

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTONIO C. ESTELLA, APPELLANT.

G.R. Nos. 138539-40. January 21, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Constitution bars the admission of evidence gathered in violation of the right against unreasonable search and seizure. In the present case, the illegal drug was searched for and found in a hut that has not been proven to be owned, controlled, or used by appellant for residential or any other purpose. Hence, he cannot be held guilty of illegal possession of the illegal drug found therein.

The Case

Antonio C. Estella appeals the August 25, 1998 Decision[1] of the Regional Trial Court (RTC) of Iba, Zambales (Branch 69) in Criminal Case No. RTC 2143-I. The trial court found him guilty of violating Section 8, Article II of RA 6425, as amended by RA 7659, and sentenced him to reclusion perpetua as follows:

“WHEREFORE, foregoing considered, in Criminal Case No. RTC 2143-I, accused Antonio C. Estella is found GUILTY beyond reasonable doubt for Violation of Section 8, Article II of R.A. 6425 as amended by R.A. 7659 and is sentenced to suffer the penalty of reclusion perpetua.

“The 8.320 kilograms of dried marijuana is ordered confiscated in favor of the government. The Sheriff is directed to deliver the subject marijuana to the Dangerous Drugs Board for its proper disposition.

“In Criminal Case No. RTC 2144-I, accused Antonio C. Estella is ACQUITTED and the Information dated 07 January 1997 filed against him for violation of P.D. 1866 is dismissed with costs de oficio.

“The .38 caliber revolver without serial number and four (4) live ammunitions, subject of the offense, are ordered delivered to any authorized representative of the Philippine National Police, Firearms and Explosives Division, Camp Crame, Quezon City.”[2]

The Information dated January 7, 1997, charged appellant thus:

“That on or about the 20[th] day of November, 1996 at about 11:15 o’clock in the morning, at Purok Yakal, Barangay Balaganon, in the Municipality of Masinloc, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, said accused, did then and there, wil[l]fully, unlawfully and feloniously have in his possession, custody and control, [o]ne (1) tin can labeled ‘CLASSIC’ containing twenty (20) small bricks of dried marijuana fruiting tops having a total weight of 589.270 grams each wrapped with a piece of reading material; [o]ne (1) tin can labeled ‘CLASSIC’ containing dried marijuana fruiting tops weighing 41.126 grams; [t]wo (2) white sando plastic bag each containing one (1) [brick] of dried marijuana fruiting tops having a total weight of 1.710 kilograms each wrapped with a piece of newspaper; [o]ne (1) white sando plastic bag containing two (2) bricks of dried marijuana fruiting tops having a total weight of 1.820 kilograms each wrapped with a piece of newspaper, all in the total of 8.320 kilograms of dried marijuana, without any

authority to possess the same.”[3]

After the Information had been read to him in Filipino, a language he fully understood,[4] appellant, assisted by his counsel de parte,[5] pleaded not guilty when arraigned on March 11, 1997. After due trial, the RTC convicted appellant of illegal possession of dangerous drugs (marijuana), but acquitted him of illegal possession of firearms. On November 4, 1998, his counsel filed a Notice of Appeal.[6]

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General (OSG) presents the prosecution’s version of the facts as follows:

“Prior to November 20, 1996, Executive Judge Romulo Estrada of the Regional Trial Court of Zambales issued a warrant for the conduct of a search and seizure in the residence of appellant at Purok Yakal, Barangay Baloganon, Masinloc, Zambales.

“In the morning of November 20, 1996, Senior Police Officer 1 (SPO1) Antonio Bulor[o]n, then Intelligence and Investigation Officer, together with SPO1 Jose Arca and several other members of the Provincial Special Operation Group based in Burgos, San Marcelino, Zambales proceeded to Masinloc. They coordinated with the members of the Philippine National Police (PNP) in Masinloc and sought the assistance of Barangay Captain Rey Barnachea of Baloganon, Masinloc for the enforcement of the search warrant. Barangay Captain Barnachea accompanied the police officers to Purok Yakal, Barangay Baloganon, Masinloc, the place mentioned in the search warrant.

