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FIRST DIVISION**[G.R. No. 125985, April 20, 2001]****PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AUSTIN WILLIAMS AND MANZANZA NZENZA, ACCUSED. MANZANZA NZENZA, ACCUSED-APPELLANT.****D E C I S I O N****KAPUNAN, J.:**

This is an appeal from the Decision, dated April 26, 1996 of the Regional Trial Court of Pasay, City, Branch 118, in Criminal Case Nos. 92-2107^[1] and 92-2108^[2] finding accused-appellant Manzanza Nzenza and accused Austin Williams guilty beyond reasonable doubt of unlawfully transporting prohibited drugs in violation of Section 4, Article II of R.A. No. 6425,^[3] as amended.

Only accused Manzanza Nzenza appealed from the aforesaid decision.

On December 23, 1992, two separate informations were filed against accused-appellant Manzanza Nzenza in Criminal Case No. 92-2107 and accused Austin Williams in Criminal Case No. 92-2108.

The information against Nzenza reads:

That on or about the 19th day of December 1992 at about 1:30 in the afternoon at the Ninoy Aquino International Airport, Pasay, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused MANZANZA NZENZA did then and there willfully, unlawfully and feloniously transport without authority 11.15 kilograms, more or less of Heroine (sic), a prohibited drug, without the corresponding license or prescription.

CONTRARY TO LAW.^[4]

The information against accused Williams similarly charged him, thus:

That on or about the 19th day of December 1992 at about 1:30 in the afternoon at the Ninoy Aquino International Airport, Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above named accused WILLIAM AUSTIN, (sic) did then and there willfully, unlawfully and

feloniously transport, without lawful authority 22.547 kilograms, more or less of heroin a prohibited drug, without the corresponding license or prescription.

CONTRARY TO LAW.^[5]

Upon motion by the prosecution,^[6] the two cases were consolidated.^[7] During the arraignment, both Nzenza^[8] and Williams^[9] pleaded not guilty to the charges against them and thereafter, trial ensued.

Seven witnesses were presented by the prosecution. SPO4 Roberto Medrano and Customs Examiner Gil Calixihan testified against Williams, while Customs Police Captain Juanito Algenio and Ninoy Aquino International airport (NAIA) Police Officer Gregorio Mendiola testified against accused- appellant Nzenza.

Three other witnesses, namely, Customs Examiner Leopoldo Quisto, NAIA Police Captain Rodolfo Samala, Jr. and Philippine National Police (PNP) Forensic Chemist Noemi Austero also testified against both Williams and Nzenza.

The prosecution presented the following version of the facts:

On December 19, 1992, at about 1:30 in the afternoon, SPO4 Roberto Medrano, supervisor of the First Aviation District of the NAIA, was at the lobby of the NAIA Departure Area looking at the baggage x-ray machine monitor. At around that time, he noticed some rectangular objects inside two suitcases which were passing through. He inquired from a tall, dark man entering the walk-through if the latter owned the two pieces of luggage. The man, who identified himself as Austin Williams, nodded and acknowledged ownership of the said two suitcases.^[10]

Medrano then requested Williams to allow his two suitcases to be examined by Customs Examiner Gil Calixihan, who also caught sight of the rectangular objects.^[11] Williams obliged and proceeded to open the first suitcase which had combination locks. After removing William's clothes therefrom, Medrano and Calixihan noticed that the suitcase had a shallow base and a false bottom. Suspicious of its contents, Medrano requested for a re-examination of the suitcase. ^[12]

Calixihan likewise testified that while he was on duty at the NAIA departure area on December 19, 1992, at about 1:30 p.m., he also saw Williams pick up the two suitcases which just rolled out from the luggage x-ray area and place them on top of a pushcart. Upon reaching the Customs area, Calixihan requested Williams to open said pieces of luggage, which the latter acknowledged as his, for examination.^[13]

Leopoldo Quisto, another Customs Examiner, testified that when he was inspecting the suitcases passing through the x-ray machine, he saw some blurred rectangular objects inside the same. He waited for somebody to lift the suitcases. Shortly thereafter, he saw a black man, who was later identified as the accused Williams, lifting the same.

