EN BANC

G.R. No. 241257 - PEOPLE OF THE PHILIPPINES, *plaintiff-appellee,* **versus BRENDO P. PAGAL a.k.a. "DINDO,"** *accused-appellant.*

Promulgated:

September 29, 2020

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CONCURRING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia*. The failure of the prosecution, through its own fault or negligence, to present evidence against accused-appellant Brendo P. Pagal (Pagal), after the latter had pleaded guilty to a capital offense, should result in Pagal's acquittal based on reasonable doubt.

The mandatory taking of the prosecution's evidence independent of a guilty plea to a capital offense safeguards an accused against the consequences of an improvident plea of guilty.

The practice of requiring the prosecution to present evidence to prove the guilt and precise degree of culpability of an accused over and above, or in spite of, his guilty plea, is a unique safeguard founded on our own legal tradition.[1] Although it became mandatory only under the 1985 Rules of

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[1] The Federal Rules of Criminal Procedure does not require the presentation of evidence after a guilty plea. Rule 11 thereof provides:

> **(a) Entering a Plea.**
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> *(1) In General.* A defendant may plead not guilty, guilty, or (with the court's consent) nolo contendere.
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> *(2) Conditional Plea.* With the consent of the court and the government, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right to have an appellate court review an adverse determination of a specified pretrial motion. A defendant who prevails on appeal may then withdraw the plea.
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> *(3) Nolo Contendere Plea.* Before accepting a plea of nolo contendere, the court must consider the parties' views and the public interest in the effective administration of justice.
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> *(4) Failure to Enter a Plea.* If a defendant refuses to enter a plea or if a defendant organization fails to appear, the court must enter a plea of not guilty.
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> **(b) Considering and Accepting a Guilty or Nolo Contendere Plea.**
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> *(1) Advising and Questioning the Defendant.* Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:
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> (A) the government's right, in a prosecution for perjury or false statement, to use against the defendant any statement that the defendant gives under oath;

Criminal Procedure, the taking of evidence despite the guilty plea of an accused has been an established practice in our jurisdiction — even in the absence of such requirement in the rules of procedure prevailing at that time.[2]

In the 1906 case of *US v. Talbanos*[3] (*Talbanos*), despite therein accused's guilty plea to a charge for murder, the Court of First Instance in the Province of Samar called witnesses to ascertain factual matters in the case. Holding that the judge was correct in ordering the presentation of evidence since therein accused pleaded guilty to a charge for an offense where the penalty may be death, the Court remanded the case for compliance with the proper procedure for taking the testimony of a witness: [4]

(B) the right to plead not guilty, or having already so pleaded, to persist in that plea;
(C) the right to a jury trial;
(D) the right to be represented by counsel—and if necessary have the court appoint counsel—at trial and at every other stage of the proceeding;
(E) the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses;
(F) the defendant's waiver of these trial rights if the court accepts a plea of guilty or nolo contendere;
(G) the nature of each charge to which the defendant is pleading;
(H) any maximum possible penalty, including imprisonment, fine, and term of supervised release;
(I) any mandatory minimum penalty;
(J) any applicable forfeiture;
(K) the court's authority to order restitution;
(L) the court's obligation to impose a special assessment;
(M) in determining a sentence, the court's obligation to calculate the applicable sentencing-guideline range and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. §3553(a);
(N) the terms of any plea-agreement provision waiving the right to appeal or to collaterally attack the sentence; and
(O) that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

(2) Ensuring That a Plea Is Voluntary. Before accepting a plea of guilty or nolo contendere, the court must address the defendant personally in open court and determine that the plea is voluntary and did not result from force, threats, or promises (other than promises in a plea agreement).
(3) Determining the Factual Basis for a Plea. Before entering judgment on a guilty plea, the court must determine that there is a factual basis for the plea.

2 In 1900, US colonial officials issued General Order No. 58, the relevant provision of which reads:
SECTION 25. A plea of guilty can be put in only by the defendant himself in open court. The court may at any time before judgment upon a plea of guilty, permit it to be withdrawn and a plea of not guilty substituted.

1940 RULES OF COURT, Rule 114, Sec. 5, and 1964 RULES OF COURT, Rule 118, Sec. 5 provide:
SECTION 5. *Plea of Guilty — Determination of Punishment.* — Where the defendant pleads guilty to a complaint or information, if the court accepts the plea and has discretion as to the punishment for the offense, it may hear witnesses to determine what punishment shall be imposed.

3 6 Phil. 541 (1906).