“On their way to Purok Yakal, SPO1 Buloron saw appellant sitting on a rocking chair located about two (2) meters away from a hut owned by Narding Estella, brother of appellant, and being rented by appellant’s live-in partner, named Eva. They approached appellant and introduced themselves as police officers. They showed appellant the search warrant and explained the contents to him. SPO1 Buloron asked appellant if indeed he had in his possession prohibited drug and if so, to surrender the same so he would deserve a lesser penalty.

“While inside the hut, appellant surrendered to the team two cans containing dried marijuana fruiting tops. One can contained twenty (20) bricks of fruiting tops. The team searched the hut in the presence of appellant and his live-in partner. They found a plastic container under the kitchen table, which contained four (4) big bricks of dried marijuana leaves and a .38 caliber revolver with four live ammunitions. The team seized the prohibited drug, the revolver and ammunitions. The team seized and signed a receipt for the seized items. Barangay Captain Barnachea and SPO1 Edgar Bermudez of the Masinloc Police Station also signed the receipt as witnesses. SPO1 Buloron and his companions arrested appellant and brought him to San Marcelino, Zambales.

“At their office in San Marcelino, Zambales, SPO1 Buloron and SPO1 Arca placed their markings on the seized items for purposes of identification. SPO1 Arca kept the seized items under his custody. The next day, SPO1 Buloron and SPO1 Arca brought the seized items to San Antonio, Zambales, where Police Senior Inspector Florencio Sahagun examined the suspected marijuana dried leaves. Inspector Sahagun prepared a certification of field test.

“On November 29, 1996, the suspected marijuana dried leaves were delivered to the PNP Crime Laboratory at Camp Olivas for further examination. Senior Inspector Daisy Babor, a forensic chemist, examined the suspected marijuana dried leaves and issued Chemistry Report No. D-768-96 stating that the specimens are positive for marijuana, a prohibited drug. Specimen A weighed 1.710 kilograms, while Specimen D weighed 1.820 kilograms.”[8] (Citations omitted)

Version of the Defense

For his version of the facts, appellant merely reproduced the narration in the assailed RTC Decision as follows:

“Accused Antonio C. Estella [I]s married to Gloria Atrero Estella. They have three (3) children, namely: Carmen Estella (8 years old), Antonio Estella, Jr. (5 years old) and Roen Estella (3 years old). Since 1982, Antonio Estella has been [a] resident of Barangay Baloganon, Masinloc, Zambales.

“On 20 November 1996 between 10:30 o’clock and 11:00 o’clock in the morning, while accused was talking with his friends Rael Tapado and Victor de Leon at a vacant lot just outside the house of Camillo Torres and about 70 meters away from his house, a group of men approached them. The group introduced themselves as policemen and told them that they were looking for Antonio Estella because they have a search warrant issued against him. Accused identified himself to them. The policemen inquired from the accused as to where his house is located and accused told them that his house is located across the road. The police did not believe him and insisted that accused’s house (according to their asset) is that house located about 5-8 meters away from them. Accused told the policemen to inquire from the Barangay Captain Barnachea as to where his house is and heard the latter telling the policemen that his house is located near the Abokabar junk shop. After about half an hour, the policemen went inside the house nearby and when they came out, they had with them a bulk of plastic and had it shown to the accused. They photographed the accused and brought him to their office at San Marcelino, Zambales. Accused Antonio Estella was investigated a[t] San Marcelino, Zambales where he informed the police officers of the fact that the house they searched was occupied by Spouses Vicente and Fely Bakdangan.

“Accused denied having surrendered to policeman Buloron tin cans containing marijuana and likewise having any firearm.

“Miguel Buccat, who personally knew the accused for about ten (10) years, identified the house depicted on a photograph as that house belonging to the accused.”[9] (Citations omitted)

Ruling of the Trial Court

In finding appellant guilty of violating the Dangerous Drugs Act, the court a quo relied heavily on the testimony of the prosecution’s principal witness, Intelligence and Investigation Officer SPO1 Antonio Buloron. He was among the members of the police team that searched appellant’s alleged house. Since the defense failed to present proof of any intent on the part of SPO1 Buloron to falsely impute to appellant such a serious crime, the trial court accorded full faith and credence to the police officer’s testimony.

Moreover, the RTC held that no less than the barangay captain of the place named in the search warrant led the police to the house. Thus, appellant could not deny that he owned it.

