

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERNESTO FERNANDEZ, APPELLANT.

G.R. Nos. 139341-45. July 25, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

When the prosecution's evidence, consisting mainly of the complainant's testimony, fails the test of moral certainty demanded by the law and the rules, the accused must be acquitted. It then becomes this Court's duty to uphold the constitutional right of the accused to be presumed innocent regardless of the weakness of the defense.

The Case

For automatic review before this Court is the September 30, 1998 Decision[1] of the Regional Trial Court (RTC) of Agoo, La Union (Branch 32) in Criminal Case Nos. A-3177, A-3274, A-3275, A-3276 and A-3277, finding Ernesto Fernandez guilty beyond reasonable doubt of five (5) counts of rape and sentencing him to death for each count. The decretal portion of the Decision reads:

“WHEREFORE, IN VIEW OF ALL THE FOREGOING consideration[s], the accused Ernesto Fernandez a.k.a. “Tang-ked” is hereby found GUILTY of the five (5) criminal cases for Rape for which he is charged and he is hereby sentenced in all the five (5) cases to suffer the extreme penalty of DEATH; to pay the complainant Yolanda Fernandez damages in the amount of P50,000.00 in each case or P250,000.00 and to pay the cost of the proceedings.”[2]

The Information for Criminal Case No. A-3177[3] dated November 29, 1996, reads as follows:[4]

“That on or about the 2nd day of October, 1995, in the Municipality of Sto. Tomas, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father and person-in-charge of the custody and care of the offended party, with lewd design, did then and there willfully, unlawfully and feloniously have sexual intercourse with the offended party Yolanda Fernandez, a minor then fourteen (14) years old, to her damage and prejudice.”[5]

The four (4) other Informations (Criminal Case Nos. A-3274,[6] A-3275,[7] A-3276[8] and A-3277,[9] all dated January 17, 1997) indicted appellant for the same crime against the same victim on four different dates, October 3, 4 and 15 -- all in 1995 -- and “in or about the month of April 1996.” Appellant was arraigned twice, first on July 29, 1997[10] for Criminal Case No. A-3177; and the second on September 17, 1997[11] for Criminal Case Nos. A-3274 to A-3277. In both instances, appellant, with the assistance of his counsel de parte,[12] pleaded not guilty.[13] After pretrial and trial in due course, the lower court rendered its assailed Decision.

The Facts

Version of the Prosecution

In its Brief,[14] the Office of the Solicitor General (OSG) summarized the facts in the following manner:

“Private complainant Yolanda Fernandez is the illegitimate daughter of appellant Ernesto Fernandez and

Percilita Garcia. Percilita Garcia, on the other hand, is appellant's step-daughter, being the daughter of his common-law wife Espirita Costales with her first husband, who was then living with appellant in Namonitan, Sto. Tomas, La Union, when she was raped and impregnated by appellant. On October 10, 1982, Percilita Garcia, who was then 18 years old, gave birth out of wedlock to appellant's child, complainant Yolanda Fernandez, in appellant's house in Namonitan, Sto. Tomas, La Union. After giving birth to Yolanda, Percilita went to live in her brother Ernesto Garcia's house, also in Namonitan, until she went to Manila in 1984 and stayed there for good, leaving Yolanda to the care and custody of appellant and her mother Esperita.

"Since birth, Yolanda lived with her father, appellant Ernesto Fernandez, and her grandmother Espirita Costales, appellant's common-law wife, in appellant's house in Namonitan, Sto. Tomas, La Union. She went to school at Cupang Elementary School in Namonitan, which was a walking distance from their house. She was in Grade V when she was serially raped by [her] father, appellant Ernesto Fernandez, inside their house starting October 2, 1995, which forced her to quit schooling. At the time, Yolanda was twelve (12) going [on] thirteen (13) years old, and was living in the house of appellant together with appellant, her grandmother Espirita Costales and her 5-year old sister Catherine Fernan[d]ez who is also appellant and Percilita's daughter. Previous to these rape incidents, appellant had started abusing Yolanda as early as when she was five (5) years old by touching her breasts and other parts of the body.

