

## THIRD DIVISION

[ G.R. No. 121917, March 12, 1997 ]

**ROBIN CARIÑO PADILLA @ ROBINHOOD PADILLA, PETITIONER,  
VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES,  
RESPONDENTS.**

### D E C I S I O N

**FRANCISCO, J.:**

On October 26, 1992, high-powered firearms with live ammunitions were found in the possession of petitioner Robin Padilla @ Robinhood Padilla, i.e.:

"(1) One .357 Caliber revolver, Smith and Wesson, SN-32919 with six (6) live ammunitions;

"(2) One M-16 Baby Armalite rifle, SN-RP 131120 with four (4) long and one (1) short magazine with ammunitions;

"(3) One .380 Pietro Beretta, SN-A 35723 Y with clip and eight (8) ammunitions; and

"(4) Six additional live double action ammunitions of .38 caliber revolver."<sup>[1]</sup>

Petitioner was correspondingly charged on December 3, 1992, before the Regional Trial Court (RTC) of Angeles City with illegal possession of firearms and ammunitions under P.D. 1866<sup>[2]</sup> thru the following Information:<sup>[3]</sup>

"That on or about the 26th day of October, 1992, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) M-16 Baby Armalite rifle, SN-RP 131120 with four (4) long and one (1) short magazines with ammunitions, one (1) .357 caliber revolver Smith and Wesson, SN-32919 with six (6) live ammunitions and one (1) .380 Pietro Beretta, SN-A35723Y with clip and eight (8) ammunitions, without having the necessary authority and permit to carry and possess the same.

ALL CONTRARY TO LAW."<sup>[4]</sup>

The lower court then ordered the arrest of petitioner,<sup>[5]</sup> but granted his application for bail.<sup>[6]</sup> During the arraignment on January 20, 1993, a plea of not guilty was entered for petitioner after he refused,<sup>[7]</sup> upon advice of counsel,<sup>[8]</sup> to make any plea.<sup>[9]</sup> Petitioner waived in writing his right to be present in any and all stages of

the case.<sup>[10]</sup>

After trial, Angeles City RTC Judge David Rosete rendered judgment dated April 25, 1994 convicting petitioner of the crime charged and sentenced him to an "indeterminate penalty from 17 years, 4 months and 1 day of reclusion temporal as minimum, to 21 years of reclusion perpetua, as maximum".<sup>[11]</sup> Petitioner filed his notice of appeal on April 28, 1994.<sup>[12]</sup> Pending the appeal in the respondent Court of Appeals,<sup>[13]</sup> the Solicitor-General, convinced that the conviction shows strong evidence of guilt, filed on December 2, 1994 a motion to cancel petitioner's bail bond. The resolution of this motion was incorporated in the now assailed respondent court's decision sustaining petitioner's conviction,<sup>[14]</sup> the dispositive portion of which reads:

"WHEREFORE, the foregoing circumstances considered, the appealed decision is hereby AFFIRMED, and furthermore, the P200,000.00 bailbond posted by accused-appellant for his provisional liberty, FGU Insurance Corporation Bond No. JCR (2) 6523, is hereby cancelled. The Regional Trial Court, Branch 61, Angeles City, is directed to issue the Order of Arrest of accused-appellant and thereafter his transmittal to the National Bureau of Prisons thru the Philippine National Police where the said accused-appellant shall remain under confinement pending resolution of his appeal, should he appeal to the Supreme Court. This shall be immediately executory. The Regional Trial Court is further directed to submit a report of compliance herewith.

SO ORDERED."<sup>[15]</sup>

Petitioner received a copy of this decision on July 26, 1995.<sup>[16]</sup> On August 9, 1995 he filed a "motion for reconsideration (and to recall the warrant of arrest)"<sup>[17]</sup> but the same was denied by respondent court in its September 20, 1995 Resolution,<sup>[18]</sup> copy of which was received by petitioner on September 27, 1995. The next day, September 28, petitioner filed the instant petition for review on certiorari with application for bail<sup>[19]</sup> followed by two "supplemental petitions" filed by different counsels,<sup>[20]</sup> a "second supplemental petition"<sup>[21]</sup> and an urgent motion for the separate resolution of his application for bail. Again, the Solicitor-General<sup>[22]</sup> sought the denial of the application for bail, to which the Court agreed in a Resolution promulgated on July 31, 1996.<sup>[23]</sup> The Court also granted the Solicitor-General's motion to file a consolidated comment on the petitions and thereafter required the petitioner to file his reply.<sup>[24]</sup> However, after his vigorous resistance and success on the intramural of bail (both in the respondent court and this Court) and thorough exposition of petitioner's guilt in his 55-page Brief in the respondent court, the Solicitor-General now makes a complete turnabout by filing a "Manifestation In Lieu Of Comment" praying for petitioner's acquittal.<sup>[25]</sup>

The People's detailed narration of facts, well-supported by evidence on record and given credence by respondent court, is as follows:<sup>[26]</sup>

