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LAW 109 : CRIMINAL LAW 1 DIGESTS SECRETARY OF JUSTICE v. LANTION [322 SCRA 160 (2000)] Nature: Petition for review of a decision of the Manila RTC Facts: On June 18, 1999 the Department of Justice received from the Department of Foreign Affairs a request for the extradition of private respondent Mark Jimenez to the U. S. The Grand Jury Indictment, the warrant for his arrest, and other supporting documents for said extradition were attached along with the request. Charges include: 1. Conspiracy to commit offense or to defraud the US 2.

Attempt to evade or defeat tax 3. Fraud by wire, radio, or television 4. False statement or entries 5. Election contribution in name of another The Department of Justice (DOJ), through a designated panel proceeded with the technical evaluation and assessment of the extradition treaty which they found having matters needed to be addressed. Respondent, then requested for copies of all the documents included in the extradition request and for him to be given ample time to assess it. The Secretary of Justice denied request on the ff. grounds: 1.

He found it premature to secure him copies prior to the completion of the evaluation. At that point in time, the DOJ is in the process of evaluating whether the procedures and requirements under the relevant law (PD 1069—Philippine Extradition Law) and treaty (RP-US Extradition Treaty) have been complied with by the Requesting Government. Evaluation by the DOJ of the documents is not a preliminary investigation like in criminal cases making the constitutionally guaranteed rights of the accused in criminal prosecution inapplicable. . The U. S. requested for the prevention of unauthorized disclosure of the information in the documents. 3. Finally, country is bound to Vienna convention on law of treaties such that every treaty in force is binding upon the parties. The respondent filed for petition of mandamus, certiorari, and prohibition. The RTC of NCR ruled in favor of the respondent. Secretary of Justice was made to issue a copy of the requested papers, as well as conducting further proceedings. Issues: 1.

WON private is respondent entitled to the two basic due process rights of notice and hearing Yes. §2(a) of PD 1086 defines extradition as “ the removal of an accused from the Philippines with the object of placing him at the disposal of foreign authorities to enable the requesting state or government to hold him in connection with any criminal investigation directed against him in connection with any criminal investigation directed against him or the execution of a penalty imposed on him under the penal or criminal law of the requesting state or government. Although the inquisitorial power exercised by the DOJ as an administrative agency due to the failure of the DFA to comply lacks any judicial discretion, it primarily sets the wheels for the extradition process which may ultimately result in the deprivation of the liberty of the prospective extradite. This deprivation can be effected at two stages: The provisional arrest of the prospective extradite pending the submission of the request & the temporary arrest of the prospective extradite during the pendency of the extradition petition in court. Clearly, there’s an impending threat to a rospective extraditee’s liberty as early as during the evaluation stage. Because of such consequences, the evaluation process is akin to an administrative agency conducting an investigative proceeding, the consequences of which are essentially criminal since such technical assessment sets off or commences the procedure for & ultimately the deprivation of liberty of a prospective extradite. In essence, therefore, the evaluation process partakes of the nature of a criminal investigation. There are certain constitutional rights that are ordinarily available only in criminal prosecution.

But the Court has ruled in other cases that where the investigation of an administrative proceeding may result in forfeiture of life, liberty, or property, the administrative proceedings are deemed criminal or penal, & such forfeiture partakes the nature of a penalty. In the case at bar, similar to a preliminary investigation, the evaluation stage of the extradition proceedings which may result in the filing of an information against the respondent, can possibly lead to his arrest, & to the deprivation of his liberty.

Thus, the extraditee must be accorded due process rights of notice & hearing according to A3 §14(1) & (2), as well as A3 §7—the right of the people to information on matters of public concern & the corollary right to access to official records & documents The court held that the evaluation process partakes of the nature of a criminal investigation, having consequences which will result in deprivation of liberty of the prospective extradite. A favorable action in an extradition request exposes a person to eventual extradition to a foreign country, thus exhibiting the penal aspect of the process.

The evaluation process itself is like a preliminary investigation since both procedures may have the same result – the arrest and imprisonment of the respondent. The basic rights of notice & hearing are applicable in criminal, civil & administrative proceedings. Non-observance of these rights will invalidate the proceedings. Individuals are entitled to be notified of any pending case affecting their interests, & upon notice, may claim the right to appear therein & present their side. Rights to notice and hearing: Dispensable in 3 cases: a.

When there is an urgent need for immediate action (preventive suspension in administrative charges, padlocking filthy restaurants, cancellation of passport). b. Where there is tentativeness of administrative action, & the respondent isn’t prevented from enjoying the right to notice & hearing at a later time (summary distraint & levy of the property of a delinquent taxpayer, replacement of an appointee) c. Twin rights have been offered, but the right to exercise them had not been claimed. 2.

WON this entitlement constitutes a breach of the legal commitments and obligation of the Philippine Government under the RP-US Treaty? No. The U. S. and the Philippines share mutual concern about the suppression and punishment of crime in their respective jurisdictions. Both states accord common due process protection to their respective citizens. The administrative investigation doesn’t fall under the three exceptions to the due process of notice and hearing in the Sec. 3 Rules 112 of the Rules of Court.

WON there’s any conflict between private respondent’s basic due process rights & provisions of RP-US Extradition treaty No. Doctrine of incorporation under international law, as applied in most countries, decrees that rules of international law are given equal standing with, but are not superior to national legislative acts. Treaty can repeal statute and statute can repeal treaty. No conflict. Veil of secrecy is lifted during trial. Request should impose veil at any stage. Judgment: Petition dismissed for lack of merit.

Kapunan, separate concurring opinion: While the evaluation process conducted by the DOJ is not exactly a preliminary investigation of criminal cases, it is akin to a preliminary investigation because it involves the basic constitutional rights of the person sought to be extradited. A person ordered extradited is arrested, forcibly taken from his house, separated from his family and delivered to a foreign state. His rights of abode, to privacy, liberty and pursuit of happiness are taken away from him—a fate as harsh and cruel as a conviction of a criminal offense.

For this reason, he is entitled to have access to the evidence against him and the right to controvert them. Puno, dissenting: Case at bar does not involve guilt or innocence of an accused but the interpretation of an extradition treaty where at stake is our government’s international obligation to surrender to a foreign state a citizen of its own so he can be tried for an alleged offense committed within that jurisdiction. Panganiban, dissenting: Instant petition refers only to the evaluation stage. PESIGAN v.

ANGELES [129 SCRA 174 (1984)] Nature: Petition to review the order of the Caloocan City RTC Facts: Anselmo and Marcelo Pesigan transported in the evening of April 2, 1982 twenty-six carabaos and a calf from Camarines Sur with Batangas as their destination. They were provided with three certificates: 1) a health certificate from the provincial veterinarian, 2) permit to transfer/transport from the provincial commander; and 3) three certificates of inspections. In spite of the papers, the carabaos were confiscated by the provincial veterinarian and the town’s police station commander while passing through Camarines Norte.

