means of force and intimidation, did then and there, willfully, unlawfully and feloniously lie and succeeded in having carnal knowledge of ZENY G. ARANZADO, his twelve (12) years old daughter, against her will and consent.
>
> CONTRARY TO LAW, particularly Article 335 of the Revised Penal Code of the Philippines, as amended by Republic Act [No.] 7659.[2]

The accusatory portions of the informations in Criminal Cases Nos. 2385 and 2386 are similarly worded except as to the date of the commission of the crime, which is 10 March 1997.[3]

Upon arraignment on 19 May 1997, BERNARDINO, assisted by his counsel Atty. Lorenzo F. Balo, entered a plea of not guilty in each case. A joint trial was granted, and the pre-trial and trial on the merits was set on 20 October 1997.

On 20 October 1997, BERNARDINO, through his counsel Atty. Balo, moved to withdraw his previous plea of not guilty in each of the three cases and to substitute the same upon re-arraignment with pleas of guilty. The trial court then instructed BERNARDINO to approach the court rostrum and conducted the inquiry, thus:

> ATTY. BALO:
>
> Your Honor, actually after I have conferred with my client, Your Honor, he intimated to me that he is ready to withdraw his former plea of not guilty and he is asking for his re-arraignment to enter a plea of guilty to the offenses charged in all these three (3) cases.
>
> COURT:
>
> Let the accused come nearer to the rostrum.

Your counsel, Atty. Lorenzo Balo, informed the Court that you are allegedly contemplating to withdraw your former plea of not guilty in these three (3) cases. Do you confirm the said manifestation of your counsel?

ACCUSED:

Yes, Your Honor.

COURT:

Did somebody force or coerce you to withdraw your former plea of not guilty?

ACCUSED:

None, Your Honor.

COURT:

Are you telling the Court that it is of your own free and voluntary will and decision to withdraw your former plea of not guilty in each of these three (3) cases filed against you?

ACCUSED:

Yes, Your Honor.

COURT:

If the Court allows you to withdraw your former plea of not guilty, what plea would you enter in each of these three (3) cases?

ACCUSED:

I will admit the crimes charged, Your Honor.

COURT:

Do you know Zeny Aranzado, the private complainant in these cases?

ACCUSED:

Yes, Your Honor. I know her because she is my daughter.

COURT:

Do you know when she was born?

ACCUSED:

She was born on November 19, 1984, Your Honor.

COURT:

Did you understand and realize the consequences of pleading guilty to the crime of rape in each of these cases filed against you by your daughter?

ACCUSED:

Yes, Your Honor, I will be convicted.

COURT:

The penalty that might be imposed against you will be death, thru lethal injection, as the complainant, your

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daughter, is below 18 years old. With this information, do you still want to withdraw your former plea of not guilty and enter a plea of guilty?

ACCUSED:

I cannot do anything, Your Honor. I have committed it against my daughter. I will still withdraw my former plea of not guilty and enter a plea of guilty.

COURT:

Are you telling the Court, in the presence of your counsel, that you have committed the crimes charged against you in each of these three (3) cases?

ACCUSED:

Yes, Your Honor. I admit, but may I be allowed to state the reason why.

COURT:

Okay, what is your reason why you have committed the crimes charged against you in these cases.

ACCUSED:

During that time, Your Honor, I was very drunk and I was under the influence of drug and I have a very big problem with my family that nobody could help me. That was the reason why I committed the said crimes, Your Honor.

COURT:

What was your problem?

ACCUSED:

During that time, Your Honor, I ha[d] a very big problem with my family. An incident happened that my house was burned and I [did] not know how to solve my problem.

COURT:

And because of that problem, you have committed the crimes in question?

ACCUSED:

Yes, Your Honor. I did that because I think I was not in my proper mind at that time.

COURT:

Okay, the Court will call this case again at 10:00 o'clock this morning. Try to reconsider your decision to withdraw your former plea of not guilty, and the consequences of your decision, since the crime of rape is a capital offense and carries the maximum penalty of death.

ACCUSED:

Yes, Your Honor.