4 SECTION 32 of General Order No. 58 provides:

> **Notwithstanding the plea of guilty so entered by the defendant, the court, evidently desiring to be advised upon all the facts of these case, called four witnesses for the purpose probably of ascertaining for itself the degree of culpability of the defendant as well as for the purpose of fixing the grade of punishment to be inflicted under the brigandage law.** During the examination of these four witnesses the court made some memoranda of the facts to which these witnesses testified; the court made no effort to record the specific questions nor the answer to the same. This memorandum of the court was united with the record which was brought to this court.
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> It is argued that this court ought not to consider the notes made by the judge in the form above indicated as evidence taken in this cause, for the reason that this evidence, if evidence it may be considered, was not taken in accordance with the requirements of section 32 of General Orders, No. 58 x x x. This leaves the case without any evidence in the record. **The question arises, Can this court affirm a sentence rendered by an inferior court upon a complaint and plea of guilty unsupported by the testimony of witnesses? Can the Courts of First Instance sentence defendants in criminal causes upon the plea of guilty without further proof of the guilt of the defendant?** Section 31 of General Orders, No. 58, provides for the procedure in the trial of a cause where the defendant pleads not guilty. **The procedure for the trial of criminal causes makes no specific provision for the trial of a cause when the defendant pleads guilty. We are of the opinion and so hold that the Courts of First Instance may sentence defendants in criminal causes who plead guilty to the offense charged in the complaint, without the necessity of taking testimony. However, in all cases, and especially in cases where the punishment to be inflicted in severe, the court should be sure that the defendant fully understands the nature of the charges preferred against him and the character of the punishment to be imposed before sentencing him. While there is no law requiring it, *yet in every case under the plea of guilty where the penalty may be death it is advisable for the court to call witnesses for the purpose of establishing the guilt and the degree of culpability of the defendant.* This, however, must be left to the discretion of the trial court.** Nevertheless, if the trial court shall deem it necessary and advisable to examine witnesses in any case where the defendant pleads guilty, he should comply in the taking of said testimony with said section 32 of General Orders, No. 58.[5]

In courts of first instance or similar jurisdiction each witness must be duly sworn and his testimony reduced to writing as a deposition by the court or under its direction. The deposition must state the name, residence, and occupation of the witness. It must contain all questions put to the witness and his answers thereto. If a question put is objected to and the objection be either over-ruled or sustained, the fact of objection and its nature, together with the ground on which it shall have been sustained or over-ruled must be stated, or if a witness declines to answer a question put, the fact and the proceedings taken thereon shall be entered in the record. The deposition must be read to the witness and made to conform to what he declares to be the truth. He must sign the same, or, if he refuses, his reason for such refusal must be stated. It must also be signed by the magistrate and certified by the clerk. In cases where an official stenographer is engaged, the testimony and proceedings may be taken by him in shorthand, and it will not be necessary to read the testimony to the witness nor for the latter to sign the same; but a transcript of the record made by the official stenographer and certified as correct by him shall be prima facie a correct statement of such testimony and proceedings.

5 Supra note 3 at 542-543. Emphasis and underscoring supplied.

In *US v. Rota*[6] (*Rota*), after therein accused had pleaded guilty, the court, over the objection of the defense, permitted the prosecution to introduce testimony to support the allegations in the complaint. The Supreme Court, in said case, reiterated the *Talbanos* doctrine:

> It is contended that the judgment and sentence of the trial court should be reversed —
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> First, because testimony was taken over the objection of the defendant.
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> Second, because the trial court of its own motion, set aside the judgment originally pronounced, and called the accused to the witness stand to testify in his own behalf.
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> **There is no provision of law which prohibits the taking of testimony where the accused enters a plea of "guilty," and that procedure is the proper and prudent course, especially in cases where grave crimes are charged, and where the court is required to exercise its discretion in imposing a more or less severe penalty in view of all the circumstances attending the commission of the crime.** In discussing this question in the case of the United States vs. Talbanos (6 Phil. Rep., 541), it was said (p. 543):
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> > The procedure for the trial of criminal causes makes no specific provision for the trial of a cause when the defendant pleads guilty. We are of the opinion, and so hold, that the Courts of First Instance may sentence defendants in criminal causes who plead guilty to the offense charged in the complaint, without the necessity of taking testimony. However, in all case, and especially in cases where the punishment to be inflicted is severe, the court should be sure that the defendant fully understands the nature of the charges preferred against him and the character of the punishment to be imposed before sentencing him. **While there is no law requiring it, yet in every case under the plea of guilty where the penalty may be death it is advisable for the court to call witnesses for the purpose of establishing the guilt and the degree of culpability of the defendant.** This, however, must be left to the discretion of the trial court.[7]

In the 1915 case of *US v. Agcaoili*[8] (*Agcaoili*), the Court echoed *Talbanos* but this time, rationalizing the practice of taking evidence **as a guard against an improvident guilty plea**. The Court remanded the case to the trial court for reception of evidence:

> No evidence was taken at the trial and after a careful examination of the whole record we cannot rid our minds of a reasonable doubt as to whether the accused did or did not thoroughly understand the precise nature and effect of his plea upon arraignment. We are not wholly satisfied that he

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6 9 Phil. 426 (1907).

7 Id. at 431-432. Emphasis and underscoring supplied.

8 31 Phil. 91 (1915).

> understood that in pleading "guilty" of the crime charged in the information, he pleaded guilty to its commission marked with all the aggravating circumstances alleged therein x x x.
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> x x x x
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> In this connection we deem it proper to invite attention to the rule of practice recommended in the cases of United States v. Talbanos (6 Phil. Rep., 541), and United States v. Rota (9 Phil. Rep., 426). x x x
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> x x x x
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> **While it is true that a judgment convicting and sentencing a defendant may lawfully be pronounced upon a solemn plea of "guilty" in open court and on arraignment, entered by the accused with full knowledge of the meaning and effect of his plea, *nevertheless*, where the complaint charges a capital offense, the possibility of misunderstanding or mistake in so grave a matter, justifies and in most instances *requires* the taking of such available evidence in support of the allegations of the information as the trial judge may deem necessary to remove all reasonable possibility that the accused might have entered his plea of "guilty" improvidently, or without a clear and precise understanding of its meaning and effect.**[9]

In *US v. Jamad*[10] (*Jamad*), when the Attorney-General asked for a clarification as to the practice of admitting evidence after a plea of guilty of therein accused, the Court, reiterating the *Talbanos* doctrine, settled the issue, ruling as follows:

> Our experience has taught us that it not infrequently happens that, upon arraignment, accused persons plead "guilty" to the commission of the gravest offenses, qualified by marked aggravating circumstances, when in truth and in fact they intend merely to admit that they committed the act or acts charged in the complaint, and have no thought of admitting the technical charges of aggravating circumstances. It not infrequently happens that after a formal plea of "guilty" it develops under the probe of the trial judge, or in the course of the statement of the accused made at the time of the entry of his plea, or upon the witness stand, that the accused, while admitting the commission of the acts charged in the information, believes or pretends to believe that these acts were committed under such circumstances as to exempt him in whole or in part from criminal liability. Clearly, a formal plea of guilty entered under such circumstances is not sufficient to sustain a conviction of the aggravated crime charged in the information.
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> **As will readily be understood, the danger of the entry of improvident pleas of this kind is greatly augmented in cases wherein the accused is a member of an uncivilized tribe, or a densely ignorant man who speaks a dialect unknown to his own lawyer, to the trial judge, and to the court officers other than the interpreter. In the course of the last fifteen years we have had before us a number of instances wherein members of uncivilized tribes have pleaded guilty to the commission of crimes marked with one or more aggravating circumstances, for which**

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9 Id. at 92-94. Emphasis and underscoring supplied.

10 37 Phil. 305 (1917).

the prescribed penalty is that of death, life imprisonment, or a long term of imprisonment. In not a few of these cases the evidence, taken under the rule of practice in this jurisdiction, has disclosed the fact that the crimes actually committed were not marked with the aggravating circumstances set forth in the information, and in some cases it has developed that the accused was either wholly or partially exempt from criminal liability.

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We may say then, in response to the request for a ruling on this subject by the Attorney-General:

> (1) The essence of the plea of guilty in a criminal trial is that the accused, on arraignment, admits his guilt freely, voluntarily, and with full knowledge of the consequences and meaning of his act, and with a clear understanding of the precise nature of the crime or crimes charged in the complaint or information.
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> (2) Such a plea of guilty, when formally entered on arraignment, is sufficient to sustain a conviction of any offense charged in the information, even a capital offense, without the introduction of further evidence, the defendant having himself supplied the necessary proof.
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> (3) There is nothing in the law in this jurisdiction which forbids the introduction of evidence as to the guilt of the accused, and the circumstances attendant upon the commission of the crime, after the entry of a plea of "guilty."
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> (4) Having in mind the danger of the entry of improvident pleas of "guilty" in criminal cases, the prudent and advisable course, especially in cases wherein grave crimes are charged, is to take additional evidence as to the guilt of the accused and the circumstances attendant upon the commission of the crime.
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> (5) The better practice would indicate that, when practicable, such additional evidence should be sufficient to sustain a judgment of conviction independently of the plea of guilty, or at least to leave no room for reasonable doubt in the mind of either the trial or the appellate court as to the possibility of a misunderstanding on the part of the accused as to the precise nature of the charges to which he pleaded guilty.
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> (6) Notwithstanding what has been said, it lies in the sound judicial discretion of the trial judge whether he will take evidence or not in any case wherein he is satisfied that a plea of "guilty" has been entered by the accused, with full knowledge of the meaning and consequences of his act.
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> (7) But in the event that no evidence is taken, this court, if called upon to review the proceedings had in the court below, may reverse and send back for a new trial, if, on the whole record, a reasonable doubt arises as to whether

> the accused did in fact enter the plea of "guilty" with full knowledge of the meaning and consequences of the act.[11]

Jamad further stated that the reason for receiving evidence despite the guilty plea of an accused to a capital offense is:

> to establish independently the commission of the crime, or at least to leave no room for reasonable doubt in the mind of either the trial court or this court, on review, as to the possibility that there might have been some misunderstanding on the part of the accused as to the nature of the charges to which he pleaded guilty; and, further, to develop the circumstances surrounding the commission of the crime which justify or require the exercise of a greater or less degree of severity in the imposition of the prescribed penalties.[12]

In other words, the Court, in *Talbanos, Rota*, *Agcaoili*, and *Jamad,* recognized that personal circumstances such as language barrier and the level of education of the accused may result in an improvident plea of guilt. In some instances, an accused may have committed the act alleged in the information but with none of the aggravating circumstance/s that would qualify the criminal act to a capital offense. The Court likewise acknowledged the reality that if no evidence was presented during trial, then it would have no basis for its review of the case other than the guilty plea of the accused. Since convictions for capital offenses are subject to automatic review by the Supreme Court, then the more prudent course would be to require the presentation of evidence in capital offense cases despite a guilty plea — especially since a guilty plea almost always leads to a conviction by the trial court.

Parsed from the foregoing jurisprudential pronouncements, the taking of evidence upon a guilty plea to a capital offense is prudent and proper: (1) to guard against an improvident guilty plea; (2) to establish the guilt of the accused independent of the guilty plea; and (3) to determine the punishment or degree of culpability of the accused.

The wisdom behind the abovementioned cases was later adopted by the Court, as part of its mandated procedure, when the 1985 Rules on Criminal Procedure required the prosecution to prove the guilt of the accused independent of a guilty plea. Section 3, Rule 116 of the 1985 Rules of Criminal Procedure reads:

> SECTION 3. *Plea of Guilty to Capital Offense; Reception of Evidence.* — When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.

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[11] Id. at 314-318. Emphasis and underscoring supplied.

[12] Id. at 316-317.