Confiscation was based on EO No. 626-A which prohibits transportation of carabaos & carabeef from one province to another. Issue: WON EO No. 626-A, providing for the confiscation and forfeiture by the government of carabaos transported from one province to another, dated October 25, 1980 is enforceable before publication in the Official Gazette on June 14, 1982 Held: No. The said order isn’t enforceable against the Pesigans on April 2, 1982 because it’s a penal regulation published more than 2 mos. later in the OG. It became effective only fifteen days thereafter as provided in A2 of the CC & §11 of the Revised Administrative Code.

The word “ laws” in article 2 includes circulars & regulations which prescribe penalties. Publication is necessary to apprise the public of the contents of the regulations & make the said penalties binding on the persons affected thereby. Commonwealth Act No. 638 requires that all Presidential EOs having general applicability should be published in the OG. It provides that “ every order or document which shall prescribe a penalty shall be deemed to have general applicability and legal effect. This applies to a violation of EO No. 626-A because its confiscation & forfeiture provision or sanction makes it a penal statute.

It results that they have cause of action for the recovery of the carabaos. The summary confiscation wasn’t in order. The recipients of the carabaos should return them to the Pesigans. However, they cannot transport the carabaos to Batangas 3. because they are now bound by the said executive order. Neither can they recover damages. Doctor Miranda & Zenerosa acted in good faith in ordering the forfeiture and dispersal of the carabaos. Judgment: Order of dismissal and confiscation and dispersal of the carabaos, reversed and set aside.

Respondents to restore carabaos, with the requisite documents, to petitioners for their own disposal in Basud or Sipocot, Camarines Sur. No costs. Important point: Publication is necessary to apprise the public of the contents of the regulations & make the said penalties binding on the persons affected hereby. Justice & fairness dictate that the public must be informed of that provision by means of the publication on the Gazette. necessary constructive notice & is thus the cure for ignorance as an excuse. Ignorance will not even mitigate the crime. or the restaurant department.

Indeed, they knew they would not receive any such notice before entering the store, for they were invited to purchase everything except food there. So far as the words of the statute were concerned, petitioners were given not only no “ fair warning,” but no warning whatever, that their conduct in Eckerd’s Drug Store would violate the statute. BOUIE v. COLUMBIA [378 U. S. 347 (1964)] Nature: Certiorari to the Supreme Court of South Carolina Facts: 2 Negro college students took seats in a booth in the restaurant dept of Eckerds & waited to be served. As they were seated, the employee of the store put up a no trespassing sign.

The store manager called the police. When the police arrived, the manager asked them to leave but they didn’t. They were convicted by South Carolina SC on the grounds of resisting arrest & criminal trespass. Petitioners now contend that to construe the statute as such is violative of due process clause since state has punished them for conduct which was not criminal at the time they have committed it. Issue: WON petitioners were denied due process of law because the statute failed to afford fair warning that the conduct for which they have been convicted had been made a crime.

Held: Decision of the South Carolina SC was reversed. The crime for which these petitioners stand convicted was “ not enumerated in the statute” at the time of their conduct. It follows that they have been deprived of liberty and property without due process of law. To be convicted of criminal trespassing, the law statute states: “ entry upon the lands of another after notice from the owner prohibiting such entry. ” The petitioners should have first been warned prior to entering the restaurant that to do so would constitute criminal trespassing.

No prior warning was made. They were only asked to leave when they were inside. The South Carolina SC construed the statute to cover also the act of remaining on the premises of another after receiving notice to leave. A criminal statute must give fair warning of the conduct that it makes a crime. Since the statue was specific, there was no reason to broaden its scope, for this is like an ex post facto law. Ex post facto law has two instances: 1. It makes an action done before the passing of the law, and which was innocent when done, criminal & punishes such action. . It aggravates a crime and makes it greater than it was when committed. When an unforeseeable state-court construction of a statute is applied retroactively and subjects a person to criminal liability, it deprives that person of due process in the sense of fair warning. Applying those principles to this case, we agree with petitioners that 16-386 of the South Carolina Code did not give them fair warning, at the time of their conduct in Eckerd’s Drug Store in 1960, that the act for which they now stand convicted was rendered criminal by the statute.

By its terms, the statute prohibited only “ entry upon the lands of another…after notice from the owner…prohibiting such entry…” There was nothing in the statute to indicate that it also prohibited the different act of remaining on the premises after being asked to leave. Petitioners did not violate the statute as it was written; they received no notice before entering either the drugstore U. S. v. SWEET [1 Phil. 18 (1901)] Nature: Appeal from an order of the City of Manila CFI Facts: Sweet was employed by the United States military who committed an offense against a POW.

His case is filed with the CFI, who is given original jurisdiction in all criminal cases for which a penalty of more than 6 months is imposed. He is now contending that the courts are without jurisdiction because he was “ acting in the line of duty. ” Issues: 1. WON this case is within the jurisdiction of the CFI. Yes. By Act No. 136 of the US-Phil Commission, the CFIs are given original jurisdiction in all criminal cases in which a penalty more than 6 months imprisonment or a fine greater than $100 may be imposed.

Furthermore, CFIs have jurisdiction to try offenders charged with violation of the Penal Code within their territorial limits, regardless of the military character of the accused. The defendant and his acts are within the jurisdiction of the CFI because he failed to prove that he was indeed acting in the line of duty. 2. WON an assault committed by a soldier or military employee upon a prisoner of war is not an offence under the penal code? Yes. Though assault by military officer against a POW isn’t in the RPC, physical assault charges may be pressed under the RPC.

Assuming that it is an offence under the penal code, WON the military character sustained by the person charged with the offence at the time of its commission exempts him from the ordinary jurisdiction of the civil tribunals? No. The application of the general principle that the jurisdiction of the civil tribunals is unaffected by the military or other special character brought before them for trial (R. A. No. 7055). Appellant claims that the act was service connected. If this were true, it may be used as a defense but this cannot affect the right of the Civil Court to takes jurisdiction of the case. TANADA v. TUVERA [136 SCRA 27 (1985)] Nature: Petition to review the decision of the Executive Assistant to the President. Facts: Invoking the people’s right to be informed on matters of public concern, a right recognized in Section 6, Article IV of the 1973 constitution, petitioners seek a writ of mandamus to compel respondent public officials to publish, and/or cause the publication in the Official Gazette, of various presidential decrees, letters of instructions, general orders, proclamations, executive orders, letter of implementation and administrative orders. The respondents would ave this case dismissed on the ground that petitioners have no legal personality to bring this petition. Petitioners maintain that since the subject of the petition concerns a public right and its object is to compel public duty, they need not show any specific interest. Respondents further contend that publication in the OG is not a sine qua non requirement for the effectivity of laws where the laws themselves provide for their own effectivity dates. Issue: WON publication in the Official Gazatte is an indispensable requirement for the effectivity of the PDs, LOIs, general orders, EOs, etc. here laws themselves provide for their own effectivity dates. Held: Yes. It is the people’s right to be informed on matters of public concern & corollarily access to official records, & to documents & papers pertaining to official acts, transactions, or decisions, shall be afforded the citizens subject to such limitation as may be provided by law (§6 AIV, 1973 Constitution). Laws, to be valid & enforceable, must be published in the OG or otherwise effectively promulgated. The fact that a PD or LOI states its date of effectivity does not preclude their publication in the OG as they constitute important legislative acts.

