

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PFC. HECTOR C. SALE, ACCUSED-APPELLANT.

G.R. Nos. 137978-79. November 22, 2000

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PER CURIAM:

For automatic review is the decision[1] of the Regional Trial Court, Branch 19, Cagayan de Oro City, finding accused-appellant Pfc. Hector C. Sale guilty of two counts of rape of his minor daughter, Helen Grace M. Sale, and sentencing him to suffer the supreme penalty of death and to indemnify the victim in the amount of P150,000.00 as civil indemnity and P100,000.00 as moral damages and to pay the costs.

The information against accused-appellant in Criminal Case No. 97-1314 reads as follows:

"That on or about June 12, 1995, in the evening, at 4th PED (Post Engineering Department), Camp Evangelista, Patag, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of complainant-victim, Helen Grace M. Sale, with force and intimidation and taking advantage of his moral ascendancy over the latter, being the father, did then and there, willfully, unlawfully, and feloniously have carnal knowledge with her (sic) daughter, complainant Helen Grace M. Sale, a 14 year old minor, against her will.

Contrary to and in violation of Article 335 of the Revised Penal Code, as amended by RA 7659 and in relation to RA 7610."[2]

In Criminal Case No. 97-1315, accused-appellant was likewise charged with the rape of his daughter on February 8, 1997. The information in this case reads as follows:

"That on or about February 8, 1997, at 3:00, o'clock (sic) early dawn, at Camp Evangelista, Patag, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of complainant-victim, Helen Grace M. Sale, with force and intimidation and taking advantage of his moral ascendancy over the latter, being the father, did then and there, willfully, unlawfully, and feloniously have carnal knowledge with her (sic) daughter, complainant Helen Grace M. Sale, a 14 year old minor, against her will.

Contrary to and in violation of Article 335 of the Revised Penal Code, as amended by RA 7659 and in relation to RA 7610."[3]

When arraigned, accused-appellant pleaded not guilty[4] and thereupon, trial on the merits commenced.

The prosecution presented evidence tending to establish the following facts:

Accused-appellant and Melinda Mandapiton, complainant Helen Grace Sale's mother, were married on September 12, 1981 in Misamis Oriental. Following their marriage, the couple lived in the house of accused-appellant's parents in Misamis Oriental for two (2) years. They begot two children, namely complainant Helen Grace, born on June 26, 1982, and Hector, Jr., born on September 11, 1983.[5]

After two years of marriage, the couple separated. After the separation, Helen Grace and her brother continued to

stay with the parents of accused-appellant until her graduation from grade school in 1995.[6] Thereafter, she joined her father at the 4th PED, Camp Evangelista, Cagayan de Oro City in order to continue her schooling.[7]

At Camp Evangelista, accused-appellant was assigned to a bunkhouse with an estimated area of 12 square meters. Accused-appellant and his daughter slept in a double-decked bed with the former occupying the first deck and the victim occupying the upper deck.[8]

On June 12, 1995, at around 8:00 p.m., Helen Grace was alone in accused-appellant's bunkhouse. She was already sleeping when she was awakened by someone lying down beside her. She immediately stood up and turned the lights on. She saw her father lying down beside her so she immediately asked him why he was sleeping there. Accused-appellant did not answer her and instead, he just turned the lights off and told her to lie down. He then held her hands and knelt on her thighs. She tried to struggle but the accused-appellant was able to remove her shirt and panty. She then noticed that the accused-appellant no longer had his upper shirt on and that the zipper of his camouflage pants was open.[9]

Accused-appellant then lay down on her and he inserted his penis into Helen Grace's vagina. She felt pain while the accused-appellant made a push and pull movement on top of her. She told accused-appellant that she was feeling pain but the latter did not answer and instead continued what he was doing. After about five (5) minutes, she heard accused-appellant cry out in ecstasy and afterwards, he dismounted from her. She noticed that fluid was coming out of her vagina.[10]

Helen Grace cried immediately afterwards and she then asked her father why he did this to her as she was his daughter. Accused-appellant just laughed and threatened her with a hand grenade, telling her he was not afraid of killing her.[11] After this June 12, 1995 incident, accused-appellant allegedly forced Helen Grace into sex many more times, though she could not remember the exact dates when these happened.[12] She remembers clearly however, the rape incident on February 8, 1997 as this was the last time she was raped by her father.