Quisto asked the latter if he owned the suitcases and Williams answered in the affirmative. When Williams was ordered to open the suitcases, he voluntarily opened the same.^[14] Quisto assisted Calixihan in examining the suitcases and saw Williams' photo albums and other personal belongings. Since the suitcases remained heavy after the contents were removed, they became suspicious and they reported the matter to Mrs. Tablante, their supervisor, who ordered them to break open the suitcases.^[15] At the departure lobby, the suitcases were again opened before Calixihan, Medrano, NAIA police agents Gregorio Mendiola, Leoncio De la Cruz, Rodolfo Samala, Jr. and Customs Narcotics Interjection Unit (CNIU) agents surnamed Biteng and Bese. The suitcases were again carried back to the examining table when Medrano asked Williams to slash the side of one of the suitcases showing a false bottom. Williams consented, but it was Calixihan and Quisto who slashed the sides thereof with a fan knife.^[16] Calixihan continued to remove the plywood covering the false bottom and found rectangular objects wrapped in white plastic pack covered with Chinese characters. Each of the rectangular objects contained a white powdery substance, which turned out to be heroin when field-tested by CNIU agents Biteng and Bese.^[17] Medrano and Calixihan affixed their respective signatures on both sides of the slashed luggage and Williams did the same.^[18] In accordance with their supervisor's instructions, the rectangular objects found inside the luggage were brought to the office of the Collector of Customs. Williams also informed the persons examining his luggage that he had a companion, a black man, who was also transporting prohibited drugs.^[19]

Williams' second suitcase was also subjected to examination. Both sides showing false bottoms were slashed, revealing rectangular objects identical to those found in the first luggage. The objects also contained a white powdery substance, which turned out to be heroin.

A total of sixty-three (63) rectangular objects were confiscated from Williams.^[20]

Williams denied the charges against him and presented a different story to the trial court. He claimed that on December 13, 1992, he arrived in the country to do research on Philippine traditions and culture.^[21]

He denied having any companion in coming to the Philippines. He likewise denied that he knew his co-accused Nzenza.^[22] He stated further that on December 19, 1992, he went to the NAIA since he was leaving for Bangkok. He had four (4) pieces of luggage with him: one suit carrier, two slim bags and one duty-free plastic bag. ^[23] In compliance with standard operating procedure, he placed his bags on the baggage conveyor which moved the bags through the x-ray machine monitor. Thereafter, he collected the bags and placed these at the Customs desk for marking. He arranged them in a pushcart and was heading towards the check-in counter of his airline when his attention was caught by a gentleman who was pointing at the x-ray machine and telling him that he forgot one of his bags. Williams replied that the bag was not his, since all his bags were inside the pushcart. When the gentleman insisted that the bag was Williams', the latter said "Don't kid me, that is not my bag."^[24] He then noticed one black bag being brought to the customs desk. ^[25] He told the NAIA personnel that

the identification tag and initials seen in the handle of the black bag differed from what was written on his identification card. He was then ordered to place this black bag at the counter's desk and to open the same.^[26]

Thereafter, Williams was taken to the Lost and Found Section where he was asked to admit ownership of a brown bag. Pictures of him beside the brown bag were then taken.^[27] He identified himself before the NAIA personnel when he was requested to do so. The group then asked him to do them a favor by signing a statement with the name "Antonio Navarro" written on it. Williams claimed that when he refused to sign the same, Captain Algenio of the Customs Police ordered his men to beat him. They tied his legs, handcuffed him and hit him with a 3"x4" piece of wood. After this ordeal, Williams was ordered at gunpoint to affix his signature on the black and brown bags. His pleas for legal assistance were not heeded.^[28]

Williams was subsequently taken outside the airport to an office where he met a man who asked him if he knew the penalty for the offense of carrying prohibited drugs. Another group of men then took him to the office of Captain Samala. The latter frisked Williams and then took the 150 dollars and 75 pesos which were found in his pocket.

The 150 dollars were not returned to Williams but the 75 pesos were given back to him to spend for his food. Thereafter, he was transferred to the Narcotics Command (Narcom) and then to a hospital for check-up of the injuries which he suffered as a result of the beatings but he was not attended to therein.^[29]

Williams also testified that under duress and without the assistance of counsel, he signed a receipt of property seized from him indicating that 63 packs of more or less 22.547 kilograms of heroin were found in one of his bags.^[30]

The 63 packs which were found in the black and brown bags allegedly owned by Williams were examined by PNP Crime Laboratory Forensic Chemist Noemi Austero who testified that after taking representative samples from each of these packs and subjecting the same to a qualitative examination, all 63 packs tested positive for heroin.^[31] The heroin discovered in Williams' suitcases weighed 22.547 kilograms.