The publication of presidential issuances “ of public nature” or “ of general applicability” is a requirement of due process. Before a person may be bound by law, he must first be officially informed of its contents. Judgment: Respondents ordered to publish in Official Gazette all unpublished presidential issuances of general application, and unless so published shall have no binding force and effect. Impt Point: It illustrates how decrees & issuances issued by one man—Marcos—are in fact laws of gen’l application & provide for penalties. The constitution afforded Marcos both executive & legislative powers.

The generality of law (CC A14) will never work w/o constructive notice. The ruling of this case provides the publication constitutes the 3. Judgment: Judgment thereby affirmed “ An offense charged against a military officer in consequence of an act done in obedience to an order is clearly shown on the face, where such offense is against the military law, is not within the jurisdiction of the courts of the Civil Government. ” ––Per Cooper, J. , concurring SCHNECKENBURGER v. MORAN [63 Phil. 249 (1943)] Nature: Original action in the Supreme Court. Prohibition.

Facts: Schneckenburger, who is an honorary consul of Uruguay at Manila was subsequently charged in CFI-Manila with the crime of falsification of a private document. He objected to this saying that under the US and Philippine Constitution, the CFI has no jurisdiction to try him. After his objection was overruled, he filed a petition for a writ of prohibition to prevent the CFI from taking cognizance of the criminal action filed against him. Aside from this, he contended that original jurisdiction over cases affecting ambassadors and consuls is conferred exclusively upon the Supreme Court of the Philippines. Issues: 1.

WON the US SC has Original Jurisdiction over cases affecting ambassadors, consuls, et. al & such jurisdiction excludes courts of the Phils. No. First of all, a consul is not entitled to the privilege of diplomatic immunity. A consul is not exempt from criminal prosecution for violations of the laws of the country where he resides. The inauguration of the Philippine Commonwealth on Nov. 15, 1935 caused the Philippine Constitution to go into full force and effect. This Constitution is the supreme law of the land. It also provides that the original jurisdiction of this court “ shall include all cases affecting ambassadors, consuls et. l. ” 2. WON original jurisdiction over cases affecting ambassadors, consuls, et. al. is conferred exclusively upon the Supreme Court of the Philippines “ The Supreme Court shall have original and appellate jurisdiction as may be possessed and exercised by the Supreme Court of the Philippines at the time of the adoption of this Constitution. ” According to Sec. 17. of Act No. 136 and by virtue of it, jurisdiction to issue writs of quo warranto, certiorari, mandamus, prohibition and habeas corpus was also conferred on the CFI’s.

As a result, the original jurisdiction possessed and exercised by the Supreme Court of the Philippines at the time the Constitution was adopted was not exclusive of, but concurrent with, that of the CFI’s. The original jurisdiction conferred to SC by the Constitution was not an exclusive jurisdiction. under custody of the US Army has already begun doesn’t mean that the war has, in the legal sense, already terminated, w/c clearly it hasn’t. Delivery w/in power of military authorities to make even before was terminated. 2.

WON this court has jurisdiction or legal power to afford relief to the petitioners in the sad and sorry plight to which they have been and are being subjected? No. Civil Courts shouldn’t interfere. A foreign army permitted to march through a friendly country or to be stationed in it, is exempt from civil & criminal jurisdiction of the place. Grant of free passage implies a waiver of all jurisdiction over troops during passage (let them exercise their own discipline). Any attempt by our civil Courts to exercise jurisdiction over US troops would be a violation of our country’s faith.

On the other hand, petitioners may have recourse to proper military authorities. them on board the steamship and had them in his possession during the trip from Saigon to Cebu. When the steamer anchored in the port of Cebu, the authorities on making the search found the cans of opium hidden in the ashes below the boiler of the steamer’s engine. The defendant confessed that he was the owner of the opium and that he had purchased it in Saigon. He did not confess, however, as to his purpose in buying the opium. He did not say that it was his intention to import the prohibited drug.

Issue: WON the crime of illegal importation of opium into the Philippine Islands has been proven? Held: Yes. It is the onus of the government to prove that the vessel from which the drug discharged came into Philippine waters from a foreign country with the drug on board. In this case, it is to be noted that §4 of Act No. 2381 begins, “ Any person who shall unlawfully import or bring any prohibited drug into the Philippine Islands…” Import and bring should be construed as synonymous terms. The mere act of going into a port, without breaking bulk, is prima facie evidence of importation.

The importation is not the making entry of goods at the customhouse, but merely the bringing them into the port, and the importation is complete before the entry to the customhouse. Moreover, possession for personal use is unlikely, judging from the size of the amount brought. LIANG v. PEOPLE [323 SCRA 652 (2000)] Nature: Petition for review on certiorari of a decision of the Regional Trial Court of Pasig City, Br. 160. Facts: Petitioner is an economist for ADB who was charged by the Metropolitan TC of Mandaluyong City for allegedly uttering defamatory words against her fellow worker w/ 2 counts of grave oral defamation.

MeTC judge then received an office of protocol from the Department of Foreign Affairs, stating that petitioner is covered by immunity from legal process under section 45 of the agreement bet ADB & the gov’t. MeTC judge, w/o notice, dismissed the two criminal cases. Prosecution filed writ of mandamus & certiorari and ordered the MeTC to enforce the warrant of arrest. Issues: WON the petitioner is covered by immunity under the agreement and that no preliminary investigation was held before the criminal cases were filed in court.

Ratio: He is not covered by immunity because the commission of a crime is part of the performance of official duty. Courts cannot blindly adhere and take on its face the communication from the DFA that a certain person is covered by immunity. That a person is covered by immunity is preliminary. Due process is right of the accused as much as the prosecution. Slandering a person is not covered by the agreement because our laws do not allow the commission of a crime such as defamation in the name of official duty. Under Vienna convention on Diplomatic Relations, commission of a crime is not part of official duty.