"THE FIRST RAPE (Criminal Case No. A-3177)

"On October 2, 1995 at about 6:00 o'clock in the evening, Yolanda was sitting in the sala of their house when appellant came near her. Just the two [of] them were in the house at the time, because her grandmother and Catherine were out selling fish. Appellant pulled her by the arm to her room which was located south of the sala of the house. As he pulled her towards her room, he warned her not to tell anyone. When they got inside the room, appellant undressed her, by removing first her T-shirt, then her short pants, then her panty and bra. She tried to fight back, boxed his back, and tried to run away but appellant caught her and laid her down on her bed. After laying her down on the bed, he kissed her cheeks, her lips and on her breasts; touched her body and her private parts with his hand; then he held his penis, opened her legs wide and inserted his penis into her vagina, and made pumping motions for a while. She felt pain in her anybody [sic] because he would kill her, and then he left. She then put her clothes on.

"THE SECOND RAPE (Criminal Case No. A-3274)

"On October 3, 1995, at about 7:00 o'clock in the morning, while Yolanda was alone at the kitchen of their house washing the dishes, appellant arrived and pulled her inside his own room. There, he removed her dress (bestida), her bra and her panty, and laid her to his bed. She tried to run away but he caught her. He then laid her down on his bed and thereupon, inserted his penis and had sexual intercourse with her. She felt pain inside her vagina. While doing the act, appellant kissed her breasts, cheeks and lips. After the intercourse, appellant warned her that he would kill her should she report what happened, then he left.

"THE THIRD RAPE (Criminal Case No. A-3275)

"On October 4, 1995, at about 6:00 o'clock in the morning, Yolanda was sweeping in the house when appellant kissed her all over her body and then pulled her to her room. Only she and the appellant were in the house at the time. Once inside her room, appellant removed first her skirt, then her blouse and then her bra and panty. When she was totally naked, he [lay] her down on the bed. Despite her resistance by pushing him away, appellant again succeeded in inserting his penis inside her vagina. He also kissed her. She felt pain in her vagina and in her breasts as he did the pumping motion. After the intercourse, appellant warned her, that he would kill her; then, he left.

"THE FOURTH RAPE (Criminal Case No. A-3276)

"On October 15, 1995, at about 7:00 o'clock in the morning, Yolanda was sitting alone in the kitchen of their

house, as her grandmother and sister Catherine had already left to sell fish, when appellant approached and pulled her towards her room. She tried to resist but he was very strong in pulling her. Once they got inside her room, appellant embraced her, kissed her cheeks and mashed her breasts. Then he undressed her and laid her on the bed. He again warned her not to reveal it to anybody, or he would kill her. Then he placed himself on top of her, inserted his penis inside her vagina and made a pumping motion. She felt pain in her vagina. It took appellant a few minutes to stay on top of her. After consummating the sexual act, appellant left. Yolanda remained inside their house.

“THE FIFTH RAPE (Criminal Case No. A-3277)

“After October 15, 1995, Yolanda was raped again and again, the dates and the number of times she could no longer remember nor recall. Even after she was already pregnant with appellant’s child, appellant still kept on raping her. On July 3, 1996, she gave birth in their house to appellant’s child, a baby girl whom they named Marimar Fernandez.”[15] (Citations omitted)

Version of the Defense

On the other hand, appellant’s version of the facts is as follows:[16]

“The defense presented the oral testimonies of Winifreda Butay and Ernesto Fernandez.

