

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CONSTANCIO CANDIDO Y COLLARGA, ACCUSED-APPELLANT.

G.R. Nos. 134072-73. June 10, 2002

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Accused-appellant Constancio Candido y Collarga was found guilty of murder aggravated by the use of an unlicensed firearm and sentenced to death in Criminal Case No. Q-94-58986[1] in the Decision dated June 22, 1998 rendered by the Regional Trial Court, Branch 220, Quezon City. He was likewise found guilty of Violation of Presidential Decree No. 1866,[2] as amended by Republic Act No. 8294,[3] in Criminal Case No. Q-94-58985 and was sentenced to suffer the penalty of imprisonment of prision correccional in its maximum period. The dispositive portion of the decision reads:

WHEREFORE, in the light of the foregoing, the Court finds the accused Constancio Candido y Collarga GUILTY BEYOND REASONABLE DOUBT, as principal, of the crimes of Violation of Presidential Decree No. 1866, as amended by Republic Act No. 8294; and Murder qualified by treachery and aggravated by use of unlicensed firearm punishable under Article 248 of the Revised Penal Code, as amended by Section 6 of Republic Act No. 7659, in relation with (sic) Section 1 of Republic Act No. 8294, and accordingly sentences him to suffer the penalty of imprisonment of PRISION CORRECCIONAL IN ITS MAXIMUM PERIOD and a fine of FIFTEEN THOUSAND PESOS (P15,000.00) for violation of P.D. 1866, as amended, in Criminal Case No. Q-94-58985; and to suffer the penalty of DEATH with all its accessory penalties and to indemnify the heirs of the deceased Nelson Daras y Pueblo in the amount of FIFTY THOUSAND PESOS (P50,000.00), for murder in Crim. Case No. Q-94-58985 (sic); subject to the rule on successive service of sentence under Article 70 of the Revised Penal Code.

The Director of Metro Manila Rehabilitation Center, Camp Ricardo Papa, Lower Bicutan, Taguig, Metro Manila is hereby ordered to transfer the custody of the accused to the National Penitentiary, New Bilibid Prisons, Muntinlupa, Metro Manila, pending appeal.

The Branch Clerk of this Court is hereby directed to transmit the entire records of this case to the Supreme Court for automatic review.

SO ORDERED.[4]

The relevant antecedents are as follows:

The information in Criminal Case No. Q-94-58986 for murder alleged:

That on or about the 9[th] day of October, 1994, in Quezon City, Philippines, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously assault, attack and employ personal violence upon the person of one NELSON DARAS y PUEBLO, by then and there shooting the latter with a .38 caliber revolver hitting him on the different parts of his body, thereby inflicting upon said NELSON DARAS y PUEBLO mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said NELSON DARAS y PUEBLO.

CONTRARY TO LAW.[5]

The information in Criminal Case No. Q-94-58985 for Violation of P.D. No. 1866, as amended, alleged:

That on or about the 9th day of October, 1994, in Quezon City, Philippines, the said accused without any authority of law, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) .38 cal. revolver Smith & Wesson “paltik” with Serial No. 453822 with three (3) live ammunitions and three (3) spent shells without first having secured the necessary license/permit issued by the proper authorities.

CONTRARY TO LAW.[6]

During his arraignment, accused-appellant pleaded not guilty to both charges.[7] Thereafter, joint trial of the cases ensued.

The prosecution’s evidence consist of the (a) testimonies of (1) Perlita Baldoza, a cousin of victim Nelson Daras, and an eyewitness to the shooting incident; (2) SPO1 Wilfredo Red who apprehended the accused-appellant and confiscated the subject firearm from the latter; (3) SPO1 Gil J. Gregorio who investigated the case; (4) Ruben Aliaga, a “peryanter,” also an eyewitness to the shooting incident; (5) Dr. Bienvenido O. Muñoz, Medico-Legal Officer III, Medico-Legal Division, National Bureau of Investigation, who conducted the autopsy on the body of the victim and (b) documents consisting of (1) the Certification, dated March 22, 1995 of the Firearms and Explosive Office, PNPHQ, Civil Security Force Command, Camp Crame, showing that accused-appellant does not possess any authority or license from the government to possess the subject firearm; and (2) the Autopsy Report No. N-94-2046.