On the contention that there was no preliminary investigation conducted, suffice it to say that preliminary investigation isn’t a matter of right in cases cognizable by the MeTC such as the one at bar. Being purely a statutory right, preliminary investigation may be invoked only when specifically granted by law. The rule on criminal procedure is clear than no preliminary investigation is required in cases falling w/in the jurisdiction of the MeTC. Besides, the absence of preliminary investigation doesn’t affect the court’s jurisdiction nor does it impair the validity of the information or otherwise render it defective.

MIQUIABAS v. COMMANDING GENERAL [80 Phil. 267 (1948)] Nature: Original Action in the Supreme Court. Habeas corpus. Facts: Miquiabas is a Filipino citizen and civilian employee of the US army in the Philippines who had been charged of disposing in the Port of Manila Area of things belonging to the US army in violation of the 94th article of War of the US. He was arrested and a General Court-Martial was appointed. He was found guilty. As a rule, the Philippines being a sovereign nation has jurisdiction over all offenses ommitted within its territory but it may, by treaty or by agreement, consent that the US shall exercise jurisdiction over certain offenses committed within said portions of territory. Issues: 1. WON the offense has been committed within a US base thus giving the US jurisdiction over the case. No. The Port of Manila Area where the offense was committed is not w/in a US base for it is not names in Annex A or B of AXXVI of the Military Base Agreement (MBA) & is merely part of the temporary quarters located w/in presented limits of the city of Manila.

Moreover, extended installations & temporary quarters aren’t considered to have the same jurisdictional capacity as permanent bases & are governed by AXIII pars. 2 & 4. The offence at bar, therefore is in the beyond the jurisdiction of military courts. 2. WON the offender is a member of the US armed forces No. Under the MBA, a civilian employee is not considered as a member of the US armed forces. Even under the articles of war, the mere fact that a civilian employee is in the service of the US Army does not make him a member of the armed forces.

Judgment: CFI has jurisdiction to try the petitioner, and the petition for a writ of prohibition must be denied. RAQUIZA v. BRADFORD [75 Phil. 50 (1948)] Nature: Original action in the SC. Habeas corpus. Facts: By virtue of the proclamation issued by General of the Army MacArthur, petitioners were arrested by the 306 CIC and detained under security commitment order No 385. The petitioners Raquiza, Tee Han Kee, and Infante were charged with Espionage activity with the Japanese & active collaboration with the enemy respectively. Power of Commander of the US Army to proclaim by virtue of military necessity is not questioned.

He based proclamation on reasons that apprehended have violated due allegiance to US and it is a military necessity. Petitioners move for writ of Habeas Corpus. Issues: 1. WON the war terminated within the meaning of that part in the proclamation? [Note: The power of commander in chief of the US Army to issue a proclamation providing for military measures to be taken upon the apprehension of Filipino citizens who voluntarily have given aid, comfort and sustenance to the enemy, cannot be seriously questioned. ] No. “ The war, in the legal sense, continues until, and terminated at the same time of, ome formal proclamation of peace by an authority competent to proclaim it. It is the province of the political dept, & not the judicial dept, to determine if war has ended. Fact that delivery of certain persons U. S. v. AH SING [36 Phil. 978 (1917)] Cf. French vs. English rule Facts: The defendant is a subject of China employed as a fireman on a steamship. The steamship is a foreign steamer which arrived the port of Cebu on April 25, 1917, after a voyage direct from the port of Saigon. The defendant bought 8 cans of opium in Saigon, brought GUMABON v. DIRECTOR OF PRISONS [37 SCRA 420 (1971)] Nature: Original Petition in the Supreme Court.

Habeas corpus. Facts: Gumabon, after pleading guilty, was sentenced on May 5, 1953 to reclusion perpetua for the complex crime of rebellion with multiple murder, robbery, arson and kidnapping (along with Agapito, Palmares and Padua). The decision for the first two petitioners was rendered on March 8, 1954 and the third on Dec. 5, 1955. The last petitioner Bagolbagol was penalized with reclusion perpetua on Jan. 12, 1954. Each of the petitioners have been imprisoned for more than 13 years by virtue of their convictions. They now invoke the doctrine laid down in People v.

Hernandez which negated such complex crime, a ruling which was not handed down until after their convictions have become final. In People v. Hernandez, the SC ruled that the information against the accused for rebellion complexed with murder, arson and robbery was not warranted under Art. 134 of the RPC, there being no such complex offense. This ruling was not handed down until after their convictions have become final. Since Hernandez served more than the maximum penalty that could have been served against him, he is entitled to freedom, and thus, his continued detention is illegal.

Issue: WON Art. 22 of the RPC which gives a penal judgment a retroactive effect is applicable in this case (WON judicial decisions favourable to the accused/convicted for the same crime can be applied retroactively) Held: Yes. Judicial decisions favourable to the accused must be applied retroactively. Petitioners relied on Art. 22 of the RPC, which states the penal laws shall have a retroactive effect insofar as they favour the accused who is not a habitual criminal. CC also provides that judicial decisions applying or interpreting the Constitution forms part of our legal system.

Petitioners even raised their constitutional right to equal protection, given that Hernandez et al. , has been convicted for the same offense as they have, though their sentences were lighter. Habeas corpus is the only means of benefiting the accused by the retroactive character of a favorable decision. Constitutional inhibition refers only to criminal laws. Penalty in law imposed to acts committed after approval of law PEOPLE v. NARVAEZ [121 SCRA 389 (1983)] Nature: Appeal from decision of the CFI of South Cotabato Facts: Mamerto Narvaez has been convicted of murder (qualified by treachery) of David Fleischer and Flaviano Rubia.

On August 22, 1968, Narvaez shot Fleischer and Rubia during the time the two were constructing a fence that would prevent Narvaez from getting into his house and rice mill. The defendant was taking a nap when he heard sounds of construction and found fence being made. He addressed the group and asked them to stop destroying his house and asking if they could talk things over. Fleischer responded with “ No, gadamit, proceed, go ahead. ” Defendant lost his “ equilibrium,” and shot Fleisher with his shotgun. He also shot Rubia who was running towards the jeep where the deceased’s gun was placed. Prior to the shooting, Fleischer and Co. the company of Fleischer’s family) was involved in a legal battle with the defendant and other land settlers of Cotabato over certain pieces of property. At the time of the shooting, the civil case was still pending for annulment (settlers wanted granting of property to Fleisher and Co. to be annulled). At time of the shooting, defendant had leased his property from Fleisher (though case pending and ownership uncertain) to avoid trouble. On June 25, defendant received letter terminating contract because he allegedly didn’t pay rent. He was given 6 months to remove his house from the land. Shooting was barely 2 months after letter.

