

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELIZABETH CORAL Y ADELAN, ACCUSED-APPELLANT.

G.R. Nos. 97849-54. March 01, 1994

Ponente: PUNO, J.

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PUNO, J.:

Despite the prevalence of illegal recruiters, the public wails about the failure of government to charge and convict them. In the case at bar, however, accused Elisabeth Coral was successfully prosecuted for the crimes of Illegal Recruitment[1] and Estafa,[2] and given a life sentence among other penalties. She was convicted by the Regional Trial Court of Manila, Branch XLIX.[3] She now seeks her exculpation from this Court. Her efforts are in vain.

The Information in Criminal Case NO. 90-82870 (for Illegal Recruitment) reads as follows:

"The undersigned accuses ELIZABETH CORAL y ADELAN alias 'Beth' of violation of Art. 38(1), Pres. Decree No. 1412, amending certain provisions of Book I, Pres. Decree No. 442 otherwise known as the New Labor Code of the Philippines, in relation to Art. 13(b) and (c) of said Code as further amended by Pres. Decree Nos. 1693, 1920 and 2018, committed in large scale, as follows:

"That on or about December 27, 1989, in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment/job placement abroad to the following persons, to wit: BELLA BUSTRIA y RIVERA, GLENDA ELEFANTE y RIVERA, JOSSIE CAYAGA y FABRIGAS, REMEDIOS CASIANO y CASACLANG, and MILLIARINA ROMALDO y ANTONIO, without first having secured the necessary license or authority from the Department of Labor.

"Contrary to law."

On the other hand, the five (5) Informations for Estafa, in Criminal Cases No. 90-82871 to 90-82875, are similarly worded, except for the names of the private complainant in each case. Representative of the Informations in said caBes is that filed in Criminal Case No. 90-82871, which reads, viz:

"The undersigned accuses ELIZABETH CORAL y ADELAN alias 'Beth' of the crime of Estafa, committed as follows:

"That on or about December 27, 1989, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud BELLA BUSTRIA y RIVERA in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which she made to said BELLA BUSTRIA y RIVERA to the effect that she had the power and capacity to recruit and employ the latter as factory worker abroad and could facilitate the processing of the pertinent working visa, if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said BELLA BUSTRIA y RIVERA to give and deliver, as in fact she gave and delivered to said accused the amount of P25,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact she did obtain the amount of P25,000.00 which amount once in her possession, with intent to defraud, she

willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of said BELLA BUSTRIA y RIVERA in the aforesaid amount of P25,000.00 Philippine Currency.

"Contrary to law."

Upon arraignment, accused-appellant pleaded not guilty to the offenses charged. The cases were tried jointly.

The prosecution presented as principal witnesses,[4] four (4) of the five (5) private complainants, namely: Glenda Elefante, Bella Bustria, Jossie Cayaga, and Remedios Casiano. All four witnesses identified accused-appellant as the person who perpetrated the crimes of Illegal Recruitment and Estafa against them.

The first of the prosecution witnesses to testify was 30-year-old high school graduate and housewife GLENDA ELEFANTE y RIVERA, a native of San Marcelino, Zambales. According to her, she met the spouses Nora and Bartolome Rubias through a mutual friend.[5] In August, 1989, during their second meeting, Nora Rubias told Glenda that she (Nora) had already talked to accused-appellant, and that if Glenda wanted to apply for work abroad, they could go to accused-appellant's office in Manila.[6] On August 23, 1989, Glenda was brought by the Rubias spouses to accused-appellant's office at 1010 A. Mabini St., Ermita, Manila. There, Glenda and accused-appellant discussed the former's application as a factory worker in Taiwan which purportedly paid between five hundred (\$500) and seven hundred US dollars (\$700) monthly.[7] Accused-appellant asked Glenda to give an advance payment of ten thousand pesos (P10,000.00) for the processing of her Taiwanese visa, and one thousand five hundred pesos (P1,500.00) for the preparation of her passport. Glenda went home to Zambales to borrow the money. She gave it personally to accused-appellant in Manila on August 27, 1989.[8] Accused-appellant did not issue her any receipt.[9] She was then told to wait a couple of weeks. When she returned to the office of accused-appellant, her visa was still unavailable allegedly because of the strictness of the Taiwanese Embassy.[10]