The prosecution sought to prove that at around ten-thirty in the evening of October 9, 1994, witness Perlita Baldoza who was at her stall in the peryahan (mini carnival) behind the Camelot Hotel at Scout Tuazon, Barangay South Triangle, Quezon City saw accused-appellant alighting from a taxi as if he was looking for somebody.[8] She knew the accused-appellant because he was “an overseer” in the peryahan.[9] The accused-appellant walked towards the victim and positioned himself behind him. Then, he immediately pulled out a gun and fired at the victim, hitting him in the lower portion of the breast.[10] The victim fell. Not satisfied, the accused-appellant came closer to the victim, then, fired at him twice hitting him once on the right side of his chest.[11] Wasting no time, accused-appellant made his getaway and ran towards the direction of Scout Tuazon, Quezon City.[12] With the help of one Dennis Guinto, witness Baldoza brought the victim to the Capitol Medical Hospital where he was declared dead on arrival.[13]

Ruben Aliaga, a coin overseer in the “coin-throwing” game in the peryahan, was on duty the night the unfortunate incident took place and corroborated the testimony of witness Baldoza.[14] He testified that he saw accused-appellant holding a gun (“a short gun”) when the latter arrived at the peryahan and he saw him shoot the victim three (3) times. The victim had his back turned on the accused-appellant when the latter shot him from behind. After the shooting incident, he also helped in bringing the victim to the hospital where he was pronounced dead on arrival.[15]

In the meantime, SPO1 Wilfredo Red and SPO1 Malang were on patrol duty in the area along Scout Tuazon Street, Quezon City when they heard three (3) successive shots fired.[16] They went to the direction where the shots were fired and came upon the accused-appellant running away from the said direction. He was holding a gun.[17] SPO1 Red fired a warning shot and introduced himself as a police officer and told the accused-appellant to surrender his gun[18] but the latter did not heed the warning and instead, he poked the gun at SPO1 Red, then, he ran away.[19] SPO1 Red chased accused-appellant. He was able to subdue him. He confiscated accused-appellant’s gun[20] and noticed that the subject firearm was a homemade revolver, with three (3) live

ammunition and three (3) spent shells.[21] When shown the subject gun with Serial No. 453822 in court, SPO1 Red identified the same as the one he confiscated from the accused-appellant.[22]

Dr. Bienvenido O. Muñoz, Medico-Legal Officer III of the Medico-Legal Division of the National Bureau of Investigation conducted an autopsy of the victim and made the following postmortem findings, viz.:

Pallor, conjunctivae and integument.

Abrasions, reddish brown: nasal bridge, 0.5 x 1.0 cm.; chin, across midline, 3.0 x 7.0 cm.; thigh, left, lower third, anterior, 0.7 x 5.0 cm.

Lacerated wound, forehead, across midline, 3.0 cm.

Gunshot wounds:

- Entrance, ovaloid, 0.8 x 1.0 cm., with a contusion collar widest at its upper border. Located at the anterior chest, level of second intercostal space, right, 11.0 cm. from anterior median line, 134.0 cm. above right heel. Directed backward, downward and from right to left, into the right thoracic cavity, perforating the lower lobe of right lung then fracturing the body of 7[th] thoracic vertebra, into the posterior thoracic wall, where a bullet was lodged and recovered, 2.5 cm. to the left of posterior median line, 120.0 cm. above the left heel;

- Entrance, ovaloid, 0.9 x 1.0 cm., with a contusion collar widest at its lower border. Located at the back, level 10[th] intercostal space, left, 16.0 cm. from posterior median line, 109.5 cm. above left heel. Directed forward, upward and medially, perforating the diaphragm and spleen and making an exit wound, irregular, 2.0 x 1.0 cm., chest, anterior, level of 7[th] intercostal space, left, 7.0 cm. from anterior median line, 112.0 cm. above left heel.

Hemothorax, right-950 c.c.; left-750 c.c.

Hemoperitoneum-600 c.c.

Brain and other visceral organs, pale.

