

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

C.T.A. CRIM. CASE NO. O-141

For: Unlawful Importation under
Section 3601 of the Tariff &
Customs Code in relation to
Section 2530 (e) of the
same Code

- versus -

Members:

CASTAÑEDA, JR., Chairperson
CASANOVA, and
MINDARO-GRULLA, JJ.

Promulgated:

JOEY M. LAURENTE,

Accused.

APR 30 2010

2:05 p.m.

x-----x

RESOLUTION

This resolves accused Joey M. Laurente's "**Demurrer to Evidence**" filed on March 8, 2010, without prosecution's comment/opposition thereto despite due notice.

Accused Joey M. Laurente is charged before this Court with the crime of Unlawful Importation under the provisions of Section 3601 of the Tariff and Customs Code of the Philippines (TCCP), in relation to Section 2530 (e), of the same Code, under an Information which reads as follows:

“That on or about March 27, 2008, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, then and there willfully, unlawfully and feloniously, **caused the diversion or removal of 36 out of 38 prime hot/cold rolled steel sheets in coils imported from Taiwan**, to the warehouse of Perfect Steel at Governor’s Drive, Mountview Industrial Complex, Carmona, Cavite, when the shipment should have been delivered to the warehouse of Steelpro at Brgy. Osorio, Trece Martires, Cavite, as consignee (Phil Bonded Warehouse FAO Steelpro), **for re-exportation**, thereby **avoiding payment of duties and taxes** in the total amount of One Million Eight Hundred Fifty Two Thousand Eight Hundred Fifty Six Pesos (PhP 1,852,856.00), to the prejudice of the Philippine government and in violation of the aforementioned law.

CONTRARY TO LAW.”¹

Accused Joey M. Laurente pleaded “Not Guilty” to the charge during his arraignment on May 13, 2009² and for which he was duly assisted by his defense counsel *de parte*. A Preliminary Conference meeting was held on June 1, 2009³ and June 22, 2009,⁴ followed by a Pre-Trial held on July 1, 2009,⁵ wherein the parties stipulated on the following facts and issue for the Court’s consideration:

“A. Admitted Facts

1. That accused Joey M. Laurente, is a duly licensed customs broker accredited by the Bureau of Customs;
2. That accused is the broker of the shipment consigned to Philippine Bonded Warehouse Services, Inc. for the account of Steelpro Philippines, Inc.; and
3. That the steel cargo is consigned to Philippine Bonded Warehouse Services, Inc. for the account of Steelpro Philippines, Inc.

¹ Docket, pp. 1-3.

² *Id.*, pp. 346 - 347.

³ *Id.*, pp. 355 - 362.

⁴ *Id.*, pp. 366 - 375.

⁵ *Id.*, pp. 378 - 389.

B. *Issue*

“Whether or not the accused be held liable for the crime charged.”

During trial, the prosecution presented the following witnesses: Atty. Julito L. Doria,⁶ Atty. Aldwin M. Alberto and Joselito Cervantes.⁷ Thereafter, the prosecution filed its “Formal Offer of Evidence” by registered mail on November 4, 2009, offering Exhibits “A” to “X”. Accused Joey M. Laurente filed his “Comment (to Prosecutions Formal Offer of Exhibits)” on November 13, 2009. In the Resolution dated December 10, 2009, this Court admitted the prosecution’s documentary exhibits “C”, “F”, “H”, “I”, and “P” to “X”; while Exhibits “A”, “B”, “D”, “E”, “E-1”, “G”, “J”, “K”, “L”, “N”, and “O” were not admitted in evidence for reasons stated therein. Exhibits “M” and “M-1” were denied in a Resolution dated January 27, 2010.

Upon motion, the Court granted the accused a leave of court to file Demurrer to Evidence, while the prosecution was granted ten (10) days from receipt of a copy thereof to file its Opposition, afterwhich the Demurrer to Evidence shall be deemed submitted for resolution. On March 8, 2010, accused filed his Demurrer to Evidence. On March 17, 2010, the Demurrer to Evidence was submitted for resolution sans comment/opposition from the prosecution.