On this date, at around 9:00 in the evening, Helen Grace was already sleeping in her bed inside the bunkhouse. At around 3:00 a.m., she was awakened by accused-appellant, who was already drunk at that time, and she was told to prepare food.[13] After eating, accused-appellant ordered Mary Grace to lie down beside him. She refused to do so and so the accused-appellant pulled her towards his bed. Accused-appellant then got up and commanded her to undress, threatening her with a knife. When she refused, accused-appellant proceeded to undress her and thereafter, he took off his own clothes. When they were both undressed, accused-appellant held both her hands and forced the victim to spread her legs. He then proceeded to rape her. Afterwards, Helen Grace asked her father again how he could have done this to her but accused-appellant did not reply.[14]

Sometime in the latter part of February 1997, Helen Grace went to Bugo with her cousin, Raquel Navarro. On the jeepney ride to Bugo, she told her cousin that accused-appellant had raped her. Raquel then told the Helen Grace that they should tell Raquel's father, a certain Juanito Navarro, about the crime as he would know the proper steps that they should take.[15]

Helen Grace, upon the advice of Juanito Navarro, fetched her mother in Malaybalay, Bukidnon where she told her about the rape incidents.[16] When they got back to Cagayan de Oro City, they proceeded to the Department of Social Welfare and Development where Helen Grace was interviewed by Marites Bagares, a social worker at the said government agency. On March 17, 1997, Helen Grace, accompanied by her mother and the social worker reported the incidents to the National Bureau of Investigation where she executed an affidavit[17] recounting the rape incidents.[18] At the NBI, she was also examined by Dr. Tammy Uy who concluded in her Living Case Report that her "genital findings (were) compatible with sexual intercourse with man (sic) on or about the alleged date of commission of the rape on June 12, 1995 and subsequently thereafter." [19]

Accused-appellant testified on his own behalf. He admitted that he is the father of complainant Helen Grace Sale and that he was married to Melinda Malapitan although they had separated.[20] He likewise admitted that the complainant lived with him right after her graduation from elementary school. He stated however that Helen Grace stayed first at the house of his common-law wife before moving into his bunkhouse in Camp Evangelista.[21] He claimed that aside from him, a certain Sgt. Jananas was also assigned to the Post Engineering Department.[22]

When asked about the alleged rape incidents on June 12, 1995 and February 8, 1997, accused-appellant merely answered that he did not know about those incidents.[23] He claimed that at the time of the second incident, Helen Grace was no longer living with him as she had already gone to the house of Juanito Navarro.[24] He claimed that he only knew of the charges filed against him two months after his arrest and detention on April 10, 1997. He further claimed that he knew of no reason why his daughter would accuse him of rape and that while the Helen Grace was living with him, they had a harmonious relationship.

On February 23, 1999, the trial court rendered a decision[25] finding accused-appellant guilty of raping his daughter Helen Grace Sale. The dispositive portion of the decision reads:

"WHEREFORE, the court finds accused guilty of the crime of rape on two counts, namely, that committed on June 13, 1995 and the other on February 8, 1997 of his minor daughter Helen Grace Sale, and hereby imposes upon him the penalty of death for each such offense and to indemnify Helen Grace P150,000 as civil indemnity and P100,000 as moral damages. He is also ordered to pay the costs of these cases.

His custodian is hereby directed to transport him without delay to the National Penitentiary pursuant to law.

SO ORDERED." [26]

The accused-appellant now contends in his Brief that the trial court gravely erred in convicting him of two (2) counts of rape despite the failure of the prosecution to prove his guilt beyond reasonable doubt. He argues that the trial court failed to scrutinize with great caution the allegedly incredible and unbelievable testimony of private complainant.

In prosecutions for rape, this Court has been guided by the following principles in its review of trial court decisions: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.[27]

In rape cases, the accused may be convicted solely on the testimony of the rape victim if her testimony is credible, natural, convincing, and consistent with human nature and the normal course of things considering that by its very nature, rape is committed with the least possibility of being seen by the public.[28]

In this regard, our review of the evidence adduced by both parties confirms the finding of the trial court that accused-appellant is guilty of raping complainant Helen Grace Sale. The trial court had the opportunity to observe complainant's demeanor, particularly her scorn and outrage against her own father, and it gave full credence to her testimony[29] The trial court's appreciation of the evidence will not be disturbed on appeal unless there is good reason for doing otherwise. It must be stressed that accused-appellant failed to adduce evidence that the trial court misappreciated the evidence presented by the prosecution.

In the case at bench, Helen Grace Sale told the trial court in a clear, categorical and convincing manner how her own father violated her. Thus:

"PROS. ADILAN (Continuing to the witness)

Q:

On June 12, 1995, you were staying with your father at the bank house

A:

Yes, sir.