Except for the deletion of the word "also" in the last sentence, Section 3, Rule 116 of the 1985 Rules of Criminal Procedure was reproduced verbatim in Section 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure, which provides:

> SECTION 3. *Plea of Guilty to Capital Offense; Reception of Evidence.* — When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.

Thus, under the current formulation of our rules of procedure, when an accused pleads guilty to a capital offense, the trial court is enjoined to do three things: (1) it must conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea; (2) it must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (3) it must ask the accused if he desires to present evidence in his behalf and allow him to do so if he desires.[13]

Anent the first requirement, the searching inquiry must determine whether the plea of guilt was based on a free and informed judgment. Hence, it must focus on (1) the voluntariness of the plea, and (2) the full comprehension of the consequences of the plea. Although there is no definite and concrete rule as to how a trial judge must conduct a searching inquiry, jurisprudence has developed the following guidelines:

> 1. Ascertain from the accused himself (a) how he was brought into the custody of the law; (b) whether he had the assistance of a competent counsel during the custodial and preliminary investigations; and (c) under what conditions he was detained and interrogated during the investigations. This is intended to rule out the possibility that the accused has been coerced or placed under a state of duress either by actual threats of physical harm coming from malevolent quarters or simply because of the judge's intimidating robes.
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> 2. Ask the defense counsel a series of questions as to whether he had conferred with, and completely explained to, the accused the meaning and consequences of a plea of guilty.
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> 3. Elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed plea of guilty.
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> 4. Inform the accused the exact length of imprisonment or nature of the penalty under the law and the certainty that he will serve such sentence. For not infrequently, an accused pleads guilty in the hope of a lenient treatment or upon bad advice or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to ensure that the accused does not labor under these mistaken impressions because a plea of guilty carries with it not only the admission

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13 *People v. Nuelan*, G.R. No. 123075, October 8, 2001, 366 SCRA 705, 713.

> of authorship of the crime proper but also of the aggravating circumstances attending it, that increase punishment.
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> 5. Inquire if the accused knows the crime with which he is charged and fully explain to him the elements of the crime which is the basis of his indictment. Failure of the court to do so would constitute a violation of his fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.
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> 6. All questions posed to the accused should be in a language known and understood by the latter.
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> 7. The trial judge must satisfy himself that the accused, in pleading guilty, is truly guilty. The accused must be required to narrate the tragedy or reenact the crime or furnish its missing details.[14]

As to the second requirement, the rules make it mandatory for the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability. This means that even as the accused had admitted to the commission of the crime and enters a voluntary and informed plea of guilty, the prosecution is still charged with the onus of proof to establish his guilt beyond reasonable doubt. **An accused charged with a capital offense cannot therefore be convicted based on his guilty plea alone.** A plea of guilty is only a supporting evidence or secondary basis for a finding of culpability, the main proof being the evidence presented by the prosecution to prove the accused's guilt beyond reasonable doubt. **Once an accused charged with a capital offense enters a plea of guilty, a regular trial shall be conducted just the same as if no guilty plea was entered.**[15] Thus, a guilty plea to a capital offense is not and cannot be considered a judicial admission[16] which requires no further proof.[17] Neither is it comparable to an extrajudicial confession.[18] An extrajudicial confession takes place prior to the start of the trial. The concern on whether the accused fully understands the consequences of his guilty plea does not come into play. Similar to a guilty plea in a capital offense, an extrajudicial confession (for any offense) is not a sufficient ground for conviction. An extrajudicial confession only forms a *prima facie* case against an accused.[19] To sustain a conviction, the prosecution must first establish that the extrajudicial confession is admissible, and that the same is corroborated by evidence of *corpus delicti*.[20]

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14 *People v. Pastor*, G.R. No. 140208, March 12, 2002 379 SCRA 181, 189-190.

15 *People v. Besonia*, G.R. Nos. 151284-85, February 5, 2004, 422 SCRA 210, 225.

16 *See* Dissenting Opinion of Justice Lazaro-Javier, p. 6.

17 RULES OF COURT, Rule 129, Sec. 4:
> SECTION. 4. *Judicial admissions.* – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

18 *See* Dissenting Opinion of Justice Lazaro-Javier, p. 6

19 *People v. Satorre*, G.R. No. 133858, August 12, 2003, 408 SCRA 642, 648.

20 RULES OF COURT, Rule 133, Sec. 3:
> SECTION 3. *Extrajudicial confession, not sufficient ground for conviction.* — An extrajudicial confession made by an accused, shall not be sufficient ground for conviction, unless corroborated by evidence of *corpus delicti.*

See also *People v. Lim*, G.R. No. 90021, May 8, 1991, 196 SCRA 809, 815.

At this juncture, it must be emphasized that a defective searching inquiry which results in an improvident plea under Section 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure is distinct from an invalid arraignment under Section 1, Rule 116.[21] Arraignment is the formal mode and manner of implementing the constitutional right of an accused to be informed of the nature and cause of the accusation against him. The purpose of arraignment is to apprise the accused of the possible loss of freedom, even of his life, depending on the nature of the crime imputed to him, or at the very least to inform him of why the prosecuting arm of the State is mobilized against him.[22] On the other hand, a searching inquiry is conducted to inquire into the voluntariness and full comprehension by the accused of the consequences of his guilty plea. It entails more than informing the accused that he faces a jail term, but also the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony. This is because an accused often pleads guilty in the hope of a lenient treatment, or upon bad advice, or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse.[23] Verily, the purpose of an arraignment is different from that of a searching inquiry. Arraignment is aimed at informing the accused of the charges against him or her so that he or she can properly prepare his or her defense while the conduct of a searching inquiry (after the accused pleads guilty) is intended to remove any erroneous impression of the accused that a lighter penalty will be meted out if he or she pleads guilty.