In his Demurrer to Evidence, accused Joey M. Laurente alleged that on March 17, 2008, he processed and facilitated the release of the cargo from Manila South Harbor and delivered the same to the consignee, the Philippine Bonded Warehouse Services, Inc. (PBWSI) in Navotas, Manila; that he simply

⁶ *Id.*, p. 413.

⁷ *Id.*, p. 436.

processed the release of the cargo from the Bureau of Customs (BOC) and delivered the same to PBWSI; that he was able to comply with his said obligation; and that there was nothing improper or unlawful in the said transaction. The unlawful act was allegedly committed when the cargo was delivered by PBWSI to its importer Steelpro Philippines, Inc. (STEELPRO).

Furthermore, the accused alleged that on cross-examination of the prosecution's main witnesses, Atty. Julito Doria and Atty. Aldwin Alberto, they both answered in the negative when asked if they have any evidence to prove that the accused had any knowledge or participation on the said alleged unlawful diversion of the cargo from a custom bonded warehouse to a private warehouse.

The accused also alleged that the Honorable Ninth Division of the Honorable Court of Appeals issued a Resolution (sic) dated February 26, 2010,⁸ nullifying and setting aside the instant Information filed against him.

Thus, the accused prays that this Court grants its Demurrer to Evidence and that this case be dismissed.

Upon perusal of the Demurrer to Evidence, We noted that the Ninth Division of the Court of Appeals issued a Decision⁹ dated February 26, 2010, granting the accused' petition for certiorari under Rule 65 of the Revised Rules of Court. The Court of Appeals ANNULLED and SET ASIDE the Resolution dated January 16, 2009 in I.S. No. 2008-306, directing petitioner's, herein accused, indictment for violation of Sections 3604 and 3601, in relation to Section 2530 (e) of the TCCP and which led to the filing of the Information,

⁸ Annex "A" of Demurrer to Evidence, Decision of the Court of Appeals.

⁹ *Id.*

subject of the instant Petition. The complaint against petitioner, herein accused, in I.S. No. 2008-306 was DISMISSED, with the Court of Appeals aptly finding thus:

“It is conceded that as customs broker, petitioner was responsible for signing and processing relevant documents for release of the subject shipment from the Bureau of Customs to PBWSI's bonded warehouse. His responsibility started with filing the warehousing entry and transshipment permit with BOC itself and ended with the release of the shipment from BOC until its actual delivery to the consignee in the latter's bonded warehouse. Whatever happened thereafter, as when the cargo was moved from the consignee's warehouse to the importer's unbonded private warehouse, no longer formed part of petitioner's scope of responsibility, nor was he required as customs broker to monitor the safekeeping and custody of the shipment especially after his professional engagement as such had to come to an end. Respondent Secretary of Justice himself did not point to any provision of law, administrative rule, or contract imposing this duty on petitioner in his capacity as customs broker. More, the assailed resolution itself did not reveal any shred of evidence connecting petitioner, by any action or omission, to the unauthorized or illegal transfer of the shipment to the importer's unbonded warehouse. All it had was a sweeping statement that petitioner is liable by reason alone of his having processed the release of the shipment from BOC. Surely, this kind of logic is flawed. For one, processing of documents for release of shipment from BOC *per se* is not a crime. For another, petitioner merely processed the release of the subject shipment based on the documents provided him by the consignee. xxx”

We also noted in the DOJ Resolution¹⁰ dated January 16, 2009 that the complaint was dismissed against the principal respondents on the ground that complainant failed to discharge the burden of proof to satisfy the requirement of probable cause.

¹⁰ Docket, pp. 4-10.

In order to determine whether or not a prima facie case has been proven by the prosecution, the Court finds it necessary to state what appears from the evidence adduced against the accused for the crime charged.

This Court agrees with accused Joey M. Laurente.

The specified provisions of the Tariff and Customs Code of the Philippines, as amended, allegedly violated by the accused read:

"Sec. 3601. *Unlawful Importation.* – Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment or sale of such article after importation, knowing the same to have been imported contrary to law, shall be guilty of smuggling and shall be punished with:

xxx xxx xxx

When upon trial for violation of this section, the defendant is shown to have had possession of the article in question, possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the court: Provided, however, That payment of the tax due after apprehension shall not constitute a valid defence in any prosecution under this section.