Q:

Where were you on June 12, 1995?

A:

In our bank house.

Q:

While you were there in the bank house, can you remember if there were untoward incident that happened?

A:

Yes, sir.

Q:

Will you please narrate that to the court?

A:

On June 12, 1995, at about 8:00 p.m. I was alone and I was sleeping then I was awakened and I was surprised that there was somebody lied down beside me.

Q:

When you noticed that somebody was lying beside you, what did you do?

A:

I stood up and turned the lights on.

Q:

When you turned the lights on, what did you see?

A:

I saw my father sleeping beside me.

Q:

Upon seeing your father sleeping beside you, what did you say?

A:

I asked him, why are you sleeping here? but he did not answer.

Q:

What did you do when he did not answer?

A:

He did not answer to me and just turned the lights off. He let me lie down and held my two (2) hands and knelt on my two (2) thighs using his two thighs.

Q:

What else did you do after that?

A:

I wriggled during that time because he no longer had upper shirt and I noticed the zipper of his camouflage pants was opened.

Q:

What else did he do to you?

A:

And after that, he place himself on top of me and he inserted his penis to my vagina.

Q:

When he lay on top of you, you still have dress at that time?

A:

I no longer had shirts and panty.

Q:

What happened to your shirts and panty?

A:

He removed my shirts and panty.

Q:

What else did he do to you?

A:

After inserting his penis to my vagina, he made a push and pull movement.

Q:

Did you not shout?

A:

I cannot shout because of my fear that he would kill me.

Q:

Did you notice if his organ penetrated your organ?

A:

Yes sir.

Q:

Did you notice if he ejaculated inside your vagina?

A:

There was fluid coming out in between my two (2) thighs.

Q:

While your father was on top of you making push and pull movements, did you observe anything from him?

A:

Yes, sir.

Q:

What is that?

A:

He was trembling and shouting.

Q:

You said shouting, will you please say it how did he made that shout?

A:

Ah! as in ecstatic sound.

COURT: (To the witness)

Q:

How many times did he exclaim that way?

A:

Only once.

COURT:

Proceed.

PROS. ADILAN:

Q:

After that, what happened?

A:

After that there was fluid coming out from my vagina and he dismounted.

Q:

What did you feel when he inserted his penis to your vagina?

A:

I felt pain.

Q:

Did you not complain to him?

A:

I told him.

Q:

How did you do it?

A:

I told him Pa, that is enough it is very painful but he did not answer.

COURT: (To the witness)

Q:

That was during the push and pull movement?

A:

Yes, Your Honor.

Q:

Did blood come out later?

A:

None, Your Honor.

Q:

Do you remember if his penis got inside into your vagina canal?

A:

Yes, Your Honor.

Q:

All of it?

A:

Yes, Your Honor.

Q:

This push and pull movement how long did it last?

A:

About five (5) minutes.

COURT:

Proceed.

PROS. ADILAN:

Q:

You said that after your father experienced ecstasy for having ejaculated he dismounted, after that what did you do if any?

A:

I told him why did you do this to me, I'm your daughter.

Q:

And what was his answer?

A:

He just laughed.

Q:

He just laughed and did nothing?

A:

Yes, sir.

Q:

What about you, what did you do?

A:

I cried.

Q:

Your father, where did he go?

A:

He went back to his deck and wiped his penis.

COURT: (To the witness)

Q:

What was your age at that time on June 12, 1995?

A:

Running 13.

Q:

Did your father ever threaten you?

A:

Yes, sir.

Q:

How did he do it?

A:

He will let the hand grenade place inside my mouth.

Q:

Did he have a hand grenade with him?

A:

Yes, sir.

Q:

Near with you?

A:

Yes.

Q:

Did you touch the hand grenade?

A:

Yes.

Q:

Did you hold it with your hands?

A:

He placed it near my mouth. I told him Pa, don't it might explode.

Q:

What did he say when he placed his hand grenade near your mouth?

A:

He said, "I have no fear to kill you".

Q:

That was before he inserted his penis or after?

A:

After.

Q:

So he did not use the hand grenade before he inserted his penis to your vagina?

A:

Not yet.

Q:

He did not threaten you yet?

A:

Not yet.

Q:

How were you afraid when you were not threatened?

A:

Because he do that with force holding my two (2) hands and kneeling my two (2) thighs with his two (2) thighs.

COURT:

Proceed.