As to the charge of illegal possession of firearms, the lower court ruled that the search warrant did not cover the seized firearm, making it inadmissible against appellant. He was thus acquitted of the charge.

Hence, this recourse.[10]

The Issues

In his appeal, appellant assigns the following alleged errors for our consideration:

“A. The trial court erred in convicting the accused based on the conjectural and conflicting testimonies of the prosecution witnesses;

“B. The trial court gravely failed to consider the serious contradictions in the facts and evidences adduced by the prosecution;

“C. The trial court gravely erred in finding that the guilt of the accused-appellant for the crime charged has been prove[n] beyond reasonable doubt, instead of judgment of acquittal demanded by the constitutional

presumption of innocence[.]”[11]

Though not clearly articulated by appellant, the pivotal issue here is the legality of the police search undertaken in the hut where the subject marijuana was seized.

The Court’s Ruling

The appeal is meritorious.

Main Issue:

Legality of the Search Undertaken

Once again, this Court is confronted with a situation that involves a well-enshrined dogma in our Constitution: the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures.[12] The exclusionary rule prescribed by Section 3(2), Article III of the Constitution, bars the admission of evidence obtained in violation of this right.[13]

The conviction or the acquittal of appellant hinges primarily on the validity of the police officers’ search and seizure, as well as the admissibility of the evidence obtained by virtue thereof. Without that evidence, the prosecution would not be able to prove his guilt beyond reasonable doubt.

Ownership of the Subject House

Appellant claims that the hut,[14] which was searched by the police and where the subject marijuana was recovered, does not belong to him. He points to another house[15] as his real residence. To support his claim, he presents a document[16] that shows that the subject hut was sold to his brother Leonardo C. Estella by one Odilon Eclarinal. The OSG, on the other hand, argues that just because “appellant has another house in a place away from the hut that was searched does not necessarily mean that the hut is not occupied by him or under his full control.”[17] The prosecution cites the testimony of Rey Barnachea, the barangay captain of that place, to show that the hut in question belongs to appellant.

The only link that can be made between appellant and the subject hut is that it was bought by his brother Leonardo a.k.a. “Narding” Estella.[18] We cannot sustain the OSG’s supposition that since it was being rented by the alleged live-in partner of appellant, it follows that he was also occupying it or was in full control of it. In the first place, other than SPO1 Buloron’s uncorroborated testimony, no other evidence was presented by the prosecution to prove that the person renting the hut was indeed the live-in partner of appellant -- if he indeed had any. Moreover, the testimony of Barnachea serves to undermine, not advance, the position of the prosecution. We quote from his testimony:

“Q

Do you know who is the owner of that house?

A

What I know is that Narding Estella bought that house, sir.

Q

Who is that Narding Estella?

A

The brother of Tony Estella, sir.

Q

And you know that that has been rent[ed] to people?

A

Yes, sir.

Q

Now, so far how many people [rented] that place or that house?

A

I do not have any information about that[,] sir.

Q

Why did you know that that place was rented?

A

Because when I asked Eva she replied that they [were] only renting that house, sir.

Q

How long has Eva been renting that house?

A

I do not have any information about that[,] sir.

Q

Do you know who was living with Eva?

A

No, sir.

Q

So, what you know is that Eva lives alone in that house?

A

Yes, sir.

Q

And you do not know anybody who is renting that house?

A

I have no information, sir.

Q

And you do not know if the accused was renting [it] or not?

A

I don't have any information, sir.”[19]

At most, the testimony shows that the subject hut was bought by Narding Estella and rented by someone named Eva. The attempt to make it appear that appellant occupied it, or that it was under his full control, is merely conjectural and speculative. We have often ruled that courts do not rely on evidence that arouses mere suspicion or conjecture.[20] To lead to conviction, evidence must do more than raise the mere possibility or even probability of guilt.[21] It must engender moral certainty.

Neither do we find merit in the OSG's argument that appellant cannot deny ownership or control of the hut, since he was found in front of it, sitting on a rocking chair and drinking coffee.[22] Indeed, to uphold this proposition would be to stretch our imagination to the extreme.