Stomach-empty.[23]

In his testimony, Dr. Muñoz declared that he found two (2) gunshot wounds in the victim's body. One was located at the front portion of the chest and the other one was located at the back. He declared the two (2) fatal gunshot wounds were the cause of death of the victim.[24] When asked about the distance of the muzzle of the gun used by the accused-appellant to the body of the victim when he fired it, Dr. Muñoz said that the distance was probably more than 24 inches because of the absence of any of the characteristics of a close range fire like smudging or burning.[25] As to the position of the victim vis-a-vis the assailant when shot, particularly the first shot, which was gunshot wound No. 2, Dr. Muñoz said that the assailant was at the back of the victim and more to the left.[26] With respect to gunshot wound No. 1, he said that the assailant and the victim were probably both standing and that the assailant was in front and to the right of the victim and the victim was standing on a lower level than the assailant because the trajectory of the bullet was downward and from right to left.[27]

It was also proven that the gun which took the life of the victim was not properly registered as required by law. P/Senior Inspector Edwin Roque of the Records Branch of the Philippine National Police issued a certification stating that the 0.38 caliber revolver recovered from the accused-appellant was not a licensed firearm and that accused-appellant was not a licensed or registered holder of any kind of firearm.[28]

The accused-appellant was presented as the sole witness for the defense. He admitted the killing but claimed that he did so in self-defense. He testified that at about six o'clock in the evening of October 9, 1994, he reported for work as an overseer in the peryahan of one Tony Baguio.[29] At around ten-thirty in the evening of that day, he closed one of the stalls in the peryahan because the owner of that stall did not arrive.[30] Immediately thereafter, the victim approached him and angrily asked why he closed the stall. Without waiting for him to answer, the

victim boxed him on his left ear,[31] then asked the accused-appellant if he was going to fight back.[32] Suddenly, the victim drew his gun. Accused-appellant grappled with the victim for the possession of the gun. In the course of the struggle, the gun fired hitting the victim on the left side of his stomach.[33] After the first shot was fired, the struggle for the possession of the gun continued. Accused-appellant then tried to raise the gun but it fired again twice, hitting the victim at his right shoulder.[34] At this point, somebody struck his neck causing him to move backward. A commotion ensued.[35] Thereafter, a policeman (whom the accused-appellant later identified as SPO1 Wilfredo Red) poked a gun at him and ordered him to raise his hands, then frisked his body and was able to get P9,000.00 and \$50.00 from him.[36] The policeman then boarded him on a jitney and brought him to Camp Karingal.[37]

In his brief, the accused-appellant ascribed the following errors to the court a quo, to wit:

I

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF MURDER.

II

THE COURT A QUO ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH THE SAME.

III

THE COURT A QUO GRAVELY ERRED IN TOTALLY DISREGARDING THE VERSION OF THE ACCUSED-APPELLANT THAT HE WAS MERELY ACTING IN SELF-DEFENSE.

IV

THE COURT A QUO ERRED IN NOT APPLYING THE PROVISION OF RA 8294 AND IN CONVICTING THE ACCUSED-APPELLANT FOR TWO SEPARATE OFFENSES.[38]

The accused-appellant assails his conviction in this automatic review and contends that the trial court has gravely erred in convicting him of murder aggravated by the use of an unlicensed firearm and sentencing him to death on the basis of the prosecution's evidence.

The Court affirms the judgment of conviction but reduces the sentence of death to reclusion perpetua.

Having admitted killing the victim, the accused-appellant has the burden of proving that he acted in self-defense by establishing (1) unlawful aggression on the part of the deceased; (2) reasonable necessity of the means employed by him to prevent or repel the aggression; and (3) lack of sufficient provocation on his part in defending himself.[39] Accused-appellant has failed to discharge this burden.

The version of accused-appellant of what transpired that night is simply incredible. He asserted that at around ten-thirty in the evening of October 9, 1994, he closed one of the stalls in the peryahan when the victim approached him and angrily asked why he closed the stall. Then, without waiting for his answer, the victim boxed him on his left ear.[40] Surprised and irritated, he asked the victim why he boxed him.[41] Instead of answering, the victim drew his gun and asked accused-appellant if he was going to fight back.[42] Accused-appellant then grappled for the possession of the gun. In the course of the struggle for possession of the same, the gun fired hitting the victim on the left side of his stomach.[43] While the struggle for the possession of the gun continued, accused-appellant then tried to raise the gun but the same fired again twice, hitting the victim at his right shoulder.[44]