Some days later, Glenda visited accused-appellant in her office. She was offered by accused-appellant a Job as a factory worker in South Korea. Glenda was required by accused-appellant to pay an additional fifteen thousand pesos (P15,000.00) as placement fee.[11] On December 27, 1989, Glenda together with two of her co-complainants, Bella Bustria and Jossie Cayaga, went to accused-appellant's office in Ermita. Bella and Jossie paid to accused-appellant the amount of twenty five thousand pesos (P25,000.00) each. The three were issued one receipt by a certain Jimmy Magno, allegedly a secretary of the accused-appellant. The receipt was placed in the name of Glenda and covered the amount of sixty thousand pesos (P60,000.00). It was for the payment of Glenda's ten thousand pesos (P10,000.00) on August 27, 1989, and the twenty five thousand pesos (P25,000.00) payment each of Bella and Jossie.[12]

On January 15, 1990, Glenda was able to pay to accused-appellant the fifteen thousand pesos (P15,000.00) additional placement fee for her job application in South Korea.[13] No receipt was issued to her by accused-appellant.[14] Accused-appellant then promised Glenda she could leave for South Korea on February 16, 1990. This promise was broken, however, because on that date, Glenda was informed that accused-appellant was in Korea. Even after accused-appellant returned, Glenda was not able to fly to Korea, purportedly because of the Chinese New Year celebration.[15]

While waiting for her time to leave, Glenda met her co-complainant Remedios Casiano, who arrived from Korea. Remedios narrated to Glenda and the other complainants how she almost died in Korea, and how accused-appellant took her salary for one month. Fearing the same fate, Glenda demanded from accused-appellant the return of her money. Accused-appellant refused.[16] Glenda then went to the Philippine Overseas Employment Administration (POEA) to check if accused-appellant was a duly licensed recruiter. She found out

that accused-appellant had no authority to recruit workers for jobs abroad.[17] Glenda went to the police station at U.N. Avenue, Manila to file her complaint.[18]

On cross-examination, Glenda denied she owed accused-appellant the amount of thirteen thousand pesos (P13,000.00), but admitted having received the amount of five hundred pesos (P500.00) from a female secretary of accused-appellant sometime in August, 1989.

The second witness for the prosecution was BELLA BUSTRIA y RIVERA of Dasul, Pangasinan, 35 years of age, and a housewife who finished only second year high school. Bella testified that she came to learn of accused-appellant through Nora Rubias. In one of their conversations, Nora told her that accused-appellant could employ her abroad. Nora accompanied her to the office of accused-appellant at 1010 A. Mabini St., Ermita, Manila on December 10, 1989.[19] She applied for a job as a factory worker in South Korea. She paid accused-appellant one thousand five hundred pesos (P1,500.00) to be used in the processing of her passport. She was also asked to return on December 27, 1989 to pay twenty-five thousand pesos (P25,000.00) for the processing of her other travel papers.[20]

In accordance with their agreement, Bella returned to accused-appellant's office on December 27, 1989, along with two of her co-complainants, Glenda Elefante and Jossie Cayaga, who were also applicants for overseas employment. Bella and Jossie paid to accused-appellant twenty-five thousand pesos (P25,000.00) each. Accused-appellant told her male secretary to issue a receipt covering their payments, and also the payment of Glenda Elefante in the amount of ten thousand pesos (P10,000.00). The receipt was made in the name of Glenda, and covered the amount of sixty thousand pesos (P60,000.00).[21]

Bella was told to wait for two weeks for the processing of her papers. When that time came to pass, Bella was asked by accused-appellant to return on February 16, 1990. On that date, accused-appellant told Bella she could not leave for Korea giving the excuse it was Chinese New Year.[22]