As regards accused-appellant Manzanza Nzenza, Captain Algenio testified that after the arrest of accused Williams at the Departure Area, a follow-up team^[32] was formed by NAIA District Commander, Major De la Cuesta, for the capture of another black man who, according to Williams, was also transporting prohibited drugs.^[33]

Upon orders of Major De la Cuesta, the team proceeded to the satellite area located within the NAIA departure area where they found a black man, who was later identified as the accused- appellant Manzanza Nzenza carrying a bag similar to that carried by Williams. Strongly suspecting that this was the other black man to whom Williams was referring, they asked him whether he had any checked-in luggage. He replied that he had none.^[34]

Unconvinced by Nzenza's reply, the team sought the assistance of a Philippine Airlines

employee who furnished them a passenger manifest which indicated that Manzanza Nzenza is passenger number 37 of Swiss Air Flight Number SR 177, and beside his name was the sequence number 85 YO3048569A and the information that he had checked-in three bags. Sequence number 85 was also handwritten on the face of his baggage identification tags numbered SR 450229 and SR 450246 hence, they were able to identify the baggage containing the white powdery substance with baggage identification tag number SR 91 2058 because sequence number 85 was also handwritten on it. Sequence number 85 also appeared in his ticket. Forthwith, the team asked Station Manager Orosa to defer the outbound flight, and the latter agreed. [35]

The team then brought Nzenza and the three bags to the x-ray area for examination by PNP officers. The x-ray machine did not show any hidden objects. Thereafter, Nzenza and the bags were brought to the departure area for a second x-ray examination because the machine in said area was more sensitive. [36] After this second x-ray examination yielded a negative result, Nzenza and the bags were brought to the Inbound area for physical examination. [37]

In Nzenza's presence, and with the permission of Customs Collector Marquez, the team opened the third suitcase with baggage identification number SR 91 2058. After taking out the personal effects, photo albums and children's dresses contained therein, they noticed that the suitcase was still heavy. The examiner then slashed the velvet lining at the lower portion of the suitcase, resulting in their discovery of white powdery substance well-spread in a wax paper-like container. The powdered substance was then field-tested and was declared positive for heroin. Nzenza was brought to the investigation division while the white powdery substance was deposited with the Cash Division Vault of the Bureau of Customs for safekeeping. [38]

Captain Rodolfo Samala, Jr., a police agent assigned at the NAIA, testified that after the discovery of heroin in the bags belonging to Williams and Nzenza, the two men were turned over to his office by the Bureau of Customs on December 19, 1992 for investigation. [39] Samala prepared the Booking Sheet and Arrest Report for both Williams and Nzenza together with the receipts of property seized from them. He likewise requested the PNP Crime Laboratory to examine the subject specimen. It was he who delivered the substances to the PNP Crime Laboratory on December 23, 1992 for examination. [40]

The white powdery substance found in the bag with baggage identification tag number SR 91 2058 which allegedly belonged to Nzenza was also examined by Ms. Austero. The substance was placed in two bags when delivered to the PNP Crime Laboratory for examination. Austero testified that she took representative samples from the two bags and subjected the same to qualitative examination. [41] Both samples tested positive for heroin. [42] The heroin confiscated from the said bag weighed 11.15 kilograms. [43]

Nzenza denied the charges against him. He testified that he was working for Kobeleske G. Nzenza Enterprises [44] and that he was in the country on December 17, 1992 because it was difficult to get a confirmation of his ticket. [45] On December 19, 1992

while he was at the NAIA departure area waiting for his plane bound for Zurich, Switzerland, a policeman approached him and asked for his passport. After Nzenza gave his passport to said policeman, the latter walked off. Shortly thereafter, the policeman apologized and returned Nzenza's passport.^[46] Nzenza was then invited by the customs personnel to an office containing numerous pieces of luggage and was asked whether he was travelling alone, to which he replied in the affirmative.^[47] They later took him to Camp Crame where attempts were made to lock him up inside a cell and where some policemen took his ticket, passport and other documents.^[48] When he was shown a photocopy of Swiss Air Ticket No. 2421431-046-6, he identified it to be the same ticket he was holding onto on December 19, 1992. This plane ticket contained his baggage identification numbers SR 450229 and SR 450246 for his two pieces of luggage which he checked-in, as well the sequence number 85. He also testified that he had a hand-carried bag^[49] containing his trousers, t-shirts and photo albums, which items were allegedly taken by the police and transferred to the suitcase containing heroin.^[50]