COURT:

Give this case a second call later at about 10:00 o'clock in the morning, to allow the accused to reconsider and to contemplate further on whether or not, his desire to change his former plea is improvidently given, even if he was accordingly assisted earlier by his counsel before deciding to consider a substitution of his former plea

of not guilty.[4]

Twenty minutes past ten o'clock that same morning, the trial court called again the case, and the following proceedings took place:

COURT:

The Court has given you more than two (2) hours to reflect, on whether or not to continue with your desire to change your former plea of not guilty to a plea of guilty in each of these cases filed against you. The Court had given you enough time to reconsider very seriously your intention to withdraw your former plea of not guilty and to enter a plea of guilty to the crimes charged against you in these cases. Have you finally decided on whether or not to withdraw your former plea of not guilty?

ACCUSED:

I have decided to withdraw my former plea of not guilty, and I intend to enter a plea of guilty, Your Honor.

COURT:

What is your motion, Atty. Balo?

ATTY. BALO:

May we move to withdraw the plea of not guilty of the accused, Your Honor, in all these cases, and thereafter, the accused be re-arraigned in these cases.[5]

The trial court then issued an order for the re-arraignment of BERNARDINO. Thereafter, he was re-arraigned.[6]

The trial court thereafter issued an order[7] directing the prosecution to present additional evidence as to the guilt of BERNARDINO and the circumstances attending the commission of the crime, independently of the plea of guilty in order to leave no room for doubt as to the possibility of a misunderstanding on his part on the precise nature of the charges to which he pleaded guilty. The trial court denied the motion for favorable appreciation of the voluntary plea of not guilty as a mitigating circumstance on the ground that it was not spontaneous considering that BERNARDINO had already previously entered pleas of not guilty when he was arraigned on 19 May 1997.

Conformably with the order of 20 October 1997 the prosecution presented its witnesses on the next day, 21 October 1997. ZENY, its first witness, testified that she was born on 19 November 1984 in Sto. Niño, South Cotabato. Her parents were BERNARDINO and Lourdes Gerongani. At about midnight of 7 March 1997, she was sleeping with her sisters and younger brother in their house at Poblacion, Esperanza, Sultan Kudarat, when the knocking at the door of their room awakened her. When she opened the door, her father immediately slapped her and demanded to know why she locked the door. Then, BERNARDINO asked her daughter: "Can I touch your vagina?" Repulsed by the suggestion, ZENY refused, only to find just as quickly that her father had poked a knife at her neck.[8]

BERNARDINO thereafter pulled ZENY's hair, forcibly held her down the floor and boxed her stomach. Recognizing the weakness of his daughter, he undressed her; and while choking her he imposed his lechery. He was obstinate to her daughter's pleas for mercy and compassion. He warned her not to tell anyone of the deed or he would kill her. He then stood up, dressed up and left the daughter to her weeping.[9]

Unsatisfied with that single act of carnality, BERNARDINO repeated the assault on the honor and chastity of ZENY about midnight of 10 March 1997. This time he surreptitiously crawled to the sleeping ZENY and pulled her to the side of the room. Sensing the assault, ZENY's older sister put on the light only to be menacingly

instructed by BERNARDINO to put it off. BERNARDINO then dragged her daughter to the sala and, while poking a knife at her, undressed her and performed the sexual act. ZENY was helplessly crying, but her father continued with the sexual onslaught. Desperate for escape, ZENY nonetheless could not move as she was entwined between her father's legs. After about ten minutes, BERNARDINO again imposed his lasciviousness upon her. He pulled ZENY to the room where he slept and had sexual intercourse with her. Thus, ZENY was sexually violated twice that evening.[10]

The siblings finally found the courage to escape to their grandmother's house in Sto. Niño, South Cotabato, on 12 March 1997. There, they told their grandmother about the dastardly deed committed by their father BERNARDINO. While initially engulfed in her disbelief, their grandmother discerned the truth in the revelations of her grandchildren about her son's lechery. She sought the help of the local police such that when on 13 March 1997 BERNARDINO arrived at her house apparently in pursuit of the siblings, he was immediately placed under arrest. ZENY also claimed that she was able to take possession of the knife her father used to cow her to submit to his carnal designs when she passed by her house previous to her sworn recitation of the events at the police station.[11]