“The first witness, Winifreda Butay, is a Chief of Police of Burgos, La Union. Before she became Chief of Police of Burgos, La Union, she was assigned at the Women’s Desk of San Fernando, La Union. On July 1997, she accompanied an insane victim of a vehicular accident to the DSWD Substitute Home Care for Women in Urayong, Bauang, La Union. While she was there, Yolanda Fernandez approached her and introduced herself that she was from San Fernando, La Union. She asked Yolanda why she was there and the latter informed her that she was taken by the DSWD and NBI because she filed a rape case against her father. When she asked why she filed a rape case Yolanda answered that it was her mother who instructed her to reveal that it was her father who raped her. She asked why, and Yolanda said that her parents were quarreling. She further inquired as to who raped Yolanda. The latter answered that it was her boyfriend, Jonathan Camiro. She said that when Yolanda was confiding to her, two (2) personnel of the DSWD were listening to their conversation. The said personnel were Remelie Guillermo and Edwina Masi. While she was talking with Yolanda, the two (2) approached them and said that Yolanda gave them the same story. She again asked Yolanda who raped her and why she filed a case against her own father. She gave the same answer that her mother taught her what to say and that it was her boyfriend who impregnated her. During that time, the two (2) DSWD personnel were still listening. She told the DSWD about the case and she was informed that the DSWD already sen[t] a written communication to the NBI, but the NBI, however, didn’t respond. She said that she received a letter from the mother of Yolanda prohibiting her from talking to or visiting Yolanda.

“The last witness, Ernesto Fernandez, is the accused[.] He admitted that he is the father of the alleged victim but said that Catherine is not [his] daughter because Percy gave birth in Manila. He denied vehemently the rape charges filed against him but admitted that he tied Yolanda to a mango tree to force her to admit as to who impregnated her. However, he denied kicking her abdomen to abort the baby. The uncle of Yolanda talked to her and the latter admitted to her uncle that it was Jonathan Camiro who got her pregnant. Upon knowing this, he asked a Barangay councilman to talk to the father of Jonathan, but the latter denied that he impregnated Yolanda. During the dates of the alleged rapes, he was working at San Fernando, Pampanga. On June 26, 1996, the DSWD personnel and the assigned NBI Agent went to their house to get Yolanda, whom he voluntarily allowed to go with them. He didn’t know where they brought Yolanda. He only came to know that a complaint was filed against him when he received a subpoena requiring him to file a counter-affidavit which he identified in open court.”[17] (Citations omitted)

Ruling of the Trial Court

The RTC gave full credence to the testimony of complainant, noting that “she narrated the circumstances before, during and after the alleged rape in a positive and straightforward manner.”[18] On her part, no ill motive for accusing her own father of the crime of rape was found by the trial court.[19]

Having accepted complainant’s testimony, the RTC ruled that appellant had indeed succeeded in having carnal knowledge of his daughter who, at the time of the rape, was under eighteen years of age. It sentenced him to death, one each for the five (5) counts of rape he had been charged with.

Hence, this automatic review.[20]

Issues

In his Brief, appellant faults the RTC with this lone assignment of error:

“The lower court gravely erred in imposing the death penalty upon accused-appellant despite the failure of the prosecution to prove the real age of the victim.”[21]

The Court’s Ruling

The appeal is meritorious; the prosecution’s evidence does not pass the test of moral certainty. Hence, appellant must be acquitted.

Main Issue:

Sufficiency of Prosecution Evidence

Appellant did not raise the sufficiency of the prosecution’s evidence as an issue. This Court, however, looked into it *motu proprio*, consistent with the principle that an appeal in a criminal action opens the whole case for review.[22]

Any review of a rape case begins with the settled reality that accusing a person of this crime can be done with facility.[23] Thus, the testimony of the complainant must always be scrutinized with great caution.[24] It may not be easy for her to prove the commission of rape; yet, it is even more difficult for the accused, though innocent, to disprove his guilt.[25] This principle must be viewed in relation to that which holds that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.[26]

To be sure, it is the primordial duty of the prosecution to present its side with clarity and persuasion, so that conviction becomes the only logical and inevitable conclusion. What is required of it is to justify the conviction of the accused with moral certainty.[27] Upon the prosecution’s failure to meet this test, acquittal becomes the constitutional duty of the Court, lest its mind be tortured with the thought that it has imprisoned an innocent man for the rest of his life[28] or, worse -- as in this case -- put him to death.