When Nzenza was confronted with the receipt of property indicating that 11.15 kilograms of heroin were found in his luggage, he said he signed the same because he was told by the police that it was the receipt for his luggage which he wanted returned to him. He claimed that the receipt was in "blank form" and he was not allowed to read it.^[51]

When asked if he carried heroin in his bag, he replied in the negative, that he did not own the bag containing said substance and that he was only charged for said offense because he was an African, and the airport police was tipped off that the carrier of the prohibited drug was a black man. In fact, the baggage identification numbers of his luggage were written by a customs personnel in his ticket, and SR 91 2058, referring to the identification number of the baggage containing the heroin, was not indicated in his plane ticket.^[52]

He further testified that the two bags which he checked-in and his hand-carried bag had been examined and cleared by Customs authorities, so he proceeded to the Immigration Stamp-Out then proceeded to the Boarding Area. Nzenza contradicted the testimonies of Captain Samala and Captain Algenio that he denied having checked-in any luggage. He averred that when he was asked if he had any check-in luggage, he said "yes," thus he was taken to the tarmac to identify his luggage. He identified it in the presence of the police.

Nzenza was consistent in his testimony that he checked-in only two pieces of luggage as shown in his ticket and passport.^[53] He denied that his photo albums were taken from the luggage containing the heroin, and insisted that the two bags which he checked-in or his hand-carried bag did not contain heroin or any other prohibited drug.^[54] He denied being present when his two suitcases were opened,^[55] and remained firm in his assertion that he signed the receipt involuntarily^[56] and without the assistance of counsel.^[57]

On April 26, 1996, the trial court rendered its judgment convicting both Williams and Nzenza. The dispositive portion thereof states:

WHEREFORE, and based on the foregoing considerations, the court finds accused Austin Williams and Manzanza Nzenza both GUILTY of the crime charged in the Information respectively filed against them and barely sentences them:

for AUSTIN WILLIAMS in Criminal Case No. 92-2108, to suffer the PENALTY OF IMPRISONMENT OF RECLUSION PERPETUA and to pay the amount of P30,000.00 as fine;

for MANZANZA NZENZA in Criminal Case No. 92-2107 to suffer the PENALTY OF IMPRISONMENT OF RECLUSION PERPETUA and to pay the amount of P30,000.00 as fine;

The penalty of Reclusion Perpetua is being imposed pursuant to Republic Act 7659 while the fine of P30,000.00 for each accused is imposed pursuant to Republic Act 6425.

The subjects of indictment consisting of 22.547 kilograms of heroin with respect to Austin Williams and 11.15 kilograms of heroin with respect to Manzanza Nzenza are hereby ordered disposed of in accordance with law.

SO ORDERED. [58]

Nzenza appeals his conviction to this Court, raising the following errors:

THE LOWER COURT ERRED:

I.

IN NOT CONSIDERING THE TESTIMONY OF THE ACCUSED-APPELLANT THAT HIS PIECES OF LUGGAGE ARE ONLY THOSE HANDWRITTEN IN HIS SWISSAIR PLANE TICKET WITH TAG NOS. SR 450229 AND SR 450246;

II

IN ADMITTING AN ALLEGED COMPUTER PRINT-OUT OF PASSENGER MANIFEST (EXHIBIT "1") WITHOUT HAVING TESTIFIED TO BY THE ALLEGED PHILIPPINE AIRLINE (PAL) EMPLOYEE WHO ENCODED AND PRINTED THE SAME. [59]

The issue thus presented for this Court's resolution is whether the evidence presented before the trial court was sufficient to warrant accused-appellant's conviction.