The next prosecution witness was Dr. Hernie de los Reyes Baraquia, who conducted the physical examination on ZENY on 3 March 1997. She declared that she discovered "a minor abrasion on [the girl's] cheek, ... contusion hematoma on [the] right anterior triangle of her neck ... superficial laceration wound on her right palm, thumb area, and another contusion hematoma on her left arm flexor area and another... superficial wound on her left elbow." Dr. Baraquia detected as significant the results of her examination on the girl's genitalia, as the intriotus admitted two fingers with no resistance and had healed lacerations at 10 o'clock and 11 o'clock positions.[12] She then identified the Medico Legal Certificate[13] which contained the outcome of her physical examinations on ZENY.

ZENY's grandmother also testified; however, she merely corroborated ZENY's narration of her harrowing tale in the hands of her own father.

BERNARDINO opted to dispense with the presentation of his evidence.

The trial court promulgated its decision on 21 November 1997. It lent full faith and credence to the evidence of the prosecution that BERNARDINO committed rape against her twelve-year-old daughter on three separate occasions as alleged in the three separate indictments. It was convinced, with moral certainty and without any iota of doubt in view of the unquestionable credibility of the witnesses and the unrebutted testimonies and evidence, that BERNARDINO perpetrated the "revolting crime." BERNARDINO's pleas of guilty reinforced the trial court's confidence in its decision.

Determining ZENY to be below eighteen (18) years of age or, to be exact, twelve (12) years, three (3) months and twenty-one (21) days old at the time she was sexually molested (per the Birth Certificate)[14] and that the perpetrator was her father, the court found it imperative to impose the death penalty on the latter for each count of rape pursuant to Section 11 of R.A. No. 7659, which amended Article 335 of the Revised Penal Code. It also ordered BERNARDINO, in each case, to pay his daughter ZENY moral damages in the amount of P50,000 and exemplary damages in the amount of P25,000; the latter award was imposed to deter other fathers with perverse tendencies or aberrant sexual behaviour from sexually abusing their daughters.

In his Appellant's Brief in these cases, BERNARDINO, through the Public Attorney's Office (PAO), imputes upon the trial court the following errors:

- In failing to ask BERNARDINO whether he desires to present evidence in his behalf and allow him to do so if

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he desires, the trial court blatantly contravened Section 3, Rule 116 of the Revised Rules on Criminal Procedure.

- The informations are fatally defective for two reasons. First, they failed to allege the particular filial relationship between BERNARDINO and his victim in the sense that nowhere was it specifically mentioned with singular clarity that the former was the "parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim." Second, the indictments did not succinctly define the time when the crimes were allegedly committed.

BERNARDINO then prays for the reversal of the decision of the trial court and his acquittal or, in the alternative, the remand of the case to said court for further proceedings or the issuance of a new judgment convicting him of simple rape only.

For its part, the Office of the Solicitor General (OSG) opted to file a Manifestation and Motion in lieu of the Appellee's Brief. In said pleading, the OSG completely acquiesces to the arguments of BERNARDINO. It focuses on the trial court's failure to comply with the rigid requirements of Section 3, Rule 116 of the Rules of Court, which was magnified by the lamentable conduct of BERNARDINO's counsel, Atty. Balo. It also mentions of the uncanny similarity of these cases to People v. Sta. Teresa,[15] where the Court similarly bemoaned the trial court's failure to conform to the exacting standards of the accused's constitutional right to due process, and the lackluster performance of the accused's counsel. The OSG then recommends the remand of these cases to the court a quo for further proceedings.

