

THIRD DIVISION

G.R. No. 246306 – MARIAN REBUTA y SEDAÑO, *petitioner*, v.
PEOPLE OF THE PHILIPPINES, *respondent*.

Promulgated:

July 26, 2023

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DISSENTING OPINION

SINGH, J.:

I respectfully dissent from the *ponencia*'s disposition granting the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by the petitioner Marian Rebuta y Sedaño (**Rebuta**).

My dissent is grounded on several factors: first, contrary to the *ponencia*, I find that the Petition should be deemed seasonably filed; second, the failure of the OSG to specify its prayer is patently inadvertent; third, no double jeopardy exists because the RTC acted with grave abuse of discretion; and fourth, the warrantless arrest and seizure during the raid were valid.

Based on all these, the inevitable conclusion is that the Petition failed to show any substantial reason to warrant the exercise of the Court's discretionary power to review the challenged Joint Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 07226.

*The Petition should be deemed
seasonably filed*

Rebuta harps on the alleged failure of the People to file its Rule 65 Petition on time. According to Rebuta, the People filed its Motion for Extension to file the said Petition on January 18, 2016, beyond the 60-day period under Rule 65.¹ Counted from the promulgation of the Joint Decision on November 16, 2015, the OSG only had until January 15, 2016 within which to file a Petition for *Certiorari* or a motion to extend its filing.²

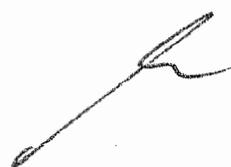
This much, the OSG admitted.³ The OSG confirmed that it was three days late in filing its Motion for Extension of time, but prayed in the same Motion for the relaxation of procedural rules given that it received the Indorsement of the Department of Justice (DOJ) only on January 15, 2016.⁴ The OSG also invoked the application of the case of *Mid-Islands Power*

¹ *Rollo*, pp. 13-14.

² *Id.*

³ *Id.* at 95.

⁴ *Id.* at 48.



Generations Corp. v. Court of Appeals,⁵ where the Supreme Court affirmed the CA's approval of a motion for extension to file a Rule 65 Petition.

The CA thus did not err in granting the OSG's Motion for Extension in the February 15, 2016 Minute Resolution.⁶ As pointed out by the CA in the assailed Resolution, Rebuta was silent and failed to call out the OSG regarding its belated filing.⁷ She did not file an opposition thereto, nor questioned it in her Comment.⁸ Although Rebuta brought up such issue in her Memorandum before the CA, the CA noted that the very same Memorandum was also filed after it had already rendered the assailed Decision.⁹ Thus, the CA simply noted it without further action.¹⁰

Moreover, the CA was correct in highlighting the seriousness of the subject matter: multiple counts of trafficking committed against five minors.¹¹ The CA aptly ruled that a three-day tardiness is justifiable under the circumstances.¹²

It should be mentioned that Rule 65 is silent on whether a petitioner may first seek an extension of the 60-day period to file a Petition for *Certiorari*.¹³ *Laguna Metts Corp. v. Court of Appeals* is instructive that removal of the extension clause was "to prevent the use or abuse of the remedy of petition for *certiorari* in order to delay a case or even defeat the ends of justice."¹⁴ Nonetheless, the Court has ruled that "the deletion of the clause in Section 4, Rule 65 by A.M. No. 07-7-12-SC did not, *ipso facto*, make the filing