The trial court correctly pointed out that there is no improper motive on the part of the prosecution witnesses to testify against Nzenza,^[60] and that their testimonies should be given full faith and credence since they are presumed to be in the regular performance of their official duties as police and customs officers of the NAIA.^[61] However, to support a finding that the accused is guilty beyond reasonable doubt of the crime charged, the testimonies should not only be credible and positive, but also sufficient to establish guilt. We are mindful that in our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.^[62] Thus, to overcome the presumption of innocence of the accused, proof beyond reasonable doubt of every fact essential to constitute the offense charged must be clearly established by the prosecution.^[63]

In the absence of direct proof that Nzenza transported heroin on December 19, 1992, the prosecution attempted to establish his guilt on the basis of circumstantial evidence.

The prosecution relied upon the following: *First*, accused Williams tipped off the Customs and police authorities at the NAIA that he had a companion, another black man carrying prohibited drugs in his bag. Acting on this information, the team organized to capture this second black man searched and apprehended Nzenza. *Second*, when the team saw Nzenza at the departure area and after they asked him whether he was travelling with a companion, they saw that he had a hand-carried bag similar to that of Williams, prompting them to ask if he had checked-in any luggage. *Third*, to verify whether Nzenza had any checked-in luggage, the team requested a PAL employee to furnish them with a passenger manifest. The manifest provided by the PAL employee indicated that Nzenza was passenger number 37 of Swiss Air Flight Number SR 177. Across his name was sequence number 85, and the information that he had checked-in three pieces of luggage. Accordingly, the pieces of luggage with baggage identification numbers SR 450229 and SR 450246 and SR 91 2058 indicated in the passenger manifest as belonging to Nzenza were located. *Fourth*, from the three pieces of luggage which were retrieved, only that numbered SR 91 2058 was subjected to examination, since those numbered SR 450229 and SR 450246 were only a baby roller and a baby cot.^[64]

The luggage with baggage identification number SR 91 2058 was later found to contain heroin.

This Court finds that the evidence relied upon by the trial court failed to prove Nzenza's guilt beyond reasonable doubt.

As a general rule, in the absence of direct proof, conviction may be based on circumstantial evidence, but to warrant conviction, the following requisites must concur: (1) there is more than one circumstance, (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.^[65]

We note that Nzenza was apprehended merely on the basis of Williams' statement that he had a companion, another black man who was also carrying prohibited drugs, even though Williams did not give the name and distinguishing characteristics of this black man^[66] and despite the fact that there were about two other black men in the NAIA departure area in the afternoon of December 19, 1992.^[67] With regard to the passenger manifest, the trial court justified its reliance thereon by stating that not only was said document uncontroverted, it was also produced by the PAL employee immediately after the same was requested by the follow-up team, and that the absence of any time gap between the request for and the production of the passenger manifest negates the possibility of any conspiracy on the part of the PAL employee and the members of the follow-up team to frame Nzenza.^[68]

However, the passenger manifest, standing alone, and without the testimony of the employee who recorded the seat number, sequence number and number of checked-in luggage, is hearsay. Although said evidence was correctly admitted by the RTC since no objection was made by the accused,^[69] the absence of such objection does not confer on said passenger manifest any more probative value than it actually has. Whether objected to or not, hearsay evidence has no probative value^[70] because there was no opportunity to check the veracity of the information contained therein.^[71] Its nature and quantity remain the same, so far as it is inherent weakness and incompetency to satisfy the mind are concerned.^[72]

Anent the discovery of the heroin in the bag with baggage identification number SR 91 2058 allegedly belonging to Nzenza, we find merit in the latter's argument that in the natural course of events, when several pieces of luggage of other passengers for the same flight are checked-in, the baggage identification tags of a passenger's bags would be numbered successively, or at least, not very far from one another. Nzenza correctly pointed out that the first four digits of the baggage identification tags attached to his two checked-in luggages, SR 450229 and SR 4502246 are identical: "4502". On the other hand, the baggage containing the heroin had a different serial number "SR 91 2058". This number had its first two numerical digits separated from the last four digits by one space. In contrast, the other two baggage identification numbers had six consecutive numbers and were not very far in sequence from each other. If it were true that the bag containing the heroin was his, the same would have a baggage identification number similar to the numbers of his two pieces of luggage which were checked-in.^[73]

It must also be considered that Nzenza had consistently denied ownership of the bag tag numbered SR 91 2058 which was found to contain 11.15 kilograms of heroin. He maintained that he only had three pieces of luggage: the bag which he hand-carried, and the two pieces of luggage which were tag numbered SR 450229 and SR 450246:

ATTY. BORJA:

Q: Now, showing to you this xerox copy of Swiss Air Ticket No. 2421
431 046-6, Mr.