"At about 8:00 o'clock in the evening of October 26, 1992, Enrique Manarang and his compadre Danny Perez were inside the Manukan sa

Highway Restaurant in Sto. Kristo, Angeles City where they took shelter from the heavy downpour (pp. 5-6, TSN, February 15, 1993) that had interrupted their ride on motorcycles (pp. 5-6, *ibid.*) along McArthur Highway (*ibid.*). While inside the restaurant, Manarang noticed a vehicle, a Mitsubishi Pajero, running fast down the highway prompting him to remark that the vehicle might get into an accident considering the inclement weather. (p. 7, *Ibid*) In the local vernacular, he said thus: 'Ka bilis na, mumuran pa naman pota makaaksidente ya.' (p. 7, *ibid.*). True enough, immediately after the vehicle had passed the restaurant, Manarang and Perez heard a screeching sound produced by the sudden and hard braking of a vehicle running very fast (pp. 7-8, *ibid*) followed by a sickening sound of the vehicle hitting something (p. 8, *ibid.*). Danny Cruz, quite sure of what had happened, remarked 'oy ta na' signifying that Manarang had been right in his observation (pp. 8-9, *ibid.*).

"Manarang and Cruz went out to investigate and immediately saw the vehicle occupying the edge or shoulder of the highway giving it a slight tilt to its side (pp. 9-10, *ibid.*). Manarang, being a member of both the Spectrum, a civic group and the Barangay Disaster Coordinating Council, decided to report the incident to the Philippine National Police of Angeles City (p. 10, *ibid.*). He took out his radio and called the Viper, the radio controller of the Philippine National Police of Angeles City (p. 10, *ibid.*). By the time Manarang completed the call, the vehicle had started to leave the place of the accident taking the general direction to the north (p. 11, *ibid.*).

"Manarang went to the location of the accident and found out that the vehicle had hit somebody (p. 11, *ibid.*).

"He asked Cruz to look after the victim while he went back to the restaurant, rode on his motorcycle and chased the vehicle (p. 11 *ibid.*). During the chase he was able to make out the plate number of the vehicle as PMA 777 (p. 33, TSN, February 15, 1993). He called the Viper through the radio once again (p. 34, *ibid*) reporting that a vehicle heading north with plate number PMA 777 was involved in a hit and run accident (p. 20, TSN, June 8, 1993). The Viper, in the person of SPO2 Ruby Buan, upon receipt of the second radio call flashed the message to all units of PNP Angeles City with the order to apprehend the vehicle (p. 20, *ibid.*). One of the units of the PNP Angeles City reached by the alarm was its Patrol Division at Jake Gonzales Street near the Traffic Division (pp. 5-7, TSN, February 23, 1993). SPO2 Juan C. Borja III and SPO2 Emerlito Miranda immediately boarded a mobile patrol vehicle (Mobile No. 3) and positioned themselves near the south approach of Abacan bridge since it was the only passable way going to the north (pp. 8-9, *ibid.*). It took them about ten (10) seconds to cover the distance between their office and the Abacan bridge (p. 9, *ibid.*).

"Another PNP mobile patrol vehicle that responded to the flash message from SPO2 Buan was Mobile No. 7 of the Pulongmaragal Detachment which was then conducting patrol along Don Juico Avenue (pp. 8-9, TSN, March 8, 1993). On board were SPO Ruben Mercado and SPO3 Tan and SPO2 Odejar (p. 8, *ibid.*). SPO Ruben Mercado immediately told SPO3 Tan

to proceed to the MacArthur Highway to intercept the vehicle with plate number PMA 777 (p. 10, *ibid*).

"In the meantime, Manarang continued to chase the vehicle which figured in the hit and run incident, even passing through a flooded portion of the MacArthur Highway two (2) feet deep in front of the Iglesia ni Kristo church but he could not catch up with the same vehicle (pp. 11-12, February 15, 1993). When he saw that the car he was chasing went towards Magalang, he proceeded to Abacan bridge because he knew Pulongmaragal was not passable (pp. 12-14, *ibid*). When he reached the Abacan bridge, he found Mobile No. 3 and SPO2 Borja and SPO2 Miranda watching all vehicles coming their way (p. 10, TSN, February 23, 1993). He approached them and informed them that there was a hit and run incident (p. 10, *ibid*). Upon learning that the two police officers already knew about the incident, Manarang went back to where he came from (pp. 10-11; *ibid*). When Manarang was in front of Tina's Restaurant, he saw the vehicle that had figured in the hit and run incident emerging from the corner adjoining Tina's Restaurant (p. 15, TSN, February 15, 1993). He saw that the license plate hanging in front of the vehicle bore the identifying number PMA 777 and he followed it (p. 15, *ibid*) towards the Abacan bridge.

"Soon the vehicle was within sight of SPO2 Borja and SPO2 Miranda of Mobile No. 3 (p. 10, TSN, February 23, 1993). When the vehicle was about twelve (12) meters away from their position, the two police officers boarded their Mobile car, switched on the engine, operated the siren and strobe light and drove out to intercept the vehicle (p. 11, *ibid*). They cut into the path of the vehicle forcing it to stop (p. 11, *ibid*).