While an invalid arraignment necessarily results in an improvident plea since an accused cannot enter a proper plea unless he or she understands the charges against him or her, the reverse is not true: an improvident plea is not always preceded by an invalid arraignment. It may happen that an accused was informed of the nature and cause of the accusation against him or her but nonetheless enters an improvident guilty plea because he or she mistakenly believes that he or she will get a lighter sentence by doing so. Hence, the principle that a conviction cannot stand on an invalid arraignment (because it amounts to a violation of the constitutional right of the accused to be informed of the nature and cause of the accusation against him or her) does not invariably apply to instances where an accused makes an improvident guilty plea.

Therefore, the absence of the first requirement, as in this case — where there is no proof that an inquiry as to the voluntariness of the plea of guilty was conducted by the judge — does not automatically render the criminal proceedings defective and invalid, which would necessitate a remand of the case to the trial court. To insist otherwise would render nugatory a legal tradition that was finally ensconced in the 1985 Rules of Criminal Procedure and carried over and reiterated in the 2000 Revised Rules of Criminal Procedure. To stress, the requirement under the rules that the prosecution prove beyond reasonable doubt the guilt of the accused in instances where the

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21 *See* Dissenting Opinion of Justice Perlas-Bernabe, pp. 2-6.

22 *People v. Pangilinan*, G.R. No. 171020, March 14, 2007, 518 SCRA 358, 371.

23 *People v. Bello*, G.R. Nos. 130411-14, October 13, 1999, 316 SCRA 804, 813-814.

latter pleads guilty to a capital offense ***is*** the safeguard against an improvident plea. Regardless of the improvident plea of the accused, there should be on record evidence to determine whether the accused is guilty beyond reasonable doubt — as the prosecution is required to present such evidence under the rules. The remand then of the case based solely on the improvident guilty plea of the accused would effectively be a retrial of the case: the accused would have to *again* enter his plea; the prosecution would have to *again* establish the guilt of the accused; and the accused would have to *again* prove his defenses — a useless and impractical exercise that is unfair and oppressive to both the prosecution and the accused.

Again, it bears to emphasize that the mandatory taking of the prosecution's evidence, under the second requirement, persists, as indeed, this was adopted into our rules of procedure precisely to safeguard against an improvident plea of the accused *and* to allow the trial court, and subsequently the reviewing court, to make its own determination as to the guilt and culpability of the accused, independent of the guilty plea — improvident or otherwise. In fact, based on prevailing jurisprudence, our jurisdiction does not subscribe to a *per se* rule that once a plea of guilty is deemed improvidently made that the case is at once remanded to the trial court.[24]

Thus, as it stands, **in capital offenses, there is effectively no difference between a plea of guilty or not guilty — that is, in both instances, the prosecution is required to present evidence to prove the guilt of the accused beyond reasonable doubt.** An accused who made an improvident plea of guilty may nonetheless be found guilty of the crime charged if, independent of the improvident plea, the evidence adduced by the prosecution establishes his guilt beyond reasonable doubt. In the same vein, **an accused who made an improvident plea must perforce be acquitted if the prosecution failed to establish his guilt beyond reasonable doubt.**

In *People v. Enciso*[25] (*Enciso*), a case tried before the 1985 Rules of Criminal Procedure,[26] when the taking of evidence was not even mandatory, the Court acquitted therein accused despite pleading guilty to robbery with homicide — a capital offense. The trial court, in accordance with practice and a long line of jurisprudence, required the prosecution to present evidence to prove the guilt of the accused, and thereafter found the accused guilty of the crime charged. On appeal, the Court acquitted the accused upon finding that the prosecution's evidence fell short of proving the guilt of the accused beyond reasonable doubt. The Court said:

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[24] *People v. Molina,* G.R. Nos. 141129-33, December 14, 2001, 372 SCRA 378, 388.

[25] G.R. No. 77685, April 15, 1988, 160 SCRA 728.

[26] 1985 RULES OF CRIMINAL PROCEDURE, Rule 116, Sec. 3 reads:

> SECTION 3. *Plea of Guilty to Capital Offense; Reception of Evidence.* — When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.

Except for the deletion of the word "also" in the last sentence, Section 3, Rule 116 of the 1985 Rules of Criminal Procedure was reproduced verbatim in Section 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure.

> It should be noted that the two accused Nestor Enciso and Jessie Suyong pleaded guilty to the offense charged in the information. And they have not questioned the validity of this plea. It should likewise be noted that conspiracy is alleged in the information. A plea of guilty constitutes an admission of the crime and the attendant circumstances alleged in the information. **Nonetheless, despite Enciso's and Suyong's pleas of guilty, We believe the pleas must not be taken against them, for as clearly borne out by the evidence presented, said guilt has not actually been proved beyond reasonable doubt.** The fact that they did not appeal is of no consequence, for after all, this case is before Us on automatic review (that is whether appeal was made or not). Accordingly, both Enciso and Suyong are ACQUITTED on reasonable doubt.
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> In the same vein and on reasonable doubt, the third accused Balasbas is ACQUITTED on reasonable doubt.[27]

I find the Court's ruling in *Enciso* applicable to this case.