Defendant claims he killed in defense of his person and property. CFI ruled that Narvaez was guilty. Aggravating circumstances of evident premeditation offset by the mitigating circumstance of voluntary surrender. For both murders, CFI sentenced him to reclusion perpetua, to indemnify the heirs, and to pay for moral damages. Issues: 1. WON CFI erred in convicting defendant-appellant despite the fact that he acted in defense of his person. No. The courts concurred that the fencing and chiselling of the walls of the house of the defendant was indeed a form of aggression on the part of the victim.

However, this aggression was not done on the person of the victim but rather on his rights to property. On the first issue, the courts did not err. However, in consideration of the violation of property rights, the courts referred to Art. 30 of the civil code recognizing the right of owners to close and fence their land. Although is not in dispute, the victim was not in the position to subscribe to the article because his ownership of the land being awarded by the government was still pending, therefore putting ownership into question. It’s accepted that victim was the original aggressor. 2.

WON the court erred in convicting defendant-appellant although he acted in defence of his rights. Yes. However, the argument of the justifying circumstance of self-defense is applicable only if the 3 requirements are fulfilled. Art. 11(1) RPC enumerates these requisites: ? Unlawful aggression. In the case at bar, there was unlawful aggression towards appellant’s property rights. Fleisher had given Narvaez 6 months and he should have left him in peace before time was up, instead of chiseling Narvaez’s house and putting up fence. A536 of the CC also provides that possession may not be acquired through force or intimidation; while Art. 39 provides that every possessor has the right to be respected in his possession Reasonable necessity of means employed to prevent or repel attack. In case, killing was disproportionate to attack. ? Lack of sufficient provocation on part of person defending himself. Here, there was no provocation at all since he was asleep Since not all requisites present, defendant is credited w/ the special mitigating circumstance of incomplete defense, pursuant to A13(6) RPC. These mitigating circumstances are: voluntary surrender & passion & obfuscation (read p. 405 explanation) ?

Crime is homicide (2 counts) not murder because treachery is not applicable on account of provocation by the deceased. Also, assault wasn’t deliberately chosen with view to kill since slayer acted instantaneously. There was also no direct evidence of planning or preparation to kill. Art. 249 RPC: Penalty for homicide is reclusion temporal. However, due to mitigating circumstances and incomplete defense, it can be lowered 3 degrees (Art. 64) to arresto mayor. 3. WON he should be liable for subsidiary imprisonment since he is unable to pay the civil indemnity due to the offended party. No.

He isn’t liable to be subsidiarily imprisoned for non-payment of civil indemnity. RA 5465 made the provisions of A39 applicable to fines only & not to reparation of damage caused, indemnification of consequential damages & costs of proceedings. Although it was enacted only after its commission, considering that RA 5465 is favorable to the accused who is not a habitual delinquent, it may be given retroactive effect pursuant to RPC A22. In Re: KAY VILLEGAS KAMI [35 SCRA 429 (1970)] Facts: Kay Villegas Kami Inc. claiming to be a recognized non-stock, non-profit corporation contests validity of RA # 6132 Sec. saying it violates due process rights of association, freedom of expression and is an ex post facto law Issues: 1. WON it violates three rights? No. It’s set up to prevent prostitution of electoral process and equal protection of laws. 2. WON it is an ex post facto law? No. Ex post facto law defined: a. makes criminal an act done before law was passed and punishes act innocent when done. b. aggravates a crime, makes it greater than it was c. inflicts greater punishment than the law prescribed when committed d. alters legal rules of evidence and authorizes conviction upon less or different tests e. ssuming to regulate civil rights and remedies only in effect imposes penalty or deprivation of right which when done was lawful f. deprives a person accused of a crime some lawful protection to which he has become entitled, such as the protection of a former conviction of acquittal or a proclamation of amnesty. Held: Petition denied. Constitutional act. Judgment: Defendant guilty of homicide but w/ mitigating circumstances and extenuating circumstance of incomplete self defense. Penalty is 4 mos. arresto mayor & to indemnify each group of heirs 4K w/o subsidiary imprisonment & w/o award for moral damages.

Appellant has already been detained 14 yrs so his immediate release is ordered. Gutierrez, dissenting. Defense of property can only be invoked when coupled with form of attack on person defending property. In the case at bar, this was not so. Appellant should then be sentenced to prision mayor. However, since he has served more than that, he should be released. PEOPLE v. RINGOR [320 SCRA 342 (1999)] Nature: Automatic review of a decision of the Baguio City RTC Facts: The accused (Ringor) on the night of June 23, 1994 was seen entering People’s Restaurant.

A witness Fely Batanes saw the accused approach a table where the victim was sitting, pulled his hair, & poked a knife at the latter’s throat. After, leaving the restaurant, the accused returned with a gun, entered the kitchen of the restaurant, stealthily approached the victim from behind & shot him 6 times successively. The defendant was later apprehended and caught in his possession was an unlicensed weapon. Upon verification in Camp Crame, it was found out that Ringor is not a licensed firearm holder & that the gun was not licensed.

Ringor put up self-defense but he failed to prove Florida’s unlawful aggression. He was found guilty of murder qualified by treachery and was sentenced to death. He was found guilty of a separate charge of possession of an unlicensed firearm with a sentence of 17 to 20 yrs. Issues: 1. WON the amendatory law RA 8294 (which took effect in 1997: crime occurred in 1994) is applicable No. At the time of the commission of the crime the use of an unlicensed firearm was still not an aggravating circumstance in murder to homicide. To apply it to Ringor would increase his penalty from reclusion perpetua to death.

Hence, RA 8294 cannot retroact as it is unfavorable to the accused, lest it becomes an ex post facto law. WON RTC erred in convicting appellant for simple illegal possession of firearms and sentenced him to suffer an indeterminate sentence of 17 to 20 years. Yes. In cases where murder or homicide is committed with the use of an unlicensed firearm, there can be no separate conviction for the crime of illegal possession of firearms under PD 1866. It is simply considered as an aggravating circumstance, no longer as a separate offence.

According to the A22 of RPC, retroactivity of the law must be applied if it is favourable to the accused. Thus, insofar as it spares accusedappellant a separate conviction for illegal possession of firearms, RA 8294 has to be given retroactive application. WON trial court erred in convicting accused of murder No. For self-defense to prosper, unlawful aggression, proportionality of methods to fend said aggression, and lack of sufficient provocation from defender must be proven. In this case, defendant failed to prove unlawful aggression.

The statement that the victim approached him with a bolo was inconsistent to the witness’ statement of the victim being in a prone position in the table. This does not constitute the requisite quantum of proof for unlawful aggression. With the first requirement missing, the last two requisites have no basis. WON RTC erred in sentencing the accused to death for muder which wasn’t proven & that the alleged murder committed by the appellant, the appropriate penalty for the offense is reclusion perpetua due to to the absence of an aggravating circumstance. Yes.