While waiting for word from accused-appellant, Bella met her co-complainant Remedios Casiano who had returned from South Korea. Remedios complained that she had a visa problem in South Korea. Due to Remedios's stories, Bella lost her trust in accused-appellant, and reconsidered her job application in South Korea.[23] She then went to the POEA, where she found out that accused-appellant was not a licensed recruiter. She complained to the police.[24]

The prosecution's next witness was JOSSIE CAYAGA y FABRIGAS, a 30-year-old high school graduate and housewife from Pili, San Marcelino, Zambales. She testified that she was introduced by Nora Rubias to accused-appellant in December, 1989, at the latter's office at 1010 A. Mabini St., Ermita, Manila.[25] After talking with accused-appellant, Jossie applied as a factory worker in Korea and paid the amount of one thousand five hundred (P1,500.00). Jossie gave her application paper and the money to accused-appellant, who told her that the money was for the processing of her (Jossie's) passport.[26] Accused-appellant then told Jossie to prepare another -twenty-five thousand pesos (P25,000.00) as placement fee.[27]

Jossie paid to accused-appellant the required placement fee on December 27, 1989. Jossie was then in the company of her co-complainants Bella Bustria and Glenda Elefante. Bella likewise gave to accused-appellant twenty-five thousand pesos (P25,000.00). To evidence receipt of the amounts from Jossie and Bella, accused-appellant told her male secretary, Jimmy Magno, to prepare and sign a receipt for them. Glenda Elefante also requested for the receipt of her earlier payment of ten thousand pesos (P10,000.00). Accused-appellant then directed Jimmy Magno to prepare one receipt in Glenda's name, covering the total amount of sixty thousand pesos (P60,000.00).[28]

Accused-appellant instructed Jossie to wait for the release of her visa in February, 1990. No visa materialized, however, and on February 16, 1990, accused-appellant told Jossie over the phone that she (Jossie) would not be able to leave for Korea on that day because it was the Chinese New Year.[29]

While waiting, Jossie met her co-complainant Remedios Casiano who arrived from Korea. Jossie was told by Remedios that the visa given to her by accused-appellant was fake. Remedios also narrated to Jossie that she (Remedios) ate almost nothing for a month, as her salary was taken by accused-appellant. Jossie decided to back out from her job application to Korea. She went to the office of accused-appellant and demanded the return of the P25,000.00 placement fee. Accused-appellant balked.[30] Jossie then went to the POEA, where she discovered that accused-appellant was not licensed to recruit overseas workers. Jossie then proceeded to the police station to file her complaint.[31]

The prosecution also presented REMEDIOS CASIANO of San Marcelino, Zambales, 30 years old, married and a high school graduate. She testified that she filed her application for a two-year job as factory worker in South Korea with accused-appellant at her office in 1010 A. Mabini St., Ermita, Manila. She paid to accused-appellant the amount of ten thousand pesos (P10,000.00) as placement fee.[32] She was able to leave Manila on November 8, 1989. Upon arriving in Korea, Remedios was, however, made to work as a laundry woman for about three months. At the end of that period, she was asked to return to the Philippines for lack of a working visa.[33] It turned out that accused-appellant provided Remedios only with a fifteen-day re-entry permit, and not a working visa.[34]

Remedios stopped working on February 10, 1990. For about a month, she was kept in a room by her Korean employer because she had no working visa. Afterwards, she was again detained by the Korean immigration authorities. She returned to the Philippines only on March 9, 1990.[35] Thereafter, Remedios met her co-complainants and informed them about her ordeal in Korea.

Upon the other hand, the defense of accused-appellant rests mainly on denial and alibi. She alleged that she is not a recruiter, but an importer/exporter and an authorized travel agent.[36] She explained that the charges against her were due to the ill-will of private complainants. Complainant Elefante allegedly owed her the amount of thirteen thousand pesos (P13,000.00). On the other hand, complainants Cayaga and Bustria got angry as she did not employ them as househelpers.

Accused-appellant denied that she had a male secretary, or any employee by the name of Jimmy Magno, whose signature appeared in the receipt for sixty thousand pesos (P60,000.00). She also denied that she was in Manila on December 27, 1989. She said she was in Eastern Samar on that date. She likewise testified that, on the other material dates, she was not in the Philippines, but in South Korea.