Similarly, Pagal entered a plea of guilty to murder — a capital offense. After arraignment, trial ensued and the prosecution was granted by the trial court in no less than four separate hearing dates, spread from November 17, 2010 until July 20, 2011, to present evidence to establish the guilt of Pagal. Despite being given eight months to do so, the prosecution failed miserably to produce any evidence. In other words, the prosecution utterly failed to discharge its burden to prove the guilt of Pagal beyond reasonable doubt (as it could not have established the guilt of Pagal) for failure to present any evidence. The total absence of proof against Pagal warrants his acquittal in this case.

A remand of the case to the trial court applies only when there is a deprivation of due process or undue prejudice to the accused.

I am not unaware of existing jurisprudence where the Court had remanded the case to the trial court for re-arraignment and further proceedings after finding that the plea of guilty of the accused to a capital offense had affected trial proceedings.

In *People v. Abapo*[28] (*Abapo*), the Court held that the prosecution was prejudiced by the improvident guilty plea of therein accused:

> x x x However, after a careful examination of the records of this case, we find that the improvident plea of guilt of the accused-appellant has affected the manner by which the prosecution conducted its presentation of the evidence. The presentation of the prosecution's case was lacking in assiduity and was not characterized with the meticulous attention to details that is necessarily expected in a prosecution for a capital offense. The state prosecutor in his examination of the victim was evidently concerned only with proving the respective dates of the commission of the repeated rapes,

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27 Supra note 25 at 734-735. Emphasis and underscoring supplied.

28 G.R. Nos. 133387-423. March 31, 2000, 329 SCRA 513.

> and did not attempt to elicit details about the commission of each rape that would satisfy the requirements for establishing proof beyond reasonable doubt that the offenses charged have in fact been committed by the accused. It is clear to our mind that the prosecution did not discharge its obligation as seriously as it would have had there been no plea of guilt on the part of the accused. x x x
>
> x x x x
>
> It will be seen that with the above admission made by the defense counsel, the prosecution desisted from availing of the opportunity to fully submit its case. The improvident plea of guilt had adversely influenced the prosecution's presentation of evidence.[29]

In *People v. Durango*[30] (*Durango*), the Court found that the defense was prejudiced by the improvident guilty plea of therein accused:

> This Court, in the recent case of *People vs. Tizon*, has expressed the rationale behind the rule and it is, at bottom —
>
> > x x x that no accused is wrongly convicted or erroneously sentenced. It constantly behooves the courts to proceed with utmost care in each and every case before them but perhaps nothing can be more demanding of judges in that respect than when the punishment is in its severest form — death x x x.
>
> x x x x
>
> The records would show that thenceforth defense counsel spoke not one word. Nor would it appear that the trial court gave defense counsel or the accused any chance to talk for when the prosecutor ended his direct examination of Noniebeth, the latter was thereupon simply excused and the court forthwith declared the case submitted for decision. x x x
>
> x x x x
>
> The improvident plea, followed by an abbreviated proceeding, with practically no role at all played by the defense, is just too meager to accept as being the standard constitutional due process at work enough to forfeit a human life.[31]

In *People v. Molina*[32] (*Molina*), the Court ruled that both the prosecution and the defense were prejudiced by the improvident guilty plea of therein accused:

> After a careful examination of the records, we find that the improvident plea of guilt of accused-appellant has affected the manner by which the prosecution and the defense conducted its presentation of the evidence, and the trial court in carefully evaluating the evidence on record. Remand of Crim. Cases Nos. 99-02817-D, 99-02818-D, 99-02819-D, 99-

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29 Id. at 523-526.
30 G.R. Nos. 135438-39, April 5, 2000, 329 SCRA 758.
31 Id. at 764, 767.
32 G.R. Nos. 141129-33, December 14, 2001, 372 SCRA 378.

> 02820-D and 99-02821-D for re-arraignment and further relevant proceedings is therefore proper. ***First,*** **the prosecution failed to lay the proper foundation for the introduction of the alleged handwritten letter of accused-appellant acknowledging his guilt for the rape of his daughter.** This could very well be attributed to the fact that this letter was introduced only after accused-appellant pleaded guilty to the accusations for which reason the prosecution no longer endeavored to elicit the proper foundation for this evidence.
>
> x x x x
>
> *Second,* the presentation of the prosecution's case was lacking in assiduity and was not characterized with the meticulous attention to details that is necessarily expected in a prosecution for a capital offense. x x x
>
> x x x x
>
> *Third,* the prosecution could very well clarify why on 1 March 1999 after accused-appellant's wife saw him and Brenda sleeping side by side and after she confronted his husband about it and was told by her daughter that "if I will tell it to you, my father will kill us," accused-appellant was still allegedly able to attempt a rape on his daughter on the same date. x x x
>
> *Fourth,* neither the defense nor the prosecution elicited from the private complainant whether the accusations for incestuous rape and attempted rape were in a manner colored by the seething allegations in the transcript of stenographic notes that accused-appellant was a violent person towards his family, most especially his wife who is Brenda's mother. x x x
>
> *Fifth,* the improvident plea appears to have sent the wrong signal to the defense that proceedings thereafter would be abbreviated. There was thus a perfunctory representation of accused-appellant as shown by (a) his counsel's failure to object to and correct the irregularities during his client's re-arraignment; (b) his failure to question the offer of the alleged letter wherein accused-appellant acknowledged his authorship of the dastardly crimes; (c) his failure to present evidence in behalf of accused-appellant or to so inform the latter of his right to adduce evidence whether in support of the guilty plea or in deviation therefrom; (d) his failure to object to his client's warrantless arrest and the designation of the crime in Crim. Case No. 99-02821-D as attempted rape when the evidence may appear not to warrant the same; and, (e) his failure to file a notice of appeal as regards Crim. Case No. 99-02821-D to the Court of Appeals for appropriate review. This Court perceives no reasonable basis for excusing these omissions as counsel's strategic decision in his handling of the case.[33]

In *People v. Ernas*[34] (*Ernas*), the Court found supposed errors committed by the trial court subsequent to the improvident guilty plea entered by therein accused:

> With the plea of guilty entered by the appellant on the three counts of rape, the prosecution opted to dispense with the direct testimony of the complaining witnesses and formally offered the following exhibits:

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33 Id. at 389-393. Emphasis and underscoring supplied.

34 G.R. Nos. 137256-58, August 6, 2003, 408 SCRA 391.

x x x x

Appellant has made an improvident plea of guilty.

x x x x

Fourth, the Judge should have asked appellant to recount what he exactly did to show that he fully understood the nature of the crimes filed against him. Moreover, as already stated, the trial judge failed to require the prosecution to present its evidence. We have consistently held that the taking of the testimony is the prudent and proper course to follow for the purpose of establishing not only the guilt but also the precise degree of culpability of the accused taking into account the presence of other possible aggravating or mitigating circumstances — and thereafter, to make the accused present his own evidence x x x.

x x x x

It must be stressed that under the 1985 Rules of Criminal Procedure, a conviction in capital offenses cannot rest alone on a plea of guilt. The prosecution evidence must be sufficient to sustain a judgment of conviction independently of the plea of [guilty].

We, therefore, cannot accept as valid the plea of guilty entered by the appellant to the three charges of rape. His re-arraignments as to the three charges are fatally flawed. The trial court erred in believing that the questions propounded to the appellant and the latter's answers as well as the documentary exhibits offered by the People would aid it in determining whether the accused really and truly understood and comprehended the meaning, full significance and consequences of his plea.

It likewise erred in allowing the prosecution to dispense with the testimonies of the complaining witnesses. As we have ruled, even if the trial court is satisfied that the plea of guilty was entered with full knowledge of its meaning and consequences, the introduction of evidence to establish the guilt and the degree of culpability of the accused is still required. Judges therefore must be cautioned, toward this end, against the demands of sheer speed in disposing of cases, for their mission after all, and as has been time and again put, is to see that justice is done.[35]

Based on the foregoing, the Court had, in the foregoing cases, gone out of its way to find reasons to remand the cases to the trial court for perceived prejudices caused to and tactical errors committed by the prosecution, defense, and even the trial court judge in the conduct of trial. The Court remanded the cases to essentially allow the prosecution to correct its mistakes and present evidence to prove the guilt of the accused.

However, in light of the now mandatory duty of the prosecution to present evidence to establish the guilt of an accused who pleads guilty to a capital offense, I believe the foregoing cases are no longer controlling.

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35 Id. at 307-402. Emphasis supplied.

Stripped to the basics, the prosecution in *Abapo* and *Molina* simply failed to present sufficient evidence to prove the guilt of the accused beyond reasonable doubt. In *Ernas*, the trial court judge did not require the prosecution to present evidence. The prosecution's error in dispensing with the direct testimony of the other witnesses and its mistaken reliance on its documentary exhibits should have resulted in the acquittal of the accused. To drive home the point, in these cases, had the accused pleaded "not guilty," he or she would have been entitled to an acquittal. If the Court were to still follow the foregoing cases, an accused is better off pleading not guilty to a capital offense. Otherwise, he would risk a remand of his case to the trial court to give the prosecution another chance to prove his guilt beyond reasonable doubt. It is my submission that this should not be the rule because the basic right of an accused to be presumed innocent until proven guilty applies even after he or she enters a guilty plea to a capital offense. The convoluted approach adopted in these cases of remanding cases to the trial court jeopardizes this right of the accused guaranteed by no less than our Constitution.

Moreover, the past practice of remanding cases to the trial court could be justified prior to the 1985 Rules of Criminal Procedure because the taking of evidence (upon a guilty plea to a capital offense) then was discretionary. In instances where the Court entertained doubts as to the validity of the guilty plea of the accused, it had no basis for review because no evidence was presented during trial. Thus, remand of the cases was necessary.

The Court should not revert back to the rules enunciated in the foregoing cases because under the 2000 Revised Rules of Criminal Procedure, the taking of evidence after a guilty plea to a capital offense is made mandatory. Regardless of the plea of the accused, the prosecution is required to prove his or her guilt with proof beyond reasonable doubt. A guilty plea is merely a supporting evidence in favor of the prosecution.[36] Hence, if the prosecution fails to present proof beyond reasonable doubt for any reason whatsoever, the accused should be acquitted — regardless of his or her guilty plea.

It should thus be clear that with the current *ponencia,* decided *en banc*, the rulings in *Abapo*, *Durango*, *Molina* and *Ernas* are, as they ought to be considered, abandoned.

In this regard, while I agree with the guidelines[37] stated in the *ponencia* as to the application of Section 3, Rule 116 at the trial stage, I submit, however, that the Court should only remand cases for retrial in situations when the prosecution was **completely deprived** of its right to present evidence ***and*** when **undue prejudice is caused to the accused** such as in *Durango,* where the defense lawyer's failure to assert and protect the rights of the accused was flagrant and manifest. I believe a remand is proper in these instances because

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36 *People v. Besonia*, supra note 15 at 225.

37 See *ponencia,* pp. 50-52.

it involves a violation of due process and a deprivation of the right of the accused to defend himself. Further, the latter exception is in recognition of the inherent imbalance in our criminal justice system with the scales tipped against the accused:

> The presence and participation of counsel in criminal proceedings should never be taken lightly. Even the most intelligent or educated man may have no skill in the science of the law, particularly in the rules of procedure, and, without counsel, he may be convicted not because he is guilty but because he does not know how to establish his innocence. The right of an accused to counsel is guaranteed to minimize the imbalance in the adversarial system where the accused is pitted against the awesome prosecutory machinery of the State. Such right proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned.[38]

The imbalance is even greater when an accused pleads guilty to a capital offense. Since the accused has already admitted the crime, the defense is left with the task of mitigating the consequences of the guilty plea. This is when counsel of the accused is called upon to be more vigilant and protective of the rights of his client.

Remanding the instant case for retrial run the risk of violating the constitutional right to speedy disposition of cases.

Finally, I find that remanding the cases to the trial court violates the accused's right to speedy trial.

One of the factors used in determining whether there is a violation of the accused's right to speedy trial is the prejudice to the accused caused by the delay in the proceedings. Prejudice is determined through its effect on three interests of the accused that the right to a speedy trial is designed to protect, which are: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired.[39] **Of these, the most serious is the last, because the inability of a defendant to adequately prepare his case skews the fairness of the entire system.**[40]

Here, the prosecution was given a total of eight months to present its evidence but it failed to do so. Pagal already pleaded guilty to the charge of murder. That there is nothing on record to explain why the prosecution did not present any evidence is irrelevant. The burden to prove the guilt of the accused falls on the prosecution even when an accused pleads guilty to a capital offense. Again, the rules *require* the prosecution to present evidence to prove the guilt of the accused despite a guilty plea. Thus, there is no need

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38 *People v. Santocildes, Jr.*, G.R. No. 109149, December 21, 1999, 321 SCRA 310, 315-316.
39 *People v. Domingo*, G.R. No. 204895, March 21, 2018, 859 SCRA 564, 567.
40 *Coscolluela v. Sandiganbayan*, G.R. No. 191411, July 15, 2013, 701 SCRA 188, 200.

for the trial court to inquire as to why the prosecution was not able to present any evidence. Had it the intention to present evidence, the prosecution could have made its case before the trial court and asked for additional hearing dates. But it did not. The fact of the matter is that the prosecution failed to present any evidence despite all the time and opportunity given to it. Pagal was therefore already prejudiced when the prosecution failed to present its evidence during all the settings given to it by the court.

To now remand the case to the trial court (***after nine years that this case has languished on appeal***) and compel Pagal to undergo essentially a new trial, through no fault of his own, and to allow the prosecution another chance, would only further aggravate the prejudice to Pagal caused by the delay in the trial of his case. Here, since the prosecution did not present any evidence, the defense saw no need to present evidence of its own. Remanding the case would mean that Pagal would have to build his defense evidence all over again almost a decade after the trial court convicted him. Indeed, **the objective of the right to speedy trial is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. This looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual.**[41]

The Court should enjoin trial courts to strictly comply with Section 3, Rule 116.

It has been suggested by some members of the Court that Section 3, Rule 116 of the Rules of Court should be revisited and amended by codifying a second-stage searching inquiry in cases where the prosecution fails to adduce evidence despite being required by the rules to do so or, alternatively, by completely removing the rule of requiring the prosecution to prove an accused's guilt beyond reasonable doubt despite the latter's guilty plea.[42]

As to the first proposition, I find it unnecessary to add another layer of searching inquiry only to find out why the prosecution cannot present evidence to prove the guilt of the accused even though it is specifically required by the rules to do so. It begs the question: What comes after the searching inquiry? Should the trial court dispense with the presentation of evidence by the prosecution if the latter were able to give sufficient reason for its failure to prove the guilt of the accused? To my mind, adding a second tier of searching inquiry after the prosecution fails to present evidence, without providing any reason therefor, is to unduly favor the State and reward the prosecution's ineptitude to comply with its mandate to prove an accused's guilt beyond reasonable doubt.

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41 Id. at 199-200.

42 *See* Opinion of Justice Lazaro-Javier, pp. 5-6.

As to the second proposition, to dispense with the mandatory taking of the prosecution's evidence despite an accused's guilty plea is to remove the very safeguard of an accused against an improvident guilty plea. Such proposition runs counter to the constitutional right of presumption of innocence and to a long-established rule in our jurisdiction that a plea of guilty alone is insufficient to support a conviction. Further, putting a heavy weight on guilty pleas will open the gates to convictions grounded on confessions extracted through force, torture, violence and intimidation.

Rather than revising Section 3, Rule 116, I agree with the *ponencia* in instead enjoining trial courts to strictly abide by the provisions of the said rule.

Indeed, justice is served not only when the guilty is convicted or the innocent acquitted. Justice is served when trials are fair and both parties are afforded due process. Technical rules serve a purpose. Every rule has the objective of a more efficient and effective judicial system. The three requirements in Section 3, Rule 116 ensures that both parties are afforded fairness and due process. These requirements aid in striking a balance between the State's right to prosecute crimes and the constitutional rights of the accused, which the courts are duty-bound to protect.

In view of the foregoing considerations, I vote with the *ponencia* in acquitting accused-appellant Brendo P. Pagal of Murder for failure of the prosecution to prove his guilt beyond reasonable doubt.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court