In the absence of mitigating or aggravating circumstances to a crime of murder as described by A248 RPC, a lesser penalty of reclusion perpetua has to be imposed in according to A63(2) RPC 2. arraignment, the witnesses of the prosecution recanted their statements while the 7 private complainants submitted their affidavits of desistance. All 26 suspects filed individual motions to (1) make a judicial determination of the existence of probable cause for the issuance of warrants of arrest; (2) hold in abeyance the issuance of the warrants, & (3) dismiss the cases should the TC find lack of probable cause.

The cases were dismissed. It was on March 27, 2001 when PNP director Mendoza indorsed to the DOJ new affidavits of new witnesses w/c it began to investigate & to file w/ the RTC. The respondent, invoking among others, their right against double jeopardy, then filed w/ the CA a petition stating that §8, Rule 117 of the 2000 Rules on Crim. Pro. bans the revival of the murder cases against him; a petition the CA denied. On June 6, 2001, 11 Informations for murder involving the killing of the same members of the Kuratong Baleleng gang were filed before the RTC QC.

The new Informations charged as principals 34 people, including respondent Lacson & his 25 other co-accused in Crim. Cases Nos. Q-99-81679 to Q-99-81689. The defendant filed for determination of probable cause & an outright dismissal in the RTC. The CA considered the original cases to be provisionally dismissed & the new cases as mere revivals. Under §8 2000 RCP 117, the cases were dismissed. Issue: WON §8, Rule 117 bars the filing of the 11 informations against the respondent Lacson involving the killing of some members of the Kuratong Baleleng gang.

Held: Remanded to the RTC to determine if they complied with rule and case should be dismissed. There is no question that the new rule can be given retroactive effect given RPC A22. There can be no ruling, however, due to the lack of sufficient factual bases to support such a ruling. There is need of proof to show the ff. facts: (1) provisional dismissal of the case had the express consent of the accused (2) whether it was ordered by the court after giving notice to the offended party (3) whether the 2 year period to revive the case has already elapsed (4) whether there is justification for filing of the cases beyond the 2 yr period.

The respondent expressed consent, but the records don’t reveal whether the notices to the offended parties were given before the cases were provisionally dismissed. Only the right to double Jeopardy by the defendant was tackled by the litigants. The records are also inconclusive w/ regards to the 2-year bar, if w/in or without. Because of this, both prosecution & defendant must be given ample time to adduce evidence on the presence or absence of the adduced evidence. a. b. Was express consent given by the respondent?

Was notice for the motion, the hearing and the subsequent dismissal given to the heirs of the victims? Sec. 8, Rule 117 is not applicable to the case since the conditions for its applicability, namely: 1) prosecution with the express consent of the accused or both of them move for provisional dismissal, 2) offended party notified, 3) court grants motion and dismisses cases provisionally, 4) public prosecutor served with copy of orders of provisional dismissal, which is the defendant’s burden to prove, w/c in this case hasn’t been done. a.

The defendant never filed and denied unequivocally in his statements, through counsel at the Court of Appeals, that he filed for dismissal nor did he agree to a provisional dismissal thereof. b. No notice of motion for provisional dismissal, hearing and subsequent dismissal was given to the heirs of the victims. 2. 3. 4. WON time-bar in §8 RCP 117 should be applied prospectively or retroactively. Time-bar should not be applied retroactively. Though procedural rules may be applied retroactively, it should not be if to do so would work injustice or would involve intricate problems of due process.

Statutes should be construed in light of the purposes to be achieved & the evils to be remedied. This is because to do so would be prejudicial to the State since, given that the Judge dismissed the case on March 29, 1999, & the New rule took effect on Dec 1, 2000, it would only in effect give them 1 yr & 3 months to work instead of 2 yrs. At that time, they had no knowledge of the said rule and therefore they should not be penalized for that. “ Indeed for justice to prevail, the scales must balance; justice is not to be dispensed for the accused alone. ” The 2-yr period fixed in the new rule is for the benefit of both the State & the accused.

It shouldn’t be emasculated & reduced by an inordinate retroactive application of the time-bar therein provided merely to benefit the accused. To do so would cause an injustice of hardship to the state & adversely affect the administration of justice. Held: Motion granted PEOPLE v. LACSON [October 7, 2003] Facts: Petitioner asserts that retroactive application of penal laws should also cover procedures, and that these should be applied only to the sole benefit of the accused. Petitioner asserts that Sec 8 was meant to reach back in time to provide relief to the accused in line with the constitutional guarantee to the right to speedy trial.

Issues: 1. WON the 5 Associate Justices inhibit themselves from deciding in the MFR given they were only appointed in the SC after his Feb. 19, 2002 oral arguments. The rule should be applied prospectively. The court upheld the petitioners’ contention that while §8 secures the rights of the accused, it doesn’t & shouldn’t preclude the equally important right of the State to public justice. If a procedural rule impairs a vested right, or would work injustice, the said rule may not be given a retroactive application. PEOPLE v.

LACSON [May 28, 2002] Nature: Petition for review on certiorari of a decision of the CA Facts: Soon after the announcement on May 18, 1995 that the Kuratong Baleleng gang had been slain in a shootout w/ the police, 2 witnesses surfaced providing the testimony that the said slaying was a rub-out. On June 1, 1995, Chief Superintendent Job A. Mayo, PNP Director for Investigation, filed murder charges with the Office of the Ombudsman against 97 officers & personnel of ABRITFG. The nextof-kin of the slain KBG members also filed murder charges against the same officers and personnel. On Nov. , 1995, after 2 resolutions, the Ombudsman filed before the SB 11 informations of murder against the defendant & 25 policemen as principals. Upon motion of the respondent, the criminal cases were remanded to the Ombudsman & in a re-investigation, the informations were amended downgrading the principal into an accessory. With the downgrading of charges, the case was later transferred from the SB to the RTC not due to jurisdictional questions over the suspects but due to the failure to indicate that the offenses charged therein were committed in relation to, or in discharge of, the official functions of the respondent, as required by RA 8249.

Before the PEOPLE, et al. v. LACSON [April 1, 2003] Facts: Before the court is the petitioner’s MFR of the resolution dated May 23, 2002, for the determination of several factual issues relative to the application of §8 RCP 117 on the dismissal of the cases Q-99-81679 & Q-99-81689 against the respondent. The respondent was charged with the shooting & killing of 11 male persons. The court confirmed the express consent of the respondent in the provisional dismissal of the aforementioned cases when he filed for judicial determination.