The presence of a number of gunshot wounds on the body of the victim negates self-defense and indicates a determined effort on the part of the accused-appellant to kill the victim. The autopsy made on the body of the victim as shown by the postmortem report indubitably shows that the nature and location of the gunshot wounds inflicted on the victim belie accused-appellant's claim of self-defense. Dr. Muñoz found two (2) gunshot wounds and declared that the same caused the death of the victim. One of the wounds was located at the front portion of the chest while the other one was located at the back. As to the position of the victim vis-a-vis the assailant when shot, particularly the first shot, which was gunshot wound No. 2, Dr. Muñoz stated that in gunshot wound No. 2, which was located at the back, the assailant would have been at the back of the victim and more to his left.[45] With respect to gunshot wound No. 1, he said that if the victim and the assailant were both standing, the assailant would have been in front and to the right of the victim and the victim would have been standing on a lower level than the assailant.[46] Quite clearly, these findings confirm the testimony of witness Baldoza that accused-appellant alighted from a taxicab, positioned himself behind the victim and shot him at the back. When the victim fell to the ground, the accused-appellant fired at him again.[47] Dr. Muñoz further stated that the gun was not fired at close range because of the absence of smudging or burning around the victim's wound, thereby, negating accused-appellant's claim that the gun accidentally fired while he and the victim were grappling for the possession thereof. Likewise, it is highly improbable for the victim to have been shot at the back if the gun accidentally fired in the course of the struggle for its possession, as this would assume that the victim's hand holding the gun was twisted abnormally to reach his back with the gun muzzle pointed at his back when the gun exploded. Accused-appellant did not testify that such an impossible scenario took place. What is clear is that the nature and location of the gunshot wounds are physical evidence that demonstrate a determined effort to kill the victim and not just defend oneself.[48]

A plea of self-defense cannot be justifiably appreciated where it is not only uncorroborated by independent and competent evidence, but also extremely doubtful by itself.[49] Here, accused-appellant was presented as the sole witness for the defense. No other witness was presented to testify how the fateful shooting happened. If it were true, as declared by the accused-appellant, that a lot of people were present during the scuffle and wanted to pacify them, why had not there been any attempt to present anyone of them to support his story. Notable among the persons he mentioned were prosecution witnesses Baldoza and Aliaga who, far from helping him substantiate his claim of self-defense, acknowledged their presence at the scene of the crime and testified against him.

The eyewitness account of Perlita Baldoza was plain, clear, categorical and spontaneous. She testified:

Q

On October 9, 1994 at around 10:30 p.m., do you recall where were you?

A

Yes, ma'am.

Q

Where were you then, Madam Witness?

A

In Scout Tuazon in my stall at the "perumahan", ma'am.

Q

While you were at your “perumahan” in Scout Tuazon, Quezon City, was there any unusual incident that happened?

A

Yes, ma’am.

Q

What was that?

A

The accused, Constancio Candido, fired a gun at Nelson Daras.

Q

Now, prior to the time that accused Constancio Candido fired at Nelson Daras, have you noticed Mr. Nelson Daras?

xxx

A

Yes, Your Honor.

FISCAL LACAP:

Where was Nelson Daras then prior to the shooting incident?

A

He was watching color games.

Q

Where was this color game that Nelson Daras was watching then?

A

There also at the “perumahan”.

xxx

FISCAL LACAP:

How far was this color game from the place where you were?

A

Almost two meters.

Q

From where you were?

A

Yes, ma'am.

Q

While Nelson Daras was watching the color game, what happened after that?

A

While Nelson Daras was busy watching games, the accused Constancio Candido suddenly appeared, alighting from a taxi as if he is looking for somebody.

Q

When you said "Tisoy", to whom are you referring to?

A

He is the one (Witness pointing to the accused Constancio Candido).

Q

Prior to October 9, 1994, do you know "Tisoy" already?

A

Yes, ma'am.

Q

Why do you know him?

A

He is also our companion. He is also in the “peryahan”.

Q

As co-worker?

A

He is also working in the said “peryahan” where I have my stall.

Q

When you saw accused Constancio Candido as if he was looking for somebody else, what happened next, if any?

A

When he saw Nelson Daras, he immediately pulled his gun and fired at Nelson.