Solemn and inflexible is the constitutional behest that no person shall be deprived of life, liberty or property without due process of law. Absolute heedfulness of this constitutional injunction is most pronounced in criminal cases where the accused is in the gravest jeopardy of losing his life. It constantly behooves the courts to proceed with utmost care in each and every case before them, but perhaps nothing can be more demanding of judges in that respect than when the punishment is in its severest form - death -- a penalty that, once carried out, is irreversible and irreparable.[16]

With this caveat, the Court painstakingly scrutinized the records of the cases at bar. At the end of the day, it found itself yielding to the persuasive arguments of the PAO and the OSG that the trial court failed, albeit regrettably, to observe the rigid and severe constitutional mandate on due process, more particularly the demands of Section 3, Rule 116 of the Rules of Court, which reads:

> Sec. 3. Plea of guilty to capital offense; reception of evidence. - When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.

As pointed by the OSG, the Supreme Court had already outlined, as early as in the case of People v. Camay,[17] how compliance with said rule, where an accused pleads guilty to a capital offense, should be attained by the trial court, thus:

> - The court must conduct a searching inquiry into the voluntariness and full comprehension [by the accused] of the consequences of his plea;
>
> - The court must require the prosecution to present evidence to prove the guilt of the accused and precise degree of his culpability; and
>
> - The court must ask the accused if he desires to present evidence in his behalf and allow him to do so if he desires.

There is no debate that the trial court had persuasively observed the second command of the rule by directing the

prosecution to adduce evidence to determine the exact culpability of the accused, taking into account the presence of other possible aggravating or mitigating circumstances.[18] It then heard with remarkable diligence and dispatch the prosecution's case. It is in the rule's first and third requirements that, sadly but not without hope of immediate rectification, the trial court missed its bounden duty.

On the first requirement, it bears to note that a searching inquiry must focus on the voluntariness of the plea and the full comprehension of the consequences of the plea[19] so that the plea of guilty can be truly said to be based on a free and informed judgment. While there can be no hard and fast rule as to how a judge may conduct a "searching inquiry," it would be well for the court to do the following:

(1)

Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. These the court shall do in order to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent or avenging quarters.[20]

(2)

Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.[21]

(3)

Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.[22]

(4)

Inform the accused the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. Not infrequently indeed an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to see to it that the accused does not labor under these mistaken impressions.[23]

(5)

Require the accused to fully narrate the incident that spawned the charges against him or make him reenact the manner in which he perpetrated the crime, or cause him to supply missing details of significance.[24]

The searching inquiry conducted by the trial court left much to be desired.

First, the questions were framed in English. The record of such inquiry is bereft of any indication that the trial court attempted to ascertain whether BERNARDINO was well-versed in the English language; neither does it reveal any information about his personality profile which could "provide contributory insights for a proper verdict in the case." Nor does the record of the searching inquiry shed light on matters concerning his apprehension, detention and prior investigation. An examination of the records, however, disclosed that BERNARDINO signed a "Waiver" whereby he waived his right to a preliminary investigation. Such waiver was attested to by the Municipal Jail Warden, but there was nothing that would indicate that he was assisted by a competent counsel at the time.

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Second, while Atty. Balo manifested that after he conferred with BERNARDINO the latter intimated that he was ready to withdraw his former plea of guilty, it is not clear whether the former explained to the latter the implications of a plea of guilty.

Third, during the searching inquiry, the trial judge and BERNARDINO kept mentioning about the "three cases filed" or "crimes charged" against the latter. BERNARDINO even hoisted, as one of the reasons why he committed the crimes, the fact that he had a very big problem because his house was burned. To ensure that he fully understood the nature of the crimes filed against him to which he pleaded guilty, the court should have at least asked him to recount what he exactly did.

Fourth, the trial court's warning that the supreme retribution in the form of death through lethal injection "might" be imposed on him was inadequate. It should have instead specifically warned him that should it find that the special qualifying circumstances were properly alleged in the information and proved during the trial, along with the elements of the crimes, he would definitely and in any event be meted the death penalty. The trial court should have informed that his plea of guilt would not affect or reduce the death sentence as he might have erroneously believed,[25] for under Article 63, the death penalty being a single indivisible penalty shall be applied by the courts regardless of any mitigating circumstances that might have attended the commission of the deed. In fact, the defense counsel himself harbored a belief that the voluntary plea of guilt would mitigate the penalty that would be imposed upon BERNARDINO. With that belief and perhaps unmindful of Article 63 of the Revised Penal Code, Atty. Balo "moved for favorable appreciation, as a mitigating circumstance, the voluntary plea of guilty of the accused, for purposes of the imposition of the appropriate penalty prescribed by law."[26] Hence, on this score alone, i.e., insufficiency of the searching inquiry, we cannot accept as valid his plea of guilty to the three charges of rape.