The court also ruled the need to determine whether the other facts for its application are attendant. Issues: 1. 2. WON the requisites for the applicability of §8, 2000 RCP 117 were complied w/ in the Kuratong Baleleng cases WON the application of the time-bar under §8 RCP 117 be given a retroactive application w/o reservations, only & solely on the basis of its being favorable to the accused. The Court isn’t mandated to apply rules retroactively just because it’s favorable to the accused. The time-bar under the new rule is intended to benefit both the State & the accused.

When the rule was approved by the court, it intended that the rule be applied prospectively and not retroactively, for to do so would be tantamount to the denial of the State’s right to due process. A retroactive application would result in absurd, unjust & oppressive consequences to the State & to the victims of crimes & their heirs. BERNARDO v. PEOPLE [123 SCRA 365 (1983)] Facts: Bemardo was a tenant of Ledda Sta. Rosa’s Riceland in Bulacan from Oct. ’72-Aug. ’74. His son stayed w/ him in the house built on that land. The tenancy rights of the house were left w/ the son when the father transferred but w/o Sta.

Rosa knowing. Eventually, Sta. Rosa took possession of the whole rice field & filed a case of forcible entry against the Bernardos. The Bernardos lost in their cases before the Municipal Court. Sta. Rosa sent a letter of demand to petitioners telling them to vacate their house & land but since they refused, a criminal complaint was charged against them for violation of PD 772 on squatting. Issue: WON CFI has jurisdiction to entertain criminal case for alleged violation of PD 772 since the facts obtaining in the case do not constitute an offence or violation of said law Held: Petition for certiorari is granted.

No person should be brought within the terms of a penal statute who is not clearly within them, nor should any act be pronounced criminal which is not clearly made so by the statute. Based on its preamble, PD 772 applied only to squatters in urban areas and not to agricultural lands. PASCUAL v. BOARD OF MEDICAL EXAMINERS [28 SCRA 344 (1969)] Facts: Petitioner is facing an administrative case where charges of immorality are filed against him. The counsel for complainants wished to present the petitioner to be the first witness. Petitioner objected, relying on the constitutional right against selfincrimination.

The Board of Examiners ruled that petitioner should be called to testify. It said that petitioner, once on the witness stand, can then object to questions incriminating in nature. Issue: WON the right against self-incrimination is available not only to criminal, but also to administrative proceedings. Held: Yes. Affirmed. Barring Board from compelling Pascual to testify. Yes, the right against self-incrimination is available even in administrative proceedings. Given the nature of the administrative proceedings, which when found guilty, shall result in forfeiture or loss of Pascual’s license to practice medicine, is quasi-criminal in nature.

The accused now has the right to remain silent, and his silence cannot be used as a presumption of his guilt. The court reiterated, “ The right Self-Incrimination clause enables the citizen to create a zone of privacy which the government may not force to surrender to his detriment. ” PEOPLE v. MULETA [309 SCRA 148 (1999)] Facts: The victim’s body was found naked in Malolos Bulacan tied to a post with the use of a pair of pants and both her hand were with tied with a bra. She had 3 stab wounds in her neck and 2 at her back. According to the investigation conducted by the NBI, the defendant is the victim’s uncle.

It was alleged that the appellant had left his work in Tondo a day before the victim’s body was found. He returned only in the morning of the next day. According to his counsel, he admitted having raped and later killed the victim. Another witness testified that during the wake of the victim, the appellant uttered incriminating words. The appellant was found guilty of murder & sentenced to life imprisonment & payment of damages. Issues: WON the circumstantial evidence was enough to establish guilt of the appellant? Specifically: 1.

WON extrajudicial confession is valid and admissible 1st assignment of error: the court erred in giving weight and credence to the evidence for the prosecution and in the process disregarding the defence and alibi of the accused-appellant. This appeal is meritorious. The extra-judicial confession is inadmissible and the evidence insufficient. The appellant admits to the confession, with the absence of counsel. The appellant was also superficially informed of his constitutional rights which is in violation of the requirement of “ effective” communication. Most of the statements were terse and perfunctory statements.

It should conform with Article III sec 12 of Constitution a. Right to be informed of constitutional rights – accused should understand rights. Statements were tense and perfunctory without considering if accused understood. Doesn’t prove voluntariness b. Right to counsel – Agent Tolentino’s sworn statement shows that confession began on September 19, 1993 when lawyer only arrived the following day. Confession began without assistance of counsel. Lawyer’s failure to appear did not give court chance to confirm her competence, independence and validity of confession c.

Invalid waiver – language was vague and insufficient. and since he wasn’t assisted by lawyer, waiver is invalid WON prosecution’s evidence sufficient to convict Muleta 2nd: Sufficiency of evidence. The circumstantial evidence were controverted by the defense and even more important, were not fully established. The evidence on the appellant leaving work and returning the in the morning the discovery of the victim’s body is mere hearsay. His hysteria during the wake could mean anything. It is at best ambiguous. Circumstancial evidence should be: a. ore than 1 circumstance b. facts where you derive inferences as proven c. combine all circumstance to produce conviction. Muleta’s co-worker’s affidavit is hearsay because they were not presented and cross-examined (PP v. FERNANDEZ) Circumstantial evidence are only significant with the inadmissible confession 3. WON accused alibi is admissible for defense 3rd: Alibi. Although the court considers the alibi a weak defence, prosecution must convict the accused based on the strength of its own case not on the weakness of defence. PEOPLE v.

LOPEZ [313 SCRA 114 (1999)] Facts: Prior to the incident, David, Candalo & Lopez were seen by Serino (poultry caretaker) having a drinking spree at around 6pm. They stopped by 7pm. Serino and Helsim left when David and Candalo were asleep leaving Lopez who was still awake. Checked out barking dog around 11 pm. They went to David et al quarters where they saw Edgar Lopez carrying a black bag and wearing bloodied white pants running towards the direction of the gate. They saw him climb over it. When they went to his sleeping quarters, they saw Bonifacio David dead, with an injury at the neck.

On their way to captain’s house, they saw Lopez arrested by captain and NBI agents. Issue: WON the appellant guilt of murder was proven beyond reasonable doubt, due to the qualifying circumstances of treachery and evident premeditation. Held: Yes. Convicted Homicide (Prision mayor minimum 8 years and one day – reclusion temporal max 14 yrs an 8 months 1 day) + P9K funeral fees + 50K indemnity. Direct evidence not needed if all circumstantial evidence support or are consistent with accused’s guilt and inconsistent with his innocence (People v. de Guia).

This can surpass direct evidence. The requisites to warrant conviction based on circumstantial evidence are: ? There is more than one circumstance ? The facts from which the inferences are derived from are proven ? The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. Treachery (attacked has no chance to defend himself or retaliate deliberate adoption of means) and evident premeditiation (time when decided and clinging to determination and lapse between determination and execution) should be proven by prosecution.