The OSG maintains that when appellant was “shown the search warrant and asked about the existence of prohibited drug in his possession, appellant went inside the hut, took his stock of marijuana and turned it [over] to the police officers.”[23] This, according to the prosecution, clearly showed that he was not only occupying the hut, but was in fact using it to store the prohibited drug.[24]

It is well-settled that this Court is not precluded from assessing the probative value of witnesses' testimonies on the basis of the transcript of stenographic notes (TSNs).[25]

In the case at bar, we believe that the trial court erred in adopting the prosecution's dubious story. It failed to see patent inconsistencies in the prosecution witnesses' testimonies about the search undertaken.

A review of the TSNs shows that SPO1 Buloron, the prosecution's principal witness, testified that appellant had allegedly gone inside the hut; and that the latter had done so to get his stock of illegal drugs, which he turned over to the police. Ironically, Captain Barnachea, who was purposely presented by the prosecution to corroborate SPO1 Buloron's story, belied it when he testified thus:

“PROS. QUINTILLAN:

Q

When the police officer showed that search warrant what did Antonio Estella said, if any, if you hear[d]?

A

What I saw is that Tony Estella is sitting in the rocking chair outside the house drinking coffee, sir.

Q

And you saw him and then the search warrant was presented, isn't it?

A

Yes, sir.

Q

And when it was presented what did Tony Estella do?

A

What they did they show to Tony the search warrant and I also read the contents of the search warrant, sir.

Q

And when Tony was shown that search warrant what did he do immediately after being shown that search warrant?

A

He just [sat] and then he stood up, sir.

Q

And when he stood up what else did he do?

A

Nothing, sir. The NARCOM g[o]t inside the house, sir.

Q

And where did Antonio Estella go when the police entered the house?

A

He was just outside the house, sir.

Q

And how far is that house from Antonio Estella?

INTERPRETER:

Witness estimating the distance of about five (5) meters.

COURT:

Do the prosecution and defense agree to 5 meters?

BOTH COUNSEL:

Yes, Your Honor.

PROS. QUINTILLAN:

Q

And when the police entered the house did not Tony go with them?

A

I did not notice, sir.”[26]

It is undisputed that even before arriving at the hut, the police officers were already being assisted by Barangay Captain Barnachea. Thus, it was highly improbable for him not to see personally appellant’s alleged voluntary surrender of the prohibited drug to the authorities. And yet, his testimony completely contradicted the policemen’s version of the events. He testified that appellant, after being served the search warrant, remained outside the hut and did nothing. In fact, the former categorically stated that when the police officers had gone inside the hut to conduct the search, appellant remained seated on a rocking chair outside.[27] Barnachea’s statements sow doubts as to the veracity of SPO1 Buloron’s claim that, after being apprised of the contents of the search warrant, appellant voluntarily surrendered the prohibited drug to the police.[28]

Apart from the testimony of Barnachea -- which contradicted rather than validated the story of SPO1 Buloron --

no other evidence was presented to corroborate the latter's narration of the events. Without any independent or corroborative proof, it has little or no probative value at all.

In a criminal prosecution, the court is always guided by evidence that is tangible, verifiable, and in harmony with the usual course of human experience -- not by mere conjecture or speculation.[29] While the guilty should not escape, the innocent should not suffer.[30]

Search Incident to Lawful Arrest

The OSG argues that "[e]ven assuming that appellant was not the occupant of the hut, the fact remains that he voluntarily surrendered the marijuana to the police officers. After appellant had surrendered the prohibited stuff, the police had a right to arrest him even without a warrant and to conduct a search of the immediate vicinity of the arrestee for weapons and other unlawful objects as an incident to the lawful arrest." [31]

The above argument assumes that the prosecution was able to prove that appellant had voluntarily surrendered the marijuana to the police officers. As earlier adverted to, there is no convincing proof that he indeed surrendered the prohibited drug, whether voluntarily or otherwise. In fact, the testimony of Prosecution Witness Barnachea clouds rather than clarifies the prosecution's story.

Given this backdrop, the police authorities cannot claim that the search was incident to a lawful arrest. Such a search presupposes a lawful or valid arrest and can only be invoked through Section 5, Rule 113 of the Revised Rules on Criminal Procedure, which we quote:

"SEC. 5. Arrest without warrant; when lawful - A peace officer or a private person may, without a warrant, arrest a person:

"(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

"(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

"(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

"In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with Section 7 Rule 112."