Section 2530. *Property Subject to Forfeiture Under Tariff and Customs Laws.* - Any vehicle, vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture:

xxx xxx xxx

e. Any article which is fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard or container freight station under customs supervision." (*Emphasis supplied.*)

Based on the above-quoted provisions, the prosecution must prove that the accused committed an ***unlawful importation*** by means of any of the

following: (a) fraudulently imports or brings into the Philippines or assists in so doing, any article, contrary to law; or (b) receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment or sale of such article after importation, knowing the same to have been imported contrary to law.

In the instant case, the prosecution failed to prove beyond reasonable doubt the elements of the crime of unlawful importation as defined by the above-quoted law.

The prosecution presented its witness, Atty. Julito L. Doria, who identified his Affidavit as his direct testimony. However, this Court denied admission of the said affidavit (Exhibit "M" and "M-1") for failure of the prosecution to have it duly marked and submitted to the Court.¹¹ As far as said witness is concerned, there is no material direct testimony to be considered against the accused.

The prosecution also presented Atty. Aldwin M. Alberto, former employee of the Bureau of Customs, and a former member of its Run Against the Smugglers (RATS) Program. He testified that he was tasked as member of the RATS to investigate on matters relating to illegal importation of goods and to file the necessary complaint against the offenders. He stated that he was the one who investigated the unlawful diversion of 36 prime hot rolled steel sheets in coils valued approximately at Nine Million Two Hundred Ninety Two Thousand One Hundred Nine Pesos (Php9,292,109.00) with corresponding duties and taxes of One Million Eight Hundred Fifty Two Thousand Eight Hundred Fifty Six Pesos (Php1,852,856.00), consigned to PBSWI, in violation of Section 3601 in relation to Sections 2530 paragraph (e)

¹¹ Resolution dated January 27, 2010.

and 3604 paragraphs (e), (f) and (h) of the Tariff and Customs Code of the Philippines, as amended. He further stated that he was the one who executed and filed the complaint against the accused before the Department of Justice.

Atty. Aldwin M. Alberto further testified on the following:

- a. that based on his investigation on March 13, 2008, a shipment of 38 prime hot, rolled steel sheets in coil with gross weight of 362.110 MT consigned to PBSWI for the account of Steelpro, arrived at the Harbour Center, Manila from Kaohsiung, Taiwan on board a vessel M/V Ho Yun V-0566 with Registry No. PSI-020HC;
- b. that on March 26, 2008 the subject shipment was released and transferred to the warehouse of PBWSI located at 28 C-3 Road, Navotas City wherein Customs Storekeeper Honorio Salangsang who was assigned thereat acknowledge receipt thereof;
- c. that on March 27, 2008, Nelson Salvanera issued Requisition Slip No. 08-0599 while Mr. Salangsang, issued Boatnote No. 121277642 for the purpose of withdrawing subject shipment from PBSWI for transfer to the warehouse of STEELPRO located at Barangay Osorio, Trece Martires, Cavite;
- d. that on same day of March 27, 2008, Philippine Bonded Warehouse Services, Inc. (PBWSI) through accused Joey M. Laurente as Licensed Customs Broker, filed Warehousing Entry No. 2639 supported by Bill of Lading No. KAOMNL-10;
- e. that he learned that on April 3, 2008, Atty. Julito L. Doria and Rico E. Reyes, representatives from the Office of the Commissioner reported that only two (2) bundles/coils were verified to have been delivered to the warehouse of STEELPRO at Barangay Osorio, Trece Martires, Cavite while the remaining thirty-six (36) coils were found to have been diverted to the warehouse of Perfect Steel at Governor's Drive, Mountview Industrial Complex, Carmona, Cavite; and
- f. that the accused signed and processed the release of the subject shipment knowing fully well that the same is covered by a Warehousing Entry and is intended to be delivered at the warehouse of STEELPRO and not the warehouse of PERFECT STEEL which is violative of Section 3601 in relation to Section 2530 paragraph (e) of the Tariff and Customs Code of the Philippines, as amended.¹²

¹² Exhibit "X", Docket, pp. 428-435.