PROS. ADILAN:

Q:

Why you can remember that specific date June 12, 1995?

A:

Because during that day he had a party that was inauguration day.

Q:

After that June 12, 1995, were there other occasions your father sexually molested you?

A:

Yes, sir.

Q:

How many times?

A:

Many times, I can only remember the last incident.

Q:

And when was the last incident?

A:

February 8, 1997.

Q:

And this happened where?

A:

Inside the bank house on his first deck.

Q:

Can you tell this Honorable Court how the incident happened?

A:

On February 8, 1997 at around 9:00 o'clock in the evening, I was sleeping and at around 3:00 o'clock dawn I was awoken due to the kicking of the door because my father was very drunk at that time.

Q:

Upon entering the house what did your father say?

A:

He told me "you prepare my food because I want to eat."

Q:

Did you prepare his meal?

A:

Yes, he ate and after that he went to the comfort room and vomited.

Q:

Why did you know that he vomited?

A:

He was so drunk.

Q:

That was 3:00 o'clock dawn as you said?

A:

Yes, sir.

Q:

You said he went to the comfort room because he vomited, after that where did he go?

A:

After vomiting, he went inside and lay down beside me on the folding bed.

Q:

What did he do when he lay beside you?

A:

During that time, I stood up.

Q:

When you stood up, what did you do?

A:

I told him, go away I want to sleep.

Q:

And how did he react?

A:

He grabbed me.

Q:

Towards where?

A:

He grabbed me towards his bed.

Q:

You are referring to his deck?

A:

Yes, sir.

Q:

What did he do if any?

A:

He asked me, "do you know why I did this to you?" and I answered no. He further said, "I did this to you because I was embarrassed during your elementary graduation because you throw the garland."

Q:

Then what else did he say?

A:

And he said that he will not do that to me if not my mother.

Q:

After that, what happened?

A:

After that he stood up and then he got a knife and poke it from my neck down to my stomach. After that, he commanded me to undress myself and he threaten me if I'm not going to undress myself, he will be the one to do it.

Q:

You said he got a knife, can you tell this Court from where did he get the knife?

A:

From his military belt.

Q:

Did you have occasion to see the knife?

A:

Yes, sir.

Q:

Can you make a description of that knife?

A:

(witness demonstrating by stretching her two (2) hands at about one (1) feet long). The blade of the knife is jagged pointed edge and it is a jungle knife.

Q:

When your father said, "you undress or not", what did you do?

A:

I did not undress that is why he removed my dress, and after that he removed also his clothes.

Q:

While he was undressing you, he was still holding the knife?

A:

Yes, sir.

Q:

Your dress were removed and he removed also his clothes, this happened on the first deck?

A:

Yes, sir.

Q:

After that, please tell the Court what happened?

A:

After removing his clothes, he placed himself on top of me. He placed the knife beside him, then he held my two (2) hands and kneeling my two (2) thighs with the use of his two (2) thighs.

Q:

After that, what happened?

A:

He inserted his penis inside my vagina.

Q:

Was he able to insert his penis inside your vagina?

A:

Yes, sir.

Q:

When his penis penetrated your vagina, what did you observe of him?

A:

He did the push and pull movement, and then he exclaimed evoking ecstasy.

COURT: (To the witness)

Q:

And what is that exclamation?

A:

He was panting and in ecstatic sound he said Ahhhhhh.

COURT:

Proceed.

PROS. ADILAN

Q:

After that what happened?

A:

After that, he ejaculated and there was semen came out.

Q:

How about you, what did you ask to your father if any?

A:

I asked him, what did you do to me but he did not answer.

Q:

What did you feel of yourself on February 8, 1997 after his penis inserted to your vagina?

A:

I felt the pain. Then he let me urinate to the comfort room."^[30]

The complainant's testimony is characterized by candor and simplicity which underscore the fundamental truth of its contents. In her testimony, complainant related, in a straightforward and consistent manner, how her father, when drunk, had been abusing her since she was twelve (12) years old. She stood by her narration even through the rigorous cross-examination conducted by the defense.

Moreover, this testimony of Helen Grace is corroborated by the testimonies of her cousin and her mother and is

supported by the findings of the medico-legal who conducted a physical examination of her in the NBI. Raquel Navarro, complainant's neighbor and cousin, testified that the latter informed her of the accused-appellant's crimes of rape. Complainant's mother, Melinda Mandapiton likewise confirmed that complainant told her of the incidents when the latter went to her house in Malaybalay City. Finally, Dr. Tammy Uy, the NBI medico-legal officer who conducted a physical examination on complainant found healed lacerations on her genitalia which were compatible with sexual intercourse on or about the alleged dates of the commission of the crimes.