Never was it proven that appellant, who was the person to be arrested, was in possession of the subject prohibited drug during the search. It follows, therefore, that there was no way of knowing if he had committed or was actually committing an offense in the presence of the arresting officers. Without that knowledge, there could have been no search incident to a lawful arrest.

Assuming *arguendo* that appellant was indeed committing an offense in the presence of the arresting officers, and that the arrest without a warrant was lawful, it still cannot be said that the search conducted was within the confines of the law. Searches and seizures incident to lawful arrests are governed by Section 12, Rule 126 of the Revised Rules of Criminal Procedure, which reads:

"Section 12. Search incident to lawful arrest. - A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant."

However, the scope of the search should be limited to the area within which the person to be arrested can reach for a weapon or for evidence that he or she can destroy.[32] The prevailing rule is that the arresting officer may take from the arrested individual any money or property found upon the latter's person -- that which was used in the commission of the crime or was the fruit of the crime, or which may provide the prisoner with the means of committing violence or escaping, or which may be used in evidence in the trial of the case.[33]

In the leading case *Chimel v. California*,[34] the Supreme Court of the United States of America laid down this rule:

"When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. And the area into which an arrestee might reach in order to grab a weapon or evidentiary items must, of course, be governed by a like rule. A gun on a table or in a drawer in front of one who is arrested can be as dangerous to the arresting officer as one concealed in the clothing of the person arrested. There is ample justification, therefore, for a search of the arrestee's person and the area 'within his immediate control' -- construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

"There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs -- or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself." [35]

The purpose of the exception is to protect the arresting officer from being harmed by the person being arrested, who might be armed with a concealed weapon, and to prevent the latter from destroying evidence within reach. The exception, therefore, should not be strained beyond what is needed to serve its purpose.[36]

In the case before us, searched was the entire hut, which cannot be said to have been within appellant's immediate control. Thus, the search exceeded the bounds of that which may be considered to be incident to a lawful arrest.

The Presence of the Accused or the Witnesses During the Search

Having ruled that the prosecution failed to prove appellant's ownership, control of or residence in the subject hut, we hold that the presence of appellant or of witnesses during the search now becomes moot and academic.

Obviously, appellant need not have been present during the search if he was neither the owner nor the lawful occupant of the premises in question. Besides, as we have noted, the testimonies of the prosecution witnesses regarding these crucial circumstances were contradictory. They erode SPO1 Buloron's credibility as a prosecution witness and raise serious doubts concerning the prosecution's evidence. This Court is thus constrained to view his testimony with caution and care.

With the failure of the prosecution to establish the propriety of the search undertaken -- during which the incriminating evidence was allegedly recovered -- we hold that the search was illegal. Without the badge of legality, any evidence obtained therein becomes ipso facto inadmissible.

Objections to the Legality of the Search

Finally, the OSG argues that appellant is deemed to have waived his right to object to the legality of the search

and the admissibility of the evidence seized through that search because, during the trial, he did not raise these issues.

On the contrary, during the trial, appellant constantly questioned the legality of the search. In fact, when SPO1 Buloron was presented as a prosecution witness, the former's counsel objected to the offer of the latter's testimony on items allegedly confiscated during the search. Appellant's counsel argued that these items, which consisted of the marijuana and the firearm, had been seized illegally and were therefore inadmissible.[37]

Further, in his Comments and Objections to Formal Offer of Exhibits,[38] appellant once again questioned the legality of the search conducted by the police, a search that had yielded the evidence being used against him.

Finally, on October 21, 1997, he filed a Demurrer to Evidence[39] reiterating his objection to the search and to the eventual use against him of the evidence procured therefrom.

All told, without sufficient admissible evidence against appellant, the prosecution failed to establish his guilt with moral certainty.[40] Not only did its evidence fall short of the quantum of proof required for a conviction, it has also failed to present any evidence at all. Under our Bill of Rights, among the fundamental rights of the accused is to be presumed innocent until the contrary is proved.[41] To overcome such presumption, the prosecution must establish guilt beyond reasonable doubt. Our criminal justice system dictates that if the prosecution fails to do so, it becomes not only the right of the accused to be set free, but also the constitutional duty of the court to set them free.[42] This principle leaves this Court no option but to acquit Appellant Antonio C. Estella for insufficiency of evidence.