The prosecution likewise presented Mr. Joselito Cervantes, Acting Customs Operation Officer (COO) III of the Special Warehousing and Assessment Unit of the Bureau of Customs (BOC). Mr. Cervantes testified that as COO, his function, among others, is to make assessment and computation of the value of the shipments as well as to determine the correct duties and taxes on warehouse articles, and to determine whether the duties and taxes computed, assessed and approved were in accordance with the Tariff and Customs Code of the Philippines (TCCP), as amended. He stated that on April 11, 2008, the Chief of the RATS Program of the BOC requested for the computation of the value of the shipment pertaining to 36 of the 38 hot rolled steel plates in coils covered by warehousing Entry No. 2639-08, consigned to PBWSI for the account of STEELPRO. After his assessment, he came out with the approximate value of the 36 coils of hot rolled steel plates in the amount of Php9,292,109.00, while the duties and taxes due thereon amounted to Php1,852,856.00.¹³

The prosecution offered in documentary evidence the following admitted exhibits:

- a. Exhibit "C" – Boat Note No. 120027966;
- b. Exhibit "F" – Boat Note No. 121277642;
- c. Exhibit "H" – Certified True Copy of Inventory of Prime Hot Rolled Steel Sheets in Coil dated April 2, 2008 in Trece Martinez Warehouse;
- d. Exhibit "I" - Certified True Copy of Inventory of Prime Hot Rolled Steel Sheets in Coil dated April 2, 2008 in Carmona Warehouse;
- e. Exhibit "P" - Certification dated April 15, 2008 of Cecil R. Sison, Warehousing Documentation and Records Division, POM;
- f. Exhibit "Q" – General Information Sheet of STEELPRO Philippines;
- g. Exhibit "R" – General Information Sheet of Perfect Steel Craft Corporation;

¹³ Exhibit "Z", Docket, pp. 419-420.

- h. Exhibit "S" – General Information Sheet of Jet Properties Steel Corporation;
- i. Exhibit "T" – General Information Sheet of Philippine Bonded Warehouse Service, Inc.;
- j. Exhibit "U" – Bill of Lading No. KAOMNL-10;
- k. Exhibit "V" – Mission Order dated April 2, 2008;
- l. Exhibit "W" – Warrant of Seizure and Detention docketed as I.S. No. 08-024; and
- m. Exhibit "X" – Memorandum dated January 21, 2000.

However, the above admitted exhibits and the testimonies of the prosecution witnesses do not prove beyond reasonable doubt that the accused, directly or indirectly participated in the unlawful importation, and **caused the diversion or removal of 36 out of 38 prime hot/cold rolled steel sheets in coils imported from Taiwan.**

During the cross examination of Atty. Julito L. Doria,¹⁴ he testified as follows:

Atty. Dioquino

Q Who is the owner of the warehouse in Barangay Osorio, Trece Martires, Cavite?

Atty. Doria

A Steel Pro is the owner of that warehouse.

Atty. Dioquino

Q And who is Steel Pro in this case?

Atty. Doria

A Steel Pro is the ultimate consignee.

Atty. Dioquino

Q And it is also the importer, Mr. Witness?

Atty. Doria

A Technically, he is the importer because he owns the shipment.

Atty. Dioquino

Q Who is the owner of the warehouse in Mountview Industrial Park, Mr. Witness?

Atty. Doria

A The owner of the warehouse, it's like this, the one that is being registered inside the Carmona is Perfect Steel, but in the course of our

¹⁴ TSN, Hearing, August 24, 2009, pp. 30-34.

investigation, there are at least two companies that are given the same address in Carmona.

Atty. Dioquino

Q In your investigation, Mr. Witness, is there a relation between Steel Pro, Perfect Steel and Jet Properties?

Atty. Doria

A I think so because the Directors and the Officers of these three companies are just the same.

Atty. Dioquino

Q So, you mentioned a while ago that the cargo was diverted supposed to be to Trece Martires and then it went to Mountview Industrial Park.

Atty. Dioquino

Q By the way, Mr. Witness, do you know who ordered the diversion of the cargo?

Atty. Doria

A Based on the documents, I can only say that the entire process of delivering supposedly to its actual location is covered by the documents, the transshipment, the boat note and the entry, but as far as the ordering of that, as the diversion, or the filing of that shipment in another location is another issue altogether, your Honors.