In contrast, accused-appellant, in the face of these serious accusations made by his daughter, can only put up the defense of denial, uncorroborated by any testimonial or documentary evidence. Thus:

"Q:

According to complainant, your daughter Helen Grace Sale on June 12, 1995 she alleged that at the POST Engineering Department where you assigned, you allegedly abuse her sexually, what can you say to that?

A:

I do not know about that, sir.

Q:

In particular June 12 of 1995, were you at your post where you were assigned at that time?

A:

Yes, Ma'am.

Q:

On June 12, 1995, can you tell us if Helen Grace was there at the post where you were assigned?

A:

I do not know.

Q:

Helen Grace Sale also charged you that on February 8, 1997 at 3:00 o'clock early dawn at the same post where you were assigned, you allegedly sexually abused her, what can you say to that?

A:

I do not know about that, sir."[31]

Accused-appellant's bare and uncorroborated denial of the crimes charged against him is insufficient to refute the evidence presented by the prosecution. Denial is a negative self-serving evidence which cannot be given greater weight than the testimony of credible witnesses who testified affirmatively. Between the positive declarations of prosecution witnesses and the negative statements of accused-appellant, the former deserves more credence.[32]

Accused-appellant, in this appeal, however, points out alleged inconsistencies in the testimony of complainant.

First. Accused-appellant argues that it was quite unnatural for him to have allegedly knelt on the thighs of private complainant before he raped her. According to him, if the testimony of Helen Grace was true, there was no need for him to do such an act because there was nothing in the testimony of private complainant to show that she struggled to break free of his clutches.

Contrary to the assertions of accused-appellant, a perusal of the records shows that private complainant struggled

while accused-appellant was initiating the rape. Private complainant testified that she "wiggled"[33] and was struggling during the time that accused-appellant had knelt on her thighs.[34] Precisely, accused-appellant needed to kneel on complainant to prevent her from struggling and thus thwart his criminal design.

Second. Accused-appellant contends that Helen Grace contradicted herself when she claimed that her father would rape her during those times when he was drunk and that accused-appellant had drinking sessions every payday. Considering that the dates when the alleged rapes occurred were on June 12, 1995, a holiday, and on February 8, 1997, a weekend, the alleged rapes could not have occurred as accused-appellant could not have been given his salary and thus have a drinking session on these dates.

We do not agree.

It is well-settled that inconsistencies and discrepancies in the testimony of a witness referring to minor details and not upon the basic aspect of a crime do not impair the witness's credibility.[35] In the case at bench, the alleged inconsistency refers only to a minor matter, the dates of the crime, which is not even an essential element of the crime of rape. With respect to the specific details of the acts of rape committed by her father, however, complainant's testimony was clear and utterly convincing.

Moreover, a perusal of the records will readily show that the alleged inconsistency is more apparent than real. Complainant merely testified that her father raped her when accused-appellant was drunk and that he usually gets drunk during payday. She did not state that accused-appellant got drunk only during paydays. What is clear and consistent, however, is her declaration that during the two incidents of rape complained of, the accused-appellant was drunk.[36]

Third. Accused-appellant likewise found it suspicious why the private complainant did not shout for help while she was being raped considering that the bunkhouse where the alleged rapes occurred is quite near several offices and buildings where people also stay during the night. According to accused-appellant, the act of complainant in not shouting for help while she was being molested is not consistent with common experience as she should have shouted for help as she knew fully well that there were people nearby.

Again, the argument of accused-appellant deserves scant consideration. Different people react differently to different situations and there is no standard form of human behavioral response when one is confronted with a frightful experience.[37] While the reaction of some women, when faced with the possibility of rape, is to struggle or shout for help, still others become virtually catatonic because of the mental shock they experience.[38] In the instant case, it is not inconceivable or improbable that Helen Grace, being of tender age, would be intimidated into silence by the threats and actions of her father.

In sum, complainant's clear and straightforward testimony, as corroborated by the testimonies of two other witnesses and supported by the findings of the medico-legal officer, leads to the inescapable conclusion that the crimes of rape had been committed and that accused-appellant is guilty of these crimes.

Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659, provides:

"The death penalty shall be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree or the common-law spouse of the parent of the victim."