Q

What was Nelson doing then?

A

He was watching color games.

xxx

FISCAL LACAP:

You said that after alighting from a taxi and accused turned his head as if he is looking for somebody else, how did he approach Nelson Daras?

A

I just saw him fire a gun at Nelson.

Q

Have you seen the gun that was used by the accused?

xxx

A

Yes, sir.

FISCAL LACAP:

What kind of gun did he use?

A

A short gun.

Q

Do you know what was the caliber of that gun?

A

No. I just noticed it is a short gun.

Q

After the accused fired his gun or shot Nelson Daras, what happened next, Madam Witness?

A

Nelson Daras fell down.

Q

Do you know on what part of the body was Nelson Daras shot at by the accused here?

A

Yes, ma'am.

Q

Where?

(Witness is pointing to her chest, the lower portion of the breast.) Madam Witness, when the accused fired the first shot at Nelson Daras, where was he in relation to Nelson Daras?

A

At the back of Nelson Daras.

Q

After the accused fired a shot at Nelson Daras, what happened next?

A

Nelson Daras fell down.

Q

After Nelson Daras fell down, what transpired after that?

A

He came closer to Nelson Daras and fired at him twice.

Q

What happened next?

With the help of Dennis Guinto, we brought Nelson Daras to the Capitol Medical Hospital.[50]

Witness Aliaga corroborated the foregoing testimony of witness Baldoza when he declared in a simple and straightforward manner that the accused-appellant shot the victim three (3) times, hitting him in the back. Both testimonies are consistent in all material points and no ill motive or reason was shown to indicate that said witnesses falsely testified against accused-appellant.

Accused-appellant also contends that the court a quo erred in appreciating the qualifying circumstance of treachery despite the prosecution's failure to establish the same.

Article 14, paragraph 16 of the Revised Penal Code provides that treachery or alevosia exists when the offender commits any of the crimes against persons by employing means, methods, or forms in the execution thereof which tend directly and specially to ensure its execution, without risk to himself arising from the defense which the offended party might make.[51] The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim.[52]

The trial court correctly held that treachery had qualified the killing to murder. The suddenness of the attack, apparently without any provocation on the part of the victim, should suffice to demonstrate the treacherous nature of the aggression. The accused-appellant surreptitiously positioned himself at the back of the victim, aimed his gun, and without warning, shot the latter. When the victim fell to the ground, he again shot him twice. Clearly, the execution of the attack made it impossible for the victim to defend himself.

However, there is merit to accused-appellant's contention that the trial court should have appreciated illegal possession of firearms merely as an aggravating circumstance in the murder case, instead of treating it as a

separate crime. Although R.A. No. 8294 took effect on July 6, 1997, or after the crimes involved in the case at bar were committed on October 9, 1994, it is advantageous to the accused, hence, it should be given retrospective application[53] insofar as it spares the accused-appellant from a separate conviction for the crime of illegal possession of firearm.

Section 1 of R.A. No. 8294 further amended Section 1 of P.D. No. 1866, which in part, provides:

If homicide or murder is committed with the use of unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance.

Under the aforequoted section, where murder or homicide is committed with the use of an unlicensed firearm, the separate penalty for illegal possession of firearm shall no longer be meted out since it becomes merely a special aggravating circumstance. The penalty for illegal possession of firearms shall be imposed in all other cases where none of the crimes enumerated under R.A. No. 8294 is committed. The intent of Congress is to treat the offense of illegal possession of firearm and the commission of homicide or murder with the use of unlicensed firearm as a single offense.[54]

In view of this provision, the Court has held in a number of cases[55] that there can be no separate conviction of the crime of illegal possession of firearm in a case where another crime, as indicated in RA. No. 8294 (murder or homicide under Section 1, and rebellion, insurrection, sedition or attempted coup d'etat under Section 3), is committed.

In the case at bar, although the prosecution was able to establish that the crime of illegal possession of firearm under P.D. No. 1866 had been committed by the accused-appellant, R.A. No. 8294 merely considers the use of an unlicensed firearm as a special aggravating circumstance in murder or homicide, and not as a separate offense. Fortunately for the accused-appellant, the use of an unlicensed firearm in the killing of the victim was not alleged in the information for murder. Such being the case, the same could not be used as an aggravating circumstance to warrant the imposition of the death penalty against the accused-appellant.[56]

WHEREFORE, the decision of the trial court dated June 22, 1998 is hereby MODIFIED. Accused-appellant Constancio Candido y Collarga is found guilty beyond reasonable doubt of the crime of the murder and is sentenced to suffer the penalty of reclusion perpetua.