Complainant’s Dubious Testimony

The court *a quo* describes the testimony of the victim as “positive, straightforward, explicit and spontaneous”[29] hence, sufficient to convict appellant of rape. This Court believes otherwise.

We are not unmindful of the general rule that the findings of the trial court regarding the credibility of witnesses are generally accorded great respect and even finality on appeal.[30] However, this principle does not preclude a reevaluation of the evidence to determine whether material facts or circumstances have been overlooked or misinterpreted by the trial court.[31] In the past, we have not hesitated to reverse judgments of conviction, where there were strong indications pointing to the possibility that the rape charge was false.[32]

After a judicious examination of complainant's testimony, which is the main evidence for the allegation of rape, we cannot subscribe to the RTC's assessment of it as straightforward and unwavering. Quite the contrary, we believe that no conviction can arise from it on the following grounds.

- Unreliability

Complainant testified that the first incident of rape happened on October 2, 1995, at 6:00 p.m.[33] But on cross-examination, she testified that on the afternoon of that day, she went out to fetch her Inang.[34] It would have been a simple matter to reconcile these two events, if complainant simply clarified that one happened after the other. Surprisingly, during her direct examination, she did not even remember that she had gone out to pick up her Inang that afternoon.

What baffles this Court is the fact that complainant was sure of the time of the alleged rape; she was likewise sure of the time her Inang arrived.[35] But the girl could not remember what time she had gone out to fetch her grandmother. Complainant could have easily estimated the time she had done so, if indeed the events transpired as she recounted them, because one event logically followed the other.

The same recall selectiveness is repeated in her testimony as to the alleged second and third incidents of rape. On direct examination, she claimed that on October 3, 1995, she was raped for the second time at 7:00 a.m.[36] But on cross-examination, she said that she had just left her Inang at that same time in the place where the latter was to get a ride.[37] As to the third incident of rape allegedly committed on October 4, 1995, complainant testified that she was raped at 6:00 a.m.[38] Again, on cross-examination, she declared that at that very same time, she and her sister Catherine had brought their Inang to the place where the old lady would get a ride.[39]

As before, following the narration of events given by complainant, one can logically infer that after the rape, she accompanied her grandmother up to the place where the latter would get a ride; or the other way around -- after fetching her Inang, she returned home and was raped. However, complainant could make no such connection between the two events. The only way to reconcile these events is to suppose that they happened in succession, but her failure to recall a closely connected sequence of events immediately preceding or succeeding the supposed rape[40] casts doubt on the veracity of her statements and erodes her credibility.[41]

The pattern that emerged was that when defense counsel made no reference to the supposed rape incident, she became unsure whether her testimony during direct examination on the alleged rape coincided with the times of the activities she mentioned at the latter portion of the cross-examination.

These discrepancies were material. Yet, they were not explained in the direct or redirect examinations even when the trial was continued on succeeding dates. Neither were they discussed in the Decision of the trial court.

- Inconsistency

A careful analysis of the testimony of complainant will reveal that she kept on giving statements that were inconsistent or contradictory.

First, she testified that she stopped schooling in October 1995, because her stomach was already bulging due to her pregnancy.[42] She categorically declared that she became pregnant because appellant had raped her.[43] But later, still on direct examination, she averred that she was raped for the first time on October 2, 1995. She testified:

"Q When for the first time did this Ernesto Fernandez [rape] you?

A October 2, sir.

Q What year?

A In 1995, sir.”[44]

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“Q But you claimed that he only raped you for the first time on October 2, 1995?

A Yes, sir.”[45]

It bewilders this Court how she could have stopped schooling in October 1995 due to her pregnancy, which allegedly resulted from the first instance of rape committed by appellant, also in October of that same year. She said, in fact, that her stomach was already “bulging”[46] at this time. If such were the case, then not only did her pregnancy occur simultaneously with the first rape but, more incredibly, her pregnancy preceded the rape.

Second, in her testimony she alleged that at the time of the second rape, she was on her way to school.[47] This allegation contradicted her earlier statements, during both the direct and the redirect examinations,[48] that she had already stopped schooling on October 2, 1995.