On the basis of the evidence adduced, the trial court convicted accused-appellant of Illegal Recruitment and four (4) counts of Estafa. The dispositive portion of the appealed Decision reads:

"WHEREFORE, judgment is hereby rendered in the following cases as follows:

1. In 'People versus Elizabeth Coral,' Criminal Case NO. 90-82870, the Court found the accused guilty beyond reasonable doubt of the crime of illegal recruitment within the ambit of Article 38(1) in relation to Article 13(b) of the Labor Code and hereby metes on her the penalty of life imprisonment and hereby condemns her to pay a fine of P100,000.00 without subsidiary imprisonment in case of insolvency pursuant to Article 39(a) of the said Code;
2. In 'People of the Philippines versus Elizabeth Coral,' Criminal Case No. 90-82871, the Court found the accused guilty, beyond reasonable doubt of the crime of Estafa defined in and penalized by Article 315(2)(a) of the Revised Penal Code and hereby metes on her an indeterminate penalty of from seven (7) Years, four (4)

months and one (1) day, as minimum, to eight (8) years, as maximum;

3. In 'People versus Elizabeth Coral,' Criminal Case No. 90-82873, the Court found the said accused guilty beyond reasonable doubt of the crime of Estafa defined in and penalized by Article 315(2)(a) of the Revised Penal Code and hereby condemns her to an indeterminate penalty of from seven (7) years, four (4) months and one (1) day, as minimum, to eight (8) years, as maximum;

4. In 'People versus Elizabeth Coral,' Criminal Case No. 90-82873, the Court found the accused guilty beyond reasonable doubt of the crime of Estafa defined in and penalized by Article 315(2)(a) of the Revised Penal Code and hereby metes on her an indeterminate penalty of from seven (7) years, four (4) months and one (1) day, as minimum, to eight (8) years, as maximum;

5. In 'People versus Elizabeth Coral,' Criminal Case No. 90-82874, the Court found the accused guilty beyond reasonable doubt of the crime of Estafa defined in and penalized by Article 315(2)(a) of the Revised Penal Code and hereby metes on her an indeterminate penalty of from seven (7) years, four (4) months and one (1) day, as minimum, to eight (8) years, as maximum;

6. In 'People versus Elizabeth Coral,' Criminal Case No. 90-82875, the Court found the accused not guilty of the crime of Estafa defined in and penalized by Article 315(2)(a) of the Revised Penal Code and hereby acquits her of said charge.

"The accused is hereby ordered to reimburse to the complainant Glenda Elefante the amount of P25,000.00, to the complainant Bella Bustria the amount of P25,000.00, to the complainant Jossie Cayaga, the amount of P25,000.00."

"The period during which the accused was detained at the City Jail of Manila shall be credited to her in full provided that she agrees in writing to abide by and comply strictly with the rules and regulations of the City Jail of Manila. With costs against the accused.

"SO ORDERED."

Thus, in this automatic review of accused-appellant's conviction, she submits:

"I

THE TRIAL COURT ERRED IN DECIDING THE CASE BEFORE IT WAS PROPERLY SUBMITTED FOR DECISION AND CONSIDERING THAT THE SOLE QUESTION SUBMITTED FOR RESOLUTION BEFORE THE TRIAL COURT IS WHETHER OR NOT TO GRANT ACCUSED'S PETITION FOR BAIL.

"II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED OF THE CRIMES CHARGED BASED ON EVIDENCE AND COMPLAINANTS' TESTIMONY WHICH ARE UNCLEAR, UNCONVINCING AND FAR SHORT OF THE REQUIRED PROOF BEYOND REASONABLE DOUBT.

"III

THE TRIAL COURT ERRED IN RELYING ON ALLEGED WEAKNESSES OF THE DEFENSE INSTEAD OF THE STRENGTH OF THE PROSECUTION AS BASIS FOR CONVICTION.