Witness.

A: Yes, Your Honor.

Q: Please tell this Honorable Court if this is the same ticket that you brought along with you on December 19, 1992.

A: Yes, sir.

Q: Now, there appears a name of "Nzenza/Manzanza Mr." Please tell this Honorable Court the relationship of this ticket that... under the name of Manzanza Nzenza which you are referring to?

A: This is the same ticket, sir.

Q: Now, there also appears a Number "SR 450229 and SR 450246", do you know what these numbers represent?

WITNESS:

A: These are the numbers, for the "229" and "246", these are my luggage numbers.

ATTY. BORJA:

Q: When you said that these numbers refer to you two luggages, you are referring to the two luggages that you checked-in on December 19, 1992?

A: Yes, sir.

x x x^[74] ATTY. BORJA:

Q: Why do you say that the bag of Heroin with Claim Tag No. SR 91 2058 does not belong to you?

A: Because my two luggages which I checked-in with the Customs personnel, it was written on my plane ticket.

Q: Do you mean to tell this Honorable Court that this Tag No. SR 91 2058 purportedly carried the stuff of 10.4 Kilos of Heroin? This number does not indicate in your plane ticket?

A: Yes, sir.

Q: Will you please go over this tag number marked as Exhibit 2 and tell if SR 912058 purportedly where the stuff of 10.4 kilos of Heroin is... or, appears in this ticket?

A: None, Your Honor. It does not appear.

x x x. [75]

The Court finds that the circumstances upon which the trial court based its finding that Nzenza is indeed guilty of transporting heroin in one of his bags in the afternoon of December 19, 1992 do not support such finding beyond reasonable doubt. Said facts and circumstances do not pass the test of moral certainty since these permit the alternative inference that a person other than Nzenza could have transported the heroin discovered in the baggage tag numbered SR 91 2058.

To support a conviction on the basis of circumstantial evidence, the same must not only be consistent with guilt, it must also exclude every reasonable hypothesis of evidence.

Circumstantial evidence which merely arouses suspicion or gives room for conjecture is insufficient to convict an accused. It must do more than raise the mere possibility or even the probability of guilt. [76] Thus, in several cases, we have held that if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused, and the other consistent with his guilt, then the evidence is not adequate to support a conviction, [77] and the Court must acquit the accused.

In the case at bar, we cannot simply ignore the fact that the burden of proof required to hold Nzenza liable for the offense charged was not met by the prosecution. In view thereof, it is not only Nzenza's right to be freed, it is, even more, the Court's constitutional duty to acquit him. [78]

WHEREFORE, the appealed decision is hereby REVERSED and accused-appellant Manzanza Nzenza is hereby ACQUITTED for insufficiency of evidence. The Director of the Bureau of Corrections is hereby ordered to cause the release of accused-appellant forthwith, unless the latter is being held lawfully for another cause. No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] People of the Philippines, *Plaintiff, vs. Manzanza Nzenza, Accused.*

[2] People of the Philippines, *Plaintiff, vs. Austin Williams, Accused.*

[3] Section 4 of the Dangerous Drugs Act of 1972, as amended, states:

SEC. 4. *Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs.* -- The penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute,

dispatch in transit or in transport any prohibited drug, or shall act as a broker in any of such transactions.

Notwithstanding the provision of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.

[4] *Rollo*, p. 14.

[5] *Id.*, at 16.

[6] Motion for Consolidation dated March 31, 1993, Records, pp. 52-53.

[7] Order dated March 31, 1993, *Id.*, at 54.

[8] See Order dated March 5, 1993, *Id.* at 48.

[9] See Order dated March 22, 1993, *Id.*, at 44.

[10] TSN, May 12, 1983, pp. 7-8.

[11] *Id.*, at. 10; TSN, May 2, 1993, pp. 12-13.