Third, when asked by the public prosecutor what she did after that rape, she said that “she left their house to go to her Uncle Boyet.”[49] But when asked the same question by the trial court, again she responded, “I went to school.”[50]

Fourth, she also said in her testimony that on October 4, 1995, she was with her sister Catherine when they brought their grandmother to the place where the woman would get her ride. Almost in the same breath, though, complainant said that she and her sister went home. Later, the former clarified that on that date, she went home while her sister Catherine accompanied their grandmother in selling fish.[51]

- Inadequacy

Showing lack of substance in her testimony, complainant could not even relate details of the final rape allegedly committed sometime in April 1996. Besides giving no details, she gave the impression that the occurrence itself was doubtful. When questioned by the trial court, she testified thus:

“COURT QUESTION:

Q. How about in the year 1996, do you remember if you were raped by him?

A No more.”[52]

- Complainant’s Perfunctory Manner of Testifying

Although it is settled that the accused may be convicted of rape simply on the basis of the complainant’s testimony,[53] this principle holds true only if such testimony meets the test of credibility.[54] This requires that the testimony be straightforward, clear, positive and convincing.

What particularly caught the Court’s attention was the manner in which complainant gave her testimony. We note that all the major circumstances before, during and immediately after the alleged rape were indirectly provided by the prosecutor through his questions. In fact, when one sifts through the testimony of complainant, it becomes evident that she simply affirmed, denied or supplied the missing facts in response to the questions propounded by him. Such testimony cannot be considered positive or categorical.

Although the trend in procedural law is to give wide latitude to the questioning of a child witness,[55] we must not lose track of the basic tenet that the truth must be ascertained.

When one scrutinizes the testimony of complainant, one will easily notice that her manner of testifying seems to be so mechanical that, in the alleged four instances of rape, both her actuation and that of appellant were almost

always identical. To the Court, her narration seemed to come from memorization by rote, rather than genuine recollection, and thus sounded perfunctory or routinary. Moreover, when asked questions on events contemporaneous or immediately before or after the alleged rape, she seemed to falter in giving immediate, positive and categorical responses.

Owing to the character of the crime of rape, the testimony of the victim is the focal point around which the charges naturally revolve. Therefore, the degree of reliability, consistency and adequacy of her testimony on material points -- as well as the very manner in which she gives such testimony -- can either sustain or negate conviction.[56]

Tainted Testimony of Complainant's Mother

It is clear that conviction may arise from any categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter. In a litany of cases, this Court has ruled that when there is no showing of any improper motive on the part of the victim to testify falsely against the accused or to falsely implicate the latter in the commission of the crime, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence.[57] Further, this Court has reiterated time and time again that it is most unlikely for a young girl like complainant, or even her family, to impute the crime of rape to no less than a relative and to face social humiliation, if not to vindicate her honor.[58]

However settled these principles, they do not apply to the case at bar. We note from Defense Witness Winifreda Butay's testimony that complainant admitted to having been instructed by her mother to testify to having been raped by the father. We also had the occasion to examine the testimony of complainant's mother, who openly testified how she herself had allegedly been raped by appellant.[59] Without passing judgment on that incident, we note the animosity she felt towards him. The mother's ill motive clearly supported Butay's testimony that complainant had accused her father of raping her after being coached by her own mother to do so. This point will be discussed shortly.

Unrebutted Testimony of Credible Defense Witness

Most damaging to the cause of the prosecution was the testimony referred to above -- that of Defense Witness Winifreda Butay, a police officer assigned to the Women's Desk of Burgos, La Union. In July 1997, she accompanied complainant to the DSWD (Department of Social Welfare and Development) Substitute Home Care for Women in Urayong, Bauang, La Union. Having had the opportunity to interview complainant, Butay testified as follows:

“Q And what happened with this Yolanda Fernandez when she saw you?

A When this victim saw me, I ask her from where she is and she told me that [she is] from Sto. Tomas, La Union.