The two informations charging accused-appellant of the crimes of rape clearly alleged that accused-appellant had

carnal knowledge with his daughter, Helen Grace Sale, then 14 years old. The evidence clearly shows Helen's age and filiation to accused-appellant. The prosecution presented complainant's mother, Melinda Malapitan, who testified that complainant was her child with accused-appellant, who she married on September 12, 1991.[39] Moreover, accused-appellant in his testimony admitted that complainant was his daughter with Melinda Malapitan.[40] Per her certificate of live birth[41], Helen Grace, having been born on June 26, 1982, was 12 years old when the first rape occurred on June 12, 1995. At the time of the second rape on February 8, 1997, she was 13 years old. Accused-appellant likewise admitted the fact of private complainant's minority on the dates when the rapes incidents allegedly occurred.[42]

The concurrence of minority of the complainant and her relationship to the offender, having been alleged in the information and duly proved with certainty and clearness as the crime itself during trial, constrains the Court to affirm the conviction of accused-appellant of qualified rape, justifying the imposition of the death penalty on him.

Four (4) members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray*[43] that R.A. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should be imposed.

As to the civil liability of the accused-appellant, we affirm the ruling of the trial court that he should be made to pay the amount of P150,000.00 or P75,000.00 for each of the two counts of rape. This is in accordance with our previous rulings that if the crime of rape is qualified by circumstances which warrant the imposition of the death penalty by applicable amendatory laws, the complainant should be awarded P75,000.00 for each count of rape as civil indemnity. We likewise affirm the award of P100,000.00 or P50,000.00 for each count of rape proven as and by way of moral damages. Such award of moral damages is mandatory without need of proof for it is assumed that the victim has suffered moral injuries entitling her to such an award.[44]

WHEREFORE, the decision of the Regional Trial Court of Cagayan de Oro City finding accused-appellant guilty of two (2) counts of incestuous rape and imposing on him the DEATH penalty is AFFIRMED. He is further ordered to pay the victim, Helen Grace Sale, the amounts of P150,000.00 as civil indemnity and P100,000.00 as moral damages.

Let the records of this case, upon finality of this Decision, be forwarded to the Office of the President, for the possible exercise of his pardoning power. Costs de oficio.

SO ORDERED.

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

[1] Per Judge Anthony E. Santos.

[2] Rollo, p. 9.

[3] Rollo, p. 10.

[4] Records, p. 39.

[5] TSN, July 27, 1998, p. 2.

[6] Ibid, p. 4.

[7] TSN, September 21, 1998, p. 7.

- [8] Ibid, pp. 8-9.
- [9] Ibid, pp. pp. 10-12.
- [10] Ibid, pp. 12-15.
- [11] Ibid, pp. 15-16.
- [12] Ibid, pp. 17-18.
- [13] Ibid, p. 18.
- [14] Ibid, pp. 19-23.
- [15] Ibid, pp. 24-25.
- [16] Ibid, p. 26.
- [17] Exhibit "C".
- [18] TSN, September 21, 1998, p. 30.
- [19] TSN, June 16, 1998; Exhibit "A".
- [20] TSN, January 8, 1999, p. 3-5.
- [21] Ibid, pp. 6-7.
- [22] Ibid, p. 10.
- [23] Ibid, pp. 10-11.
- [24] Ibid, p. 12.
- [25] Rollo, pp. 20-33.
- [26] Rollo, pp. 32-33.
- [27] People vs. Brondial, G.R. No. 133517, October 18, 2000; People vs. Balmoria, 287 SCRA 687; People vs. Gallo, 284 SCRA 590.
- [28] People vs. Medina, 300 SCRA 669; People vs. Abuan, 284 SCRA 46.
- [29] Rollo, p. 32.
- [30] TSN, September 21, 1998, pp. 9-23.
- [31] TSN, January 8, 1999, pp. 10-11.
- [32] People vs. Acala, 307 SCRA 330; People vs. Baccay, 284 SCRA 296.
- [33] TSN, September 21, 1998, p. 11.
- [34] Ibid, p. 42.
- [35] People vs. Lising, 285 SCRA 595.
- [36] TSN, September 22, 1998, p. 55.
- [37] People vs. Rabosa, 273 SCRA 142.

[38] People vs. Corea, 269 SCRA 76.

[39] TSN, July 27, 1998, p. 2.

[40] TSN, January 8, 1999, pp. 2-3.

[41] Exhibit "B".

[42] TSN, January 8, 1999, p. 30.

[43] 267 SCRA 682.

[44] People vs. Prades, 293 SCRA 411.

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