SO ORDERED.

Bellosillo, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez and Corona, JJ., concur.

Davide, Jr., C.J., Puno, and Ynares-Santiago, JJ., on official leave.

[1] Erroneously denominated as Criminal Case No. Q-94-58985 in the Decision dated June 22, 1998 of the Regional Trial Court, Branch 220, Quezon City.

[2] Entitled "Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof, and for Relevant Purposes."

[3] Entitled "An Act Amending the Provisions of Presidential Decree No. 1866, as Amended, entitled 'Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof, and for Relevant Purposes.'"

- [4] Records, p. 172.
- [5] Id., at 4.
- [6] Id., at 2.
- [7] Id., at 28 and 30.
- [8] TSN, March 20, 1995, pp. 2-8
- [9] Id.
- [10] Id., at 8-10.
- [11] Id., at 11.
- [12] Id., at 12.
- [13] Id., at 11, 14.
- [14] TSN, May 29, 1995, pp. 3-12.
- [15] Id., at 7.
- [16] TSN, March 20, 1995, pp. 12-13; TSN, May 3, 1995, pp. 3-4, 25.
- [17] TSN, March 20, 1995, p. 114. See also TSN, May 3, 1995, pp. 4-5.
- [18] TSN, March 20, 1995, p. 13. See also TSN, May 3, 1995, p. 4.
- [19] TSN, March 27, 1995, p. 14.
- [20] Id., at 14-15.
- [21] Id., at 15.
- [22] TSN, May 3, 1995, pp. 6-9.
- [23] Records, p. 16.
- [24] TSN, June 26, 1995, pp. 6-9.
- [25] Id., at 10.
- [26] Id., at 11.
- [27] Id.
- [28] Exhibit "B." See also TSN, March 27, 1995, p. 8.
- [29] TSN, September 18, 1995, pp. 4-5.
- [30] Id., at 5-6.
- [31] Id., at 6, 14.
- [32] Id., at 7.
- [33] Id., at 7-8.
- [34] Id., at 8.

[35] Ibid.

[36] Id., at 15-16.

[37] Id., at 17-18.

[38] Rollo, pp. 70-71.

[39] *People v. Emberga*, 319 SCRA 304 (1999); *People v. Piamonte*, 303 SCRA 577 (1999); *People v. Dorado*, 303 SCRA 61(1999).

[40] TSN, September 18, 1995, pp. 6, 14. See also TSN, May 27, 1996, p. 10.

[41] TSN, May 27, 1996, p. 2.

[42] TSN, September 18, 1995, p. 7. See also TSN, May 27, 1996, p. 3.

[43] TSN, September 18, 1995, pp. 7-8.

[44] TSN, September 18, 1995, p. 8.

[45] Id., at 11.

[46] Id.

[47] See TSN, March 20, 1995, pp. 5-11.

[48] *People v. Magayac*, 330 SCRA 767 (2000).

[49] *People v. Magayac*, supra., citing *People v. Janairo*, 311 SCRA 58 (1999).

[50] TSN, March 20, 1995, pp. 4-11.

[51] *People v. Panabang*, G.R. No. 137514-15, January 16, 2002; *People v. Reyes*, G.R. No. 137494-95, October 25, 2001; *People v. Soldao*, 243 SCRA 119 (1995).

[52] *People v. Vermudez*, 302 SCRA 276 (1999); *People v. Abrenica*, 252 SCRA 54 (1996); *People v. Aquino*, 284 SCRA 369 (1998).

[53] Article 22 of the Revised Penal Code.

[54] *People v. Molina*, 292 SCRA 742 (1998).

[55] *People v. Molina*, supra.; *People v. Feloteo*, 295 SCRA 607 (1998); *People v. Mendoza*, 301 SCRA 66 (1999); *People v. Valdez*, 304 SCRA 611 (1999); *People v. Panabang*, supra.

[56] See Note 56.

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