Q What happened next?

A I asked her name and she uttered Yolanda Fernandez.

Q After she told you her name, what happened next?

A I inquired from her.

Q What did you inquire from her?

A I inquired from her, what happened to her.

Q And what was the answer of Yolanda Fernandez?

A She was taken by the DSWD and NBI for them to [take] care of her or custody of her and she told me also that she filed a case [of rape] against her father, Ernesto Fernandez.

Q And when she told you tha[t], what happened or what did you do?

A I asked her, why she filed a case against her father and she told me that her mother taught her that she will tell that her father was the one who raped her.

Q And did you ask her why did her mother [teach] her to file a case against her father?

PROS. CATBAGAN:

Objection, your honor, that is only a hearsay.

COURT:

Objection over[r]uled, that is a conversation.

What was the answer?

A She told me that her mother and father are quar[r]eling.

Q Could you quote the exact Ilocano dialect before this Court [what] she told you?

A Yes sir.

Q What was it?

A I ask[ed] her ‘Apay nga indarum mo ni tatang mo ti rape’ (Why did you charge your father with rape) and she answered ‘Isumet ngamin ti inbaga ni Nanang ko’, nga idarum ko ni tatang ko ti rape’, and after that I ask[ed] her did your father rape you and she said no and then I asked her again who is then the person who raped you, she answered ‘didiay nobyok’ (my boyfriend).

Q Did you [ask] her the name of her suitor?

A Yes sir.

Q And what was the answer that was revealed?

A My boyfriend Jonathan Camiro.

Q And what else did she [reveal] to you regarding Jonathan Camiro?

A I asked he[r], is it not true that he was the one who raped you.

Q And what was the answer of Yolanda Fernandez?

A He was the one.”[60]

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“Q And what did she say to them

A And what she said to them she also told me.

Q And what is that?

A She said: (‘Isu met ti imbaga ni Nanangco’) That is what my mother said.

Q What [was] Yolanda Fernandez referring to?

A Yolanda Fernandez told me ‘that it was not my father who impregnated me’ she said.

Q Did you ask Yolanda Fernandez who impregnated her?

A Yes, your honor, and said: ‘my boyfriend Jonathan Camiro.’

Q Where [were] these two DSWD [personnel] when Yolanda Fernandez told you that?

A They were in front of me, your honor.

Q How far Madam witness?

A This far, sir. (Witness is pointing to one-half meter).

Q Did you ask Yolanda Fernandez if she was actually raped by [her] father?

A Yes, and she told me again: 'Saan nga ni tatangco ti nangsicog caniac.' (It was not my father who made me pregnant).

Q Did you ever ask her why she filed the case against her father?

A Yes, your honor.

Q And what was the answer?

A I asked her: 'why then did you file a case against your father or why is it [that it is] your father whom you charged?' (Apay ngarud nga ni tatangmo ti indarum mo?).

Q And what was the answer?

A Yes, because that is what my mother told me (Wen ta isu met ngarud ti imbaga ni nanangco cania).

Q Did you ask her why her mother want[s] her to charge Ernesto Fernandez?

A Yes, sir.

Q And what was the answer?

A She told me in Ilocano again. (Wen ta agap-apada). Yes because they are quarreling.”[60]

We find no logical reason for Witness Butay to testify falsely. The public prosecutor tried to discredit her by implying that there was a friendly relationship between her and appellant. However, no concrete proof showing that her testimony was biased was ever presented.

Granting for the sake of argument that there was a friendly relationship between Butay and appellant, it did not impair or in any way affect the weight of her testimony. We have often held that the relationship of a witness with the accused does not automatically affect the veracity of the former's testimony.[62] Friendship alone, even if true, is not reason enough to discredit and label Butay's testimony as biased and unworthy of credence.