Atty. Dioquino

Q So, you are not aware, you don't know or you have no information if it was indeed Joey Laurente, the accused in this case, who ordered the diversion?

Atty. Doria

A Your Honors, purportedly the documents would speak that these are all regular deliveries, but the findings that we gathered or the actual seizure that we have, prove the different story altogether, your Honors.

Atty. Dioquino

Q By the way, do you know that all the stockholders of ...*(Interrupted)*

Justice Castañeda

Clarificatory question.

Q **Are you aware whether the accused in fact participated in this transshipment?**

Atty. Dioquino

Diversion, your Honors.

Atty. Doria

A **Your Honors, first, based on the documents, your Honors, it may not lead directly to get that answer, your Honors, but the presentation of documents purportedly showing that these are regular shipments to be delivered for particular warehouse might tell another story, your Honors, but the actual result is totally different matter, your Honors, but the documents, the official documents, are signed by the accused, your Honors."** *(Emphasis supplied.)*

On the other hand, witness Atty. Aldwin M. Alberto on cross examination testified¹⁵, thus:

Atty. Dioquino

Q In the conduct of your investigation, was there any document or evidence showing that it was accused, Joey Laurente who ordered the diversion of the cargo from a customs bonded warehouse to a private warehouse?

Atty. Alberto

A Sir, I have the Bill of Lading wherein the name of the accused appears.

Atty. Dioquino

Q Was there any evidence showing that he was the one who ordered the diversion of the cargo from a customs bonded warehouse to a private warehouse?

Atty. Alberto

A No, sir, because his participation is only as the broker, sir, as appearing in the Bill of Lading.

Atty. Dioquino

Q So, you mean to say that it was the owner of the cargo who ordered the diversion of the cargo from a customs bonded warehouse to a private warehouse?

Atty. Alberto

The owner of?

Atty. Dioquino

The cargo.

Atty. Alberto

A Yes, sir, with the acquiescence of the accused as broker.

Atty. Dioquino

Q When you said "*with the acquiescence*", do you have any specific evidence to show that he indeed acquiesce to the diversion of the cargo?

Atty. Alberto

A Sir, as far as my petition is concerned, sir, the document linking him is the Bill of Lading.

Atty. Dioquino

Q Will the Bill of Lading sufficient proof to show that he connived or he acquiesced to the diversion of the cargo?

Atty. Alberto

A Sir, that is the position of the Bureau of the Customs.

Atty. Dioquino

Q You mentioned that you were the one who prosecuted the case in the DOJ?

¹⁵ TSN, Hearing dated October 5, 2009, pp. 19-25.

Atty. Alberto
A Yes, sir.

Atty. Dioquino
Q Would you agree with me that there was an admission made by the officer of Perfect Steel that they were the one who ordered the diversion of the cargo?

Atty. Alberto
Sir, you're asking me if I'm aware of it?

Atty. Dioquino
Yes.

Atty. Alberto
A I do not remember, sir.

Atty. Dioquino
Q You mentioned that you were the one who attended the hearing with the DOJ, am I right?

Atty. Alberto
A Yes, sir.

Atty. Dioquino
Q Naturally, you were also the one who received the copy of the counter-affidavit of Jasper Tan, am I right?

Atty. Alberto
A Yes, sir. I read it, sir.

Atty. Dioquino
Q And who is Jasper Tan in relation to this case?

Atty. Alberto
A Sir, I think he is to be one of those charged, sir, before the DOJ.

Atty. Dioquino
Q And in receiving his counter-affidavit did you read it?

Atty. Alberto
A Yes, sir.

Atty. Dioquino
Q And what was the defense of Mr. Tan?

Atty. Alberto
A If I remember it right, sir, he admitted him being the one who caused the importation of the subject articles and one of his defense is necessity because he mentioned that one of the warehouses that was mentioned, I think it's the Carmona warehouse, sir, or rather was already full and they have to transfer the thirty six (36) steel coils to another warehouse.