"IV

THE TRIAL COURT ERRED IN FINDING ACCUSED ELIZABETH CORAL GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES OF ILLEGAL RECRUITMENT AND ON FOUR (4) SEPARATE COUNTS OF ESTAFA.

Illegal recruitment is defined and penalized in Article 38 of the Labor Code, as amended, as follows:

"Art. 38. Illegal recruitment. -- (a) Any recruitment activities, including the prohibited practices under Article 34 of this Code to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment or any law enforcement officer may initiate complaints under this Article.

"(b) Illegal recruitment when committed by a syndicate in large scale shall be considered an offense involving economic sabotage, and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group."

Further, Article 13(b) of the same Code states:

"Any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not. Provided that any person or entity which, in any manner, offers for a fee employment to two or more persons shall be deemed engaged in recruitment and placement."

The crime of illegal recruitment has two elements, viz: (1) that the offender is a non-licensee or non-holder of authority to lawfully engage in the recruitment and placement of workers; and (2) that the offender undertakes any of the recruitment activities defined under Article 13(b) of the Labor Code, as amended, or any prohibited practices enumerated under Article 34 of the same Code.

In the case at bench, accused-appellant does not dispute that she is neither a licensee nor a holder of any authority to engage in recruitment and placement activities. It is likewise established that private complainants were unaware of accused-appellant's lack of authority when they transacted business with her. It was only later, when private complainants sought the assistance of the POEA that they discovered accused-appellant's lack of authority. In fine, the first element of the crime of illegal recruitment was clearly proved in the case at bench.

We next resolve whether the prosecution established the second element of the offense of illegal recruitment, i.e., that accused-appellant undertook any of the recruitment activities defined under Article 13(b) of the Labor Code, as amended, or any of the prohibited activities defined under Article 34 of the same code. Accused-appellant urged it was not she who "recruited" private complainants, but Nora Rubias. She alleged that Rubias brought them to her and that they pleaded to be given jobs even only as househelpers.

We find the submission of accused-appellant untenable. In the first place, even assuming she did not directly recruit private complainants, it is abundantly clear from their testimonies that Rubias led them to believe she was acting for, or at least with the tacit consent of accused-appellant. This belief was buttressed when accused-appellant made no disclaimer to private complainants of Rubias's authority when the latter accompanied them to accused-appellant's office in Manila.

In the second place, even downgrading the participation of Rubias in the recruitment scheme, private complainants proved that accused-appellant herself promised them jobs in Taiwan and Korea. They paid various

sums of money to accused-appellant to take care of the expenses for the processing of their passports and visas. It was even accused-appellant who accompanied Casiano to South Korea.

Further, accused-appellant contended that the trial court should not have given credence to the testimonies of private complainants. She dismissed them as fabrications, concocted due to their spite and ill-feelings towards her. We cannot patronize this posturing for, as accurately observed by the trial court, private complainants are plain housewives with no sophisticated education. They did not know accused-appellant before their illegal recruitment. They had no reason to harbor any spite against her. We therefore find it far-fetched for private complainants to concoct a story that could result in accused-appellant's life imprisonment for no other reason than that she failed to accommodate their requests for employment. It is against human nature and experience for strangers to conspire and accuse another stranger of a most serious crime just to mollify their hurt feelings. The fact that private complainants are hardly high school graduates and plain housewives from the rural areas all the more militates against the imputation of any sinister motive on their part.

We also find no reason to disturb the trial court's findings as to the credibility of private complainants despite what accused-appellant assailed as inconsistencies in their testimonies. Findings of fact of the trial courts are given great weight unless it can be demonstrated that they overlooked certain facts of substance or value which, if considered, will affect the outcome of the case. In the instant case, we have no reason to depart from the general rule for the alleged discrepancies alluded to by accused-appellant, are slight and hardly relate to the material parts of the testimonies of private complainants. Their testimonies were consistent in their material sense and essence. It is universal rule of evidence that corroborative testimonies to be credible, need not coincide on all aspect. Given the natural frailties of the human senses to absorb all details of an event, the slight "inconsistencies" and variances in private complainants' testimonies, far from weakening their probative value, served to strengthen their credibility. Imperfect senses cannot be the source of perfect testimonies.