Epilogue

Given the foregoing findings, we are not concluding that complainant has not been a victim of rape, or that appellant's defense of alibi and denial can be given full faith and credence. We only stress that her testimony was unable to pass the exacting test of moral certainty that the law demands and the rules require to satisfy the prosecution's burden of overcoming appellant's presumption of innocence.[63]

A conviction in a criminal case must be supported by proof beyond reasonable doubt -- moral certainty that the accused is guilty.[64] The defense may be weak, but the prosecution is even weaker.[65] As a result of this finding, it will be unnecessary to discuss the other issues raised.

The Court has aptly said: “It is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proved by the required quantum of evidence. Hence, despite the Court's support of ardent crusaders waging all-out war against felons on the loose, when the People's evidence fails to prove indubitably the accused's authorship of the crime of which they stand accused, it is the Court's duty -- and the accused's right -- to proclaim their innocence. Acquittal, therefore, is in order.”[66]

WHEREFORE, the automatically appealed Decision of the Regional Trial Court of Agoo, La Union in Criminal Case Nos. A-3177, A-3274, A-3275, A-3276 and A-3277 is SET ASIDE. Consequently, Ernesto Fernandez 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 oficio.

SO ORDERED.

Puno, Vitug, Kapunan, Mendoza, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

Davide, Jr., C.J., on leave.

Belosillo, J., no part. Did not take part in deliberations.

[1] Penned by Executive Judge Leo M. Rapatalo; rollo, pp. 29-79; records, pp. 158-208.

[2] RTC Decision, p. 51; rollo, p. 79; records, p. 208.

[3] Rollo, pp. 15-16; records, folder 5, pp. 2-3.

[4] Signed by 3rd Assistant Provincial Prosecutor Gloria D. Catbagan, with the approval of Provincial Prosecutor Francisco M. Tejano.

[5] Information dated November 29, 1996; rollo, p. 15; records, folder 5, p. 2.

[6] Rollo, pp. 7-8; records, folder 1, pp. 1-2.

[7] Ibid., pp. 9-10; folder 2, pp. 1-2.

[8] Id., pp. 11-12; folder 3, pp. 1-2.

[9] Id., pp. 13-14; folder 4, pp. 1-2.

[10] Order dated July 29, 1997; records, p. 24.

[11] Order dated September 17, 1997; *ibid*, p. 46.

[12] Atty. Placido Garcia Jr.

[13] *Supra*, notes 10 and 11.

[14] Appellee's Brief was signed by Solicitor General Simeon V. Marcelo, Assistant Solicitor General Rodolfo G. Urbiztondo and Solicitor Luis F. Simon.

[15] Appellee's Brief, pp. 3-9; rollo, pp. 174-180.

[16] Appellant's Brief was signed by Attys. Bartolome P. Reus and Ma. Vanessa B. Donato-Balmaceda of the Public Attorney's Office.

[17] Appellant's Brief, p. 5-7; rollo, p. 102-104.

[18] RTC Decision, p. 31; rollo, p. 59; records, p. 188.

[19] *Ibid*.

[20] This case was deemed submitted for resolution on September 21, 2001, upon receipt by this Court of appellant's Reply Brief. Earlier, appellant's Brief was received by the Court on February 27, 2001, while

appellee's Brief was received on June 20, 2001.

[21] Appellant's Brief, p. 1; rollo, p. 98. Original in upper case.

[22] *People v. Arves*, 343 SCRA 123, October 13, 2000; *People v. Balacano*, 336 SCRA 615, July 31, 2000; *People v. Listerio*, 335 SCRA 40, July 5, 2000; *People v. Buluran*, 325 SCRA 476, February 15, 2000; *People v. Castillo*, 325 SCRA 613, February 15, 2000.

[23] *People v. Galvez*, GR Nos. 136867-68, September 25, 2001; *People v. Navarette*, GR Nos. 136840-42, September 13, 2001; *People v. Babera*, 332 SCRA 257, May 30, 2000; *People v. Mijano*, 311 SCRA 81, July 23, 1999; *People v. Manggasin*, 306 SCRA 228, April 21, 1999.