Atty. Dioquino
Q **So, would you now agree with me that it was Jasper Tan who ordered the diversion of the cargo supposed to be to Trece Martires to Mountview Industrial Park?**

Atty. Alberto
A **I think yes, sir.**

Atty. Dioquino
Q **So, it is not the accused?**

Atty. Alberto
A **The one who ordered, sir? Yes, it's not the accused, sir.**
(*Emphasis supplied.*)

The guilt of the accused could not be established by the above testimonies. The said testimonies only showed that accused Joey M. Laurente's participation as Licensed Customs Broker was limited to the filing and processing of the said official documents for purposes of withdrawing subject shipment from PBSWI for transfer to the warehouse of STEELPRO located at Barangay Osorio, Trece Martires, Cavite. Atty. Aldwin Alberto even testified that it was not the accused but Jasper Tan who ordered the diversion of the cargo supposed to be delivered to Trece Martires to Mountview Industrial Park.

The prosecution clearly relied on circumstantial evidence to prove that the accused is guilty of unlawful importation under the provisions of Section 3601 in relation to Section 2530 (e) of the TCCP.

A judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute an unbroken chain leading to one fair and reasonable conclusion, to the *exclusion* of any other, that the accused are guilty. The circumstances proved must be concordant with each other, consistent with the hypothesis that the accused is guilty and, at the

same time, inconsistent with any hypothesis other than that of guilt.¹⁶ As a corollary to the constitutional precept that the accused is presumed innocent until the contrary is proved, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with his innocence.¹⁷

In every criminal prosecution, the guilt of the accused must be established by proof beyond reasonable doubt in order to warrant a conviction. Proof beyond reasonable doubt is that degree of proof which produces conviction in an unprejudiced mind.¹⁸ It is not the absolute certainty of guilt but only a moral certainty as to the presence of the elements constituting the offense, as well as the identity of the offender.¹⁹

Enshrined in the Bill of Rights is the right of the accused to be presumed innocent until the contrary is proved, and to overcome the presumption, nothing but proof beyond reasonable doubt must be established by the prosecution. The constitutional presumption of innocence requires courts to take "a more than casual consideration" of every circumstance or doubt proving the innocence of the accused.²⁰

Where the state fails to meet the quantum of proof required to overcome the constitutional presumption, the accused is entitled to an

¹⁶ *People of the Philippines vs. Sergio Bato and Abraham Bato*, G.R. No. 113804, January 16, 1998 (284 SCRA 223,232) citing *People vs. Adofina*, 239 SCRA 67, 76-77, December 8, 1994 and *People vs. Tiozon*, 198 SCRA 368, June 19, 1991.

¹⁷ *Id.* citing *People vs. Yip Wai Ming*, 264 SCRA 224, 243, November 14, 1996.

¹⁸ *People vs. Surio*, G.R. No. 139235, August 7, 2002, 386 SCRA 537, 545 citing *People vs. Bao-in*, 295 SCRA 745 (1998)

¹⁹ *Id.* citing *People vs. Mijano*, 311 SCRA 81 (1999).

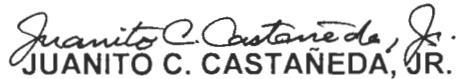
²⁰ *Rabanal vs. People*, G.R. No. 160858, February 28, 2006, 483 SCRA 601,617 citing the cases of *People v. Ochate*, 434 Phil. 575; 385 SCRA 353 (2002), citing *People v. Morada*, 307 SCRA 362, 379-380 (1999); *People v. San Juan*, 326 SCRA 786, 801 (2000); and *People v. Ratunil*, 334 SCRA 721, 737 (2000).

acquittal, regardless of the weakness or even the absence of his defense.²¹

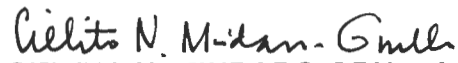
By constitutional fiat, the burden of proof is accordingly vested in the prosecution.²²

WHEREFORE, in view of the clear insufficiency of the evidence against accused **JOEY M. LAURENTE**, this Court hereby **GRANTS** the instant “**Demurrer to Evidence**”. Accordingly, this case is **DISMISSED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CAESAR A. CASANOVA
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice

²¹ *People of the Philippines vs. Sergio Bato and Abraham Bato*, *supra*, at 238 citing *People vs. Alcantara*, 240 SCRA 122, 130, January 17, 1995.

²² *Id.* citing *People vs. Austria*, 195 SCRA 700, 709, April 8, 1991.