Similarly, the prosecution proved beyond reasonable doubt that accused-appellant violated Article 315(2)(a) of the Revised Penal Code which provides that estafa is committed:

"2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud;

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by mean of other similar deceits." (Italics supplied.)

The evidence is crystal clear that accused-appellant falsely pretended to possess power (to employ private complainants abroad) and qualification (as a licensed job recruiter) to deploy private complainants for overseas employment.

Finally, the claim of accused-appellant that she was denied due process has a hollow ring. The records show that the prosecution and the defense presented evidence on accused-appellant's petition for bail. On September 21, 1990, the trial court issued the following Order, viz:

"The Petition for Bail of the accused is now submitted for the resolution of the Court. These cases are hereby set, for the continuation of the trial on October 30, 1990 at 8:30 o'clock in the morning for the prosecution to adduce more evidence, and for the accused to adduce more evidence, if so she opts, in addition to the evidence already in the record."

In the hearing of December 18, 1990, the trial court issued another Order, to wit:

"When these cases were called for continuance of the trial on the merits, the parties agreed that whatever evidences they have adduced during the hearing in the 'Petition for Bail' will constitute their evidence on the

merits of these cases. The parties further manifested to the Court that they are no longer adducing any other evidence.

“These cases are now submitted for the decision of the Court. The promulgation of the Decision of the court is set on January 15, 1991 at 8:30 o’clock in the morning.”

The Order was not contested by accused-appellant. She was then convicted by the trial court on January 31, 1991. For accused-appellant now to contend she was not aware of the import of these Orders is to stretch judicial credulity too much. A journalism graduate and a third year law student, accused-appellant cannot claim such uncaring ignorance. But more important, accused-appellant gives no inkling of the evidence which she would have presented if the trial court did not consider her case submitted for decision on December 18, 1990.

IN VIEW WHEREOF, the decision of the court a quo, finding accused-appellant ELIZABETH CORAL y ADELAN guilty of the crime of Illegal Recruitment under Section 38 of the Labor Code, as amended, and of Four (4) counts of Estafa under Art. 315(2)(a) of the Revised Penal Code, is hereby AFFIRMED IN TOTO.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado and Nocon, JJ., concur.

[1] Docketed as Crim. Case No. 90-82870.

[2] Docketed as Crim. Cases No. 90-82871, 90-82872, 90-82873, and 90-82874.

[3] Presided over by Judge Romeo J. Callejo.

[4] The prosecution also presented Frankie Soriano, the police officer who investigated the complaints of the private complainants, and who arrested accused-appellant. His testimony was admitted by the defense.

[5] TSN of May 8, 1990,

[6] Ibid., pp. 8 and 36.

[7] Id., at pp. 9-10.

[8] Id., at pp. 11 and 33.

[9] Id., at p. 33.

[10] Id., at pp. 12-13.

[11] Id., at pp. 14-16.

[12] Id., at pp. 21-23.

[13] Id., at p. 16.

[14] Id., at p. 46.

[15] Id., at pp. 17-20.

[16] Id., at p. 20.

[17] Id., at pp. 24-27.

[18] Id., at pp. 27-31.

[19] TSN of May 10, 1990, pp. 20-23.

[20] Ibid., at pp. 5-7.

[21] Id., at pp. 8-11.

[22] Id., at pp. 12-14

[23] Id., at p. 15.

[24] Id., at pp. 16-20.

[25] TSN of May 30, 1990, pp. 55-58.

[26] Id., at pp. 8-12.

[27] Id., at p. 14.

[28] Id., at pp.15-23.

[29] Id., at pp. 24-25.

[30] Id., at pp. 26-27.

[31] Id., at. pp. 28-33.

[32] TSN of June 19, 1990, pp. 3-12.

[33] Id., at pp. 13-18.

[34] Id., at pp. 24-25.

[35] Id., at pp. 23-24.

[36] TSN of July 27, 1990, pp. 11-12.

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