[24] *People v. Flores*, GR No. 141782, December 14, 2001; *People v. Manayan*, GR Nos. 142741-43, October 25, 2001; *People v. Morales*, GR No. 134292, August 16, 2001.

[25] *People v. Manayan*, *supra*; *People v. Galvez*, *supra*; *People v. Queigan*, GR Nos. 133586-603, February 19, 2001.

[26] *Ibid.*

[27] §2, Rule 133 of the Rules of Court.

[28] *People v. Aballe*, GR No. 133997, May 17, 2001.

[29] RTC Decision, p. 31; rollo, p. 59; records, p. 188.

[30] *People v. Plana*, GR No. 128285, November 27, 2001; *People v. Villanos*, 337 SCRA 78, August 1, 2000; *People v. De Guzman*, 333 SCRA 269, June 8, 2000; *People v. Palma*, 308 SCRA 466, June 17, 1999.

[31] *People v. De la Cruz*, GR No. 137967, April 19, 2001; *People v. Domogoy*, 305 SCRA 75, March 22, 1999.

[32] *Ibid.*; *People v. Medel*, 286 SCRA 567, February 26, 1998.

[33] TSN, September 17, 1997, pp. 6-7.

[34] TSN, October 15, 1997, p. 3.

[35] TSN, September 17, 1997, p. 14.

[36] *Ibid.*, p. 15.

[37] TSN, October 15, 1997, p. 4.

[38] TSN, September 17, 1997, p. 20.

[39] TSN, October 15, 1997, pp. 4-5.

[40] *People v. Bautista*, GR No. 123557, February 4, 2002.

[41] *Ibid.*

[42] TSN, September 17, 1997, p. 5.

[43] *Ibid.*

[44] *Id.*, p. 6.

[45] *Id.*, p. 14.

[46] Id., p. 5.

[47] TSN, September 17, 1997, p. 19.

[48] TSN, October 15, 1997, p. 7.

[49] TSN, September 17, 1997, p. 19.

[50] Ibid.

[51] TSN, October 15, 1997, p. 5.

[52] TSN, October 2, 1997, p. 6.

[53] *People v. Taño*, 331 SCRA 449, May 5, 2000; *People v. Ambray*, 303 SCRA 697, February 25, 1999; *People v. Garcia*, 281 SCRA 463, November 6, 1997; *People v. Abad*, 268 SCRA 246, February 13, 1997; *People v. Rosare*, 264 SCRA 398, November 19, 1996.

[54] Ibid.

[55] *People v. Daganio*, GR No. 137385, January 23, 2002.

[56] *People v. Pajarillo*, GR Nos. 143755-58, February 20, 2002.

[57] *People v. Sansaet*, GR No. 139330, February 6, 2002; *People v. Quezada*, GR Nos. 135557-58, January 30, 2002; *People v. Lanita*, GR No. 134101, September 5, 2001; *People v. Alay-ay*, GR Nos. 137199-230, August 23, 2001; *People v. Banela*, 301 SCRA 84, January 18, 1999.

[58] *People v. Libo-on*, GR No. 136737, May 23, 2001; *People v. Villadares*, GR No. 137649, March 8, 2001; *People v. Namayan*, 246 SCRA 646, July 18, 1995.

[59] TSN, August 5, 1997 pp. 5-7.

[60] TSN, November 13, 1997, pp. 5-7.

[61] TSN, November 20, 1997, pp. 4-6.

[62] *People v. Morial*, GR No. 129295, August 15, 2001; *Roca v. CA*, GR No. 114917, January 29, 2001; *People v. Oposculo Jr*, 345 SCRA 167, November 20, 2000.

[63] *People v. Pajarillo*, *supra*.

[64] *People v. Bautista*, *supra*.

[65] Ibid.; *Chua v. People*, GR No. 128095, January 19, 2001; *Rueda v. Sandiganbayan*, GR No. 129064, November 29, 2000; *People v. Guinto*, 184 SCRA 287, April 6, 1990.

[66] *People v. Geron*, 281 SCRA 39, October 17, 1997, per Romero, J.

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