Moreover, there is nothing on record, even either of clue or hint, that the trial court asked BERNARDINO whether he wished to present evidence in his behalf. The trial court's judgment merely made a statement to the effect that "the defense opted to dispense with the presentation of evidence." That the remark is inconclusive and uncertain of the possibility that the trial court made an effort to execute its third duty under the Rule is fortified by the outcome of our meticulous examination of the records.

The prosecution rested its case on the morning of 22 October 1997. The bottom portion of the Minutes[27] discloses a handwritten notation to the effect that "there being no objections to the exhibits... all are admitted for the prosecution." The back portion additionally reveals that "the defense dispensed with the presentation of evidence" and that accordingly, the case would be considered for judgment. The trial court then issued two orders in the afternoon of the same day; the first[28] imparted that "[t]here being no objections to all documentary exhibits formally offered in evidence for the prosecution and finding the said exhibits relevant and material, and as parts of the testimonies of the witnesses who identified the same, Exhibit "A" ..., Exhibit "B," Exhibits "C," "C-1," are hereby admitted in evidence." The second order reads:

> The prosecution rested the presentation of additional evidence as to the guilt of the accused, Bernardino Flamiano Aranzado, of the crimes charged against him in each of the above-entitled cases, independently of the plea of guilty of the said accused.
>
> The defense counsel, Atty. Lorenzo F. Balo, thereupon, manifested that he was dispensing with the presentation of evidence for the accused... in each of the above-entitled cases, notwithstanding the opportunity to present the same.
>
> Accordingly, these cases are now deemed submitted for judgment. The promulgation of the judgment would be set later.

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SO ORDERED.[29]

To emphasize, Section 3 of Rule 116 is mandatory. Its purpose is to preclude any room for reasonable doubt in the mind of the trial court, or the Supreme Court on review, as to the possibility that there might have been some misunderstanding on the part of the accused as to the nature of the charges to which he pleaded guilty, and to ascertain the circumstances attendant to the commission of the crime which justify or require the exercise of a greater or lesser degree of severity in the imposition of the prescribed penalties.[30]

Against this truth, the trial court's legal blunder cannot be countenanced. The error elicits further concern as it is aggravated by Atty. Balo's apparent lackadaisical and perfunctory discharge of his obligation as counsel for an accused who stood to face three death sentences. It, however, becomes ironic that with the trial court's omission of its first and third obligations as already discussed, its second order on 22 October 1997 divulges the flaws or deficiencies in Atty. Balo's direction and control of his client's case. The second paragraph more than exposes Atty. Balo's failure to fulfill his sworn duty as an advocate by simply "manifest[ing] that he was dispensing with the presentation of evidence for the accused... in each of the above-entitled cases, notwithstanding the opportunity to present the same."

To underscore the obvious is an attempt at futility. There was an opportunity for the defense to present evidence, yet Atty. Balo did not avail of it. Irrefutably, Atty. Balo's behavior in the defense of BERNARDINO fall short of the demanding mandate required of all lawyers to defend all accused, no matter how guilty they may seem to be. In short, his deportment evinces an apparent disregard of his fidelity to his oath as a lawyer and responsibility as an officer of the court to aid in the administration and dispensation of justice.