"SPO2 Borja and SPO2 Miranda alighted from Mobile No. 3 (P. 12, TSN, February 23, 1993). SPO2 Miranda went to the vehicle with plate number PMA 777 and instructed its driver to alight (p. 12, *ibid*). The driver rolled down the window and put his head out while raising both his hands. They recognized the driver as Robin C. Padilla, appellant in this case (p. 13, *ibid*). There was no one else with him inside the vehicle (p. 24). At that moment, Borja noticed that Manarang arrived and stopped his motorcycle behind the vehicle of appellant (p. 14, *ibid*). SPO2 Miranda told appellant to alight to which appellant complied. Appellant was wearing a short leather jacket (p. 16, TSN, March 8, 1993) such that when he alighted with both his hands raised, a gun (Exhibit 'C') tucked on the left side of his waist was revealed (p. 15, TSN, February 23, 1993), its butt protruding (p. 15, *ibid*). SPO2 Borja made the move to confiscate the gun but appellant held the former's hand alleging that the gun was covered by legal papers (p. 16, *ibid*). SPO2 Borja, however, insisted that if the gun really was covered by legal papers, it would have to be shown in the office (p. 16, *ibid*). After disarming appellant, SPO2 Borja told him about the hit and run incident which was angrily denied by appellant (p. 17, *ibid*). By that time, a crowd had formed at the place (p. 19, *ibid*). SPO2 Borja checked the cylinder of the gun and find six (6) live bullets inside (p. 20, *ibid*).

"While SPO2 Borja and appellant were arguing, Mobile No. 7 with SPO

Ruben Mercado, SPO3 Tan and SPO2 Odejar on board arrived (pp. 11-12, TSN, March 8, 1993). As the most senior police officer in the group, SPO Mercado took over the matter and informed appellant that he was being arrested for the hit and run incident (p. 13, *ibid*). He pointed out to appellant the fact that the plate number of his vehicle was dangling and the railing and the hood were dented (p. 12, *ibid*). Appellant, however, arrogantly denied his misdeed and, instead, played with the crowd by holding their hands with one hand and pointing to SPO3 Borja with his right hand saying 'iyan, kinuha ang baril ko' (pp. 13-15, *ibid*). Because appellant's jacket was short, his gesture exposed a long magazine of an armalite rifle tucked in appellant's back right pocket (p. 16, *ibid*). SPO Mercado saw this and so when appellant turned around as he was talking and proceeding to his vehicle, Mercado confiscated the magazine from appellant (pp. 16-17, *ibid*). Suspecting that appellant could also be carrying a rifle inside the vehicle since he had a magazine, SPO2 Mercado prevented appellant from going back to his vehicle by opening himself the door of appellant's vehicle (16-17, *ibid*). He saw a baby armalite rifle (Exhibit D) lying horizontally at the front by the driver's seat. It had a long magazine filled with live bullets in a semi-automatic mode (pp. 17-21, *ibid*). He asked appellant for the papers covering the rifle and appellant answered angrily that they were at his home (pp. 26-27, *ibid*). SPO Mercado modified the arrest of appellant by including as its ground illegal possession of firearms (p. 28, *ibid*). SPO Mercado then read to appellant his constitutional rights (pp. 28-29, *ibid*).

"The police officers brought appellant to the Traffic Division at Jake Gonzales Boulevard (pp. 31-32, *ibid*) where appellant voluntarily surrendered a third firearm, a Pietro Beretta pistol (Exhibit 'L') with a single round in its chamber and a magazine (pp. 33-35, *ibid*) loaded with seven (7) other live bullets. Appellant also voluntarily surrendered a black bag containing two additional long magazines and one short magazine (Exhibits M, N, and O, pp. 36-37, *ibid*). After appellant had been interrogated by the Chief of the Traffic Division, he was transferred to the Police Investigation Division at Sto. Rosario Street beside the City Hall Building where he and the firearms and ammunitions were turned over to SPO2 Rene Jesus Gregorio (pp. 5-10, TSN, July 13, 1993). During the investigation, appellant admitted possession of the firearms stating that he used them for shooting (p. 14, *ibid*). He was not able to produce any permit to carry or memorandum receipt to cover the three firearms (pp. 16-18, TSN, January 25, 1994).

"On November 28, 1992, a certification (Exhibit 'F') was issued by Captain, Senior Inspector Mario Espino, PNP, Chief, Record Branch of the Firearms and Explosives Office (pp. 7-8, TSN, March 4, 1993). The Certification stated that the three firearms confiscated from appellant, an M-16 Baby armalite rifle SN-RP 131280, a .357 caliber revolver Smith and Wesson SN 32919 and a .380 Pietro Beretta SN-A35720, were not registered in the name of Robin C. Padilla (p. 6, *ibid*). A second Certification dated December 11, 1992 issued by Captain Espino stated that the three firearms were not also registered in the name of Robinhood C. Padilla (p. 10, *ibid*)."