WHEREFORE, the appealed Decision is SET ASIDE. Antonio C. Estella is ACQUITTED and ordered immediately RELEASED from custody, unless he is being held for some other lawful cause.

The director of the Bureau of Corrections is ORDERED to implement this Decision forthwith and to INFORM this Court, within five (5) days from receipt hereof, of the date appellant was actually released from confinement. Costs de officio.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Judge Rodolfo V. Toledano.

[2] Assailed Decision, pp. 20-21; rollo, pp. 40-41; records, pp. 237-238.

[3] Rollo, p. 10; records, p.2; signed by 2nd Assistant Provincial Prosecutor Froilan F. Quintillan and approved by Provincial Prosecutor Dorentino Z. Floresta.

[4] See the lower court's Order dated March 11, 1997; records, p. 15.

[5] Atty. Florante A. Miano.

[6] Rollo, p. 42; records, p. 246.

[7] Signed by Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Nestor J. Ballacillo and Solicitor Fidel Thaddeus I. Borja.

[8] Appellee's Brief, pp. 4-7; rollo, pp. 128-131.

[9] Appellant's Brief, pp. 7-9; rollo, pp. 73-75; signed by Atty. Sancho A. Abasta Jr.

[10] This case was deemed submitted for decision upon this Court's receipt of Appellee's Brief on August 6, 2001. Appellant's Brief was filed on March 27, 2001. The filing of a Reply Brief was deemed waived, as none had been filed within the reglementary period.

[11] Appellant's Brief, pp. 3-4; rollo, pp. 69-70. Original in upper case.

[12] Art. III, §2 of the 1987 Constitution, provides: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

[13] Art. III, §3(2) of the 1987 Constitution, provides: "Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding."

[14] Exh. "2" of appellant; records, p. 207.

[15] Exh. "2-A" of appellant; records, p. 208.

[16] Exh. "1" of appellant; records, p. 206.

[17] Appellee's Brief, p. 10; rollo, p. 134.

[18] TSN, June 3, 1997, p. 8.

[19] *Id.*, pp. 7-9.

[20] *People v. Williams*, 357 SCRA 124, April 20, 2001.

[21] *Ibid.*

[22] Appellee's Brief, p. 10; rollo, p. 134.

[23] *Ibid.*

[24] *Ibid.*

[25] *People v. Rafael*, 343 SCRA 97, October 13, 2000; *People v. Mendoza*, 332 SCRA 485, May 31, 2000; *People v. Badon*, 308 SCRA 175, June 10, 1999; *People v. Compendio Jr.*, 258 SCRA 254, July 5, 1996.

[26] TSN, June 3, 1997, pp. 9-11.

[27] *Id.*, p. 20.

[28] *Id.*; TSN, April 2, 1997, p. 10.

[29] *People v. Laurente*, 353 SCRA 765, March 7, 2001.

[30] *People v. Baldevieso*, 314 SCRA 803, September 21, 1999.

[31] Appellee's Brief, p. 11; rollo, p. 135.

[32] Regalado, *Remedial Law Compendium*, Vol. II, 1999 7[th] rev. ed., p. 527.

[33] Herrera, *Remedial Law*, Vol. IV, 1992 ed., p. 669.

[34] 23 L. Ed. 2d 685, June 23, 1969.

[35] *Id.*, p. 694, per Stewart, J.

[36] Bernas, *The Constitution of the Republic of the Philippines: A Commentary*, Vol. I, 1987 1st ed., p. 105.

[37] TSN, April 2, 1997, pp. 6-7.

[38] Records, pp. 103-109.

[39] *Id.*, pp. 119-152.

[40] §2, Rule 133, Revised Rules on Evidence.

[41] §14(2), Art. III, 1987 Constitution.

[42] *People v. Laurente*, *supra*; *People v. Laguerta*, 344 SCRA 453, October 30, 2000; *People v. San Juan*, 326 SCRA 786, February 29, 2000.

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