Enlightening is the Court's discourse on a counsel's avowed passionate dedication and resolve in his duty, viz.:

> ... The right to counsel proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned. The due process requirement is a part of a person's basic rights; it is not a mere formality that may be dispensed with or performed perfunctorily.
>
> The right to counsel must be more than just the presence of a lawyer in the courtroom or the mere propounding of standard questions and objections. The right to counsel means that the accused is amply accorded legal assistance extended by a counsel who commits himself to the cause for the defense and acts accordingly. The right assumes an active involvement by the lawyer in the proceedings, particularly at the trial of the case, his bearing constantly in mind of the basic rights of the accused, his being well-versed on the case, and his knowing the fundamental procedures, essential laws and existing jurisprudence. The right of an accused to counsel finds substance in the performance by the lawyer of sworn fidelity to his client. Tersely put, it means an efficient and truly decisive legal assistance and not a simple perfunctory representation.[31]

Worthy of mention also is the trial court's dispatch in the resolution of the case. The pre-trial and trial were scheduled on 20 October 1997. On this date, BERNARDINO withdrew his separate pleas of not guilty and changed them to pleas of guilt. The next day, the prosecution presented its two witnesses and the morning after or on 22 October 1997, its last witness. In the afternoon of that same day, the prosecution made its formal offer of evidence, and the court a quo declared the case submitted for decision. While at first glance, the remarkable swiftness by which the trial court adjudicated the case should earn emulation, it, however, becomes tainted with irregularity with the subordination of the greater exigency of due regard to the constitutional rights of the accused to the lesser dictate, at least in this case, of speed in the resolution of cases. Judges should be cautioned, towards this end, against the demands of sheer speed in disposing of cases, for their mission after all, and has been time and again put, is to see that justice is done.[32]

In the ultimate, the allusion to People v. Sta. Teresa lies in the similarity thereof to this case in that the trial court

failed to comply with all the exacting standards of due process, particularly Section 3 of Rule 116 of the Rules of Court, and the dereliction by the counsel for the accused in the performance of his responsibility as a lawyer.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision of the Regional Trial Court of Isulan, Sultan Kudarat, Branch 19, in Criminal Cases Nos. 2384, 2385 and 2386, promulgated on 21 November 1997, is hereby SET ASIDE. These cases are ordered REMANDED to the trial court for further and appropriate proceedings to be completed with purposeful dispatch consistent with the right of the accused to speedy trial.

Costs de oficio.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

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[1] Per Judge German M. Malcampo. Rollo, 17.

[2] Original Record (OR), 18; Rollo, 4.

[3] OR, 81-82.

[4] TSN, 20 October 1997, 3-6.

[5] Id., 7-8.

[6] Id., 9-10.

[7] OR, 23.

[8] TSN, 21 October 1997, 4-6.

[9] Id., 6-9.

[10] TSN, 21 October 1997, 9-14.

[11] Id., 15-20.

[12] Id., 27.

[13] Exhibit "D," OR, 32.

[14] Exhibit "E," OR, 31.

[15] G.R. No. 130663, 20 March 2001.

[16] People v. Tizon, 317 SCRA 632, 638 [1999].

[17] 152 SCRA 401 [1987].

[18] See Order supra note 7.

[19] People v. Sta. Teresa, G.R. No. 130663, 20 March 2001, citing People v. Alicando, 251 SCRA 293 [1995]. See also People v. Durango, 329 SCRA 758 [2000].

[20] People v. Estomaca, 256 SCRA 421, 437 [1996]; People v. Durango, supra at 769.

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[21] Id., People v. Nadera, Jr., 324 SCRA 490, 502 [2000].

[22] People v. Alicando, supra note 19, at 307; People v. Bello, 316 SCRA 804, 814 [1999]; People v. Nadera, supra.

[23] People v. Dayot, 187 SCRA 637, 642 [1990]; People v. Bello, supra at 813-814; People v. Tizon, supra note 16, at 639.

[24] People v. Dayot, supra at 643; People v. Estomaca, supra note 20, at 437; People v. Bello, supra note 22, at 814.

[25] People v. Abapo, 329 SCRA 513, 522-523 [2000].

[26] OR, 23.

[27] OR, 29.

[28] Id., 30.

[29] Id., 33.

[30] People v. De Luna, 174 SCRA 204, 213 [1989].

[31] People v. Bermas, 306 SCRA 135, 147-148 [1999]; See also People v. Nadera, supra note 21, at 506; People v. Durango, supra note 19, at 768.

[32] People v. Dayot, supra note 23, at 643.

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