[12] TSN, May 15, 1993, pp. 6-15; TSN, May 12, 1993, p. 11; TSN, May 14, 1993, p. 12.

[13] TSN, May 26, 1993, pp. 12-15.

[14] TSN, November 5, 1993, pp. 7-8.

[15] TSN, May 26, 1993, pp. 71-73; TSN, November 5, 1993, pp. 14-15.

[16] Calixihan testified that it was Medrano who slashed the luggage; TSN, May 26, 1993, p. 17.

[17] TSN, November 5, 1993, p. 19.

[18] TSN, May 14, 1993, pp. 22-23, 28; TSN, May 26, 1993, pp. 22-26.

[19] TSN, November 5, 1993, pp. 11-13.

[20] TSN, May 14, 1993, pp. 24-25.

[21] TSN, September 7, 1994, pp. 40-42.

[22] *Id.*, at 3-10.

[23] *Id.*, at 6.

[24] *Id.*, at 13.

[25] *Id.*, at 19-20.

[26] *Id.*, at 20.

[27] *Id.*, at 21.

[28] *Id.*, at 29.

[29] *Id.*, at 20-35.

[30] *Id.*, at 35-37.

[31] *Id.*, at 73.

[32] Composed of Atty. So of the CIIS, Narcom Agent Leoncio De la Cruz, Atty. Sunico of the Aircraft Operation Division, CNIU Agents, and Mr. Orosa, Station Manager of Swiss Air (TSN, September 20, 1993, p. 5)

[33] TSN, September 20, 1993, p. 5; TSN, October 7, 1993, p.14.

[34] TSN, September 22, 1993, pp. 4-7.

[35] *Id.*, at. 8-10.

[36] *Id.*, at 14.

[37] *Id.*, at 15.

[38] *Id.*, at 15-20.

[39] TSN, April 18, 1994, p.7.

[40] *Id.*, at 8.

[41] TSN, May 13, 1993, p. 81.

[42] *Id.*, at 78-80.

[43] TSN, May 13, 1993, p. 94.

[44] TSN, August 29, 1994, p. 46.

[45] *Id.* at 76.

[46] *Id.*, at 5-9.

[47] *Id.*, at 12-15.

[48] *Id.*, at 18.

[49] *Id.*, at 23.

[50] *Id.*, at 25, 51.

[51] *Id.*, at 26-28.

[52] *Id.* at 30-32.

[53] *Id.* at 7, 37-38, 55-56.

[54] *Id.*, at 30, 79-80.

[55] *Id.*, at 61, 79.

[56] *Id.*, at 81.

[57] *Id.*, at 82.

[58] Decision, *Rollo*, pp. 51-52.

[59] Accused-Appellants' Brief, *Rollo*, p.71.

[60] Decision, *Rollo*, p. 51.

[61] *People vs. Magno*, 296 SCRA 443 (1998); *People vs. Ponseca*, 230 SCRA 87 (1994).

[62] *People vs. Pagaura*, 267 SCRA 17, 24 (1997).

[63] *People vs. Mamalias*, G.R. No. 128073, March 27, 2000.

- [64] TSN, August 29, 1994, p. 24.
- [65] *People vs. Muleta*, 309 SCRA 148, 171 (1999).
- [66] TSN, October 7, 1993, pp. 13-15.
- [67] *Id.*, at 20-24.
- [68] Decision, *Rollo*, pp. 49-50.
- [69] Records, p. 235.
- [70] *People vs. Parungao*, November 28, 1996; *Salonga vs. Pano*, 134 SCRA 438 (1985); *People vs. Valero*, 112 SCRA 661 (1982).
- [71] 29 Am Jur 2d Sec. 658, Hearsay.
- [72] 3 Jones on Evidence 2d (1991).
- [73] Appellants' Brief, *Rollo*, pp.73-74.
- [74] TSN, August 29, 1994, pp. 18-21.
- [75] *Id.*, at 31-32.
- [76] UNDERHILL, A TREATISE ON THE LAW OF CRIMINAL EVIDENCE, 5TH ED. (1956).
- [77] *People vs. Ferras*, 289 SCRA 94 (1998), *People vs. Llaguno*, 285 SCRA 124 (1998).
- [78] See *People vs. Muleta*, 309 SCRA 148, 176 (1999).



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