Thus, due to lack of aggravating circumstances, death is lowered. PEOPLE v. PIMENTEL [288 SCRA 542 (1998)] Facts: 1983. Tujan charged with subversions under RA 1700 with warrant of arrest issued. On June 5, 1990, Tujan was arrested and caught with . 38 caliber revolver. On June 14, 1990, he was charged with illegal possession of firearms and ammunition in furtherance of subversion (PD 1866) Tujan filed motion to quash invoking protection versus double jeopardy (Art. III, Constitution; Misolas v. Panga; & Enrile v. Salazar: alleged possession absorbed in subversion. It was granted by the TC & the CA.

Issue: WON charge under PD 1866 be quashed on ground of double jeopardy in view of the previous charge under RA 1700. Ratio: No. 1. AIII of the Constitution & ROC 117 state that for double jeopardy to occur, acquittal, conviction or dismissal in previous cases must have occurred. In this case, first case was not even arraigned yet. 2. They are different offenses. RA 1700 punishes subversion while PD 1866 punishes illegal possession of firearms. But, since RA 7636 totally repealed subversion or RA 1700, & since this is favorable to the accused, we can no longer charge accused with RA 1700 even if they didn’t raise this issue.

PD 1866 should be amended to mere illegal possession of firearms without furtherance of subversion Held: RTC and CA reversed and set aside. RA 1700 charge dismissed. PD 1866 change amended. Release Tujan. 2. Held: Reversed. PEOPLE v. TEMBLOR [161 SCRA 623 (1988)] Nature: Appeal from the judgment of the CFI of Agusan del Norte and Butuan City. Facts: On 30 December 1980, 7: 30 PM, Vicente Temblor alias “ Ronald” (accused-appellant) went to Julius Cagampang’s house in Agusan del Norte, to buy cigarettes. Cagampang, while opening a pack of cigarettes, was shot!

The accused (and another person, Anecito Ellevera) demanded Victorina Cagampang (Julius’ wife) that she brings out her husband’s firearms. The accused fired two more shots at the fallen victim. Victorina gave a suitcase to Temblor, who then took the . 38 caliber which was inside, and fled. In August 1981, Temblor, an NPA, surrendered (it was actually a mass surrender of NPA’s) after hiding in the mountains. In 26 November 1981, he was arrested by Buenavista police at the public market and then detained at municipal jail.

Regarding the murder of Cagampang, Temblor’s alibi was that day until the next, he was with his father for drinking and pulutan. On 8 June 1982, the accused was convicted and sentenced to suffer reclusion perpertua, and to indemnify the heirs of the victim P12, 000. He appealed. \*\*\* In this appeal, the appellant alleges that the court a quo erred: (1) in finding that he was positively identified by the prosecution witness as the killer, and (2) in rejecting his defense of alibi. Issue: WON the accused is guilty of murder. Held: Yes, the accused is guilty of murder.

Judgment appealed from is AFFIRMED in all respects and civil indemnity increased to P30K. It was proven that he had motive in killing Cagampang: he had knowledge that Cagampang possessed a firearm; this was motive enough to kill him, as part of NPA’s “ agaw armas” campaign or killings perpetrated by NPA for the purpose of acquiring more firearms. Moreover, proof of motive is not essential when the culprit has been positively identified. Also, his flight implies guilt. The prosecution witness, Victorina Cagampang, may have minor inconsistencies in her testimony but this does not diminish her credibility – that is part of being human?.

What is important is that she had positively identified the accused as the assailant and that her testimony is corroborated by other witnesses. Furthermore, the accused’s alibi was unacceptable because it was self-serving and uncorroborated. It cannot overrule positive identification, it was merely 15-20 minutes away from crime scene and Perol was at work. particularly when identification took place—this qualifies for uncounselled confession. The witness was also questioned 2 days after incident and sworn 4 days after. The fruit vendor as well as the companion of the accused was not investigated.

In fact, they did not pursue other suspect. Also, the knife was not tested. Further notable are the facts that the age of the accused was observed without medical basis, that the accused did not run away and that he had no motive, which, in People vs. Verzo was considered important when there is doubt in the identity of culprit and reiterated in People vs. Pervelo which stated that identification is tenuous. PEOPLE v. DELIM [January 29, 2003] Facts: Marlon, Leon & Ronald Delim were convicted for murder of Modesto Delim, resident of Bila, Sison, Pangasinan. Modesto is the adopted child of Marlon’s Dad.

Marlon, Manuel & Robert are brothers & Leon & Ronald are their nephews. Around 6: 30 pm, January 23, 1999, Modesto and family were preparing to eat dinner when Marlon, Robert and Ronald arrived. Marlon poked gun, other two grabbed, hog tied and gagged Modesto. They herded him out of the hose and went to the direction of Paldit. Leon and Manual guarded Rita & Randy until 7 am and told them to stay put. They searched for him for 3 days and reported to police three days after the incident. Randy with relatives found Modesto in the housing project in Paldit under bushes.

He was dead due to gun shot wound on head. Issues: 1. WON case is murder or kidnapping? Murder: when primary purpose is to kill, deprivation is incidental and doesn’t constitute kidnapping (US v. Ancheta). Specific intent: active desire to do certain criminal acts or particular purpose (example, murder and kidnapping—kill and deprive victim of liberty) motive: reason which prompts accused to engage in particular criminal activity (ex. Kidnap for ransomrasnom) essential for kidnapping. Information: described murder and kidnapping not specified. 2. WON prosecution had sufficient evidence?

Yes. Prosecution proved intent to kill with their knives and handguns, 5 gun shot wounds and 4 stab wounds (defensive). Furthermore, the pieces of circumstancial evidence were convincing: Rita and Randy testified events. Rita claimed she heard 3 gunshots and accordingly, decomposing body was found with gunshot wounds and stabs. WON there was conspiracy? Yes. Conspiracy is when two or more persons agree and decide to commit a felony. This is proven by acts of criminal. Before during and after crime committed and that accused had same purpose and united in execution; act of one act of all.

Wharton criminal law—actual presence not necessary if there’s direct connection bet actor and crime WON witness testimonies were valid? Yes. Inconsistencies mean and even strengthen. It was not rehearsed WON alibi warranted? No. Positive identification over alibi. Unable to prove that they were in another place and impossible to go to crime scene WON there was treachery and other aggravting circumstances? No. Treachery and taking advantage of superior strength was not proven as there was no witness or evidence. The unlicensed firearm and dwelling was further not included in information. Held: Conviction affirmed with modification

ESTRADA v. SANDIGANBAYAN [369 SCRA 394 (2001)] Issues: 1. WON Plunder Law is unconstitutional for being vague No. As long as the law affords some comprehensible guide or rule that would inform those who are subject to it what conduct would render them liable to its penalties, its validity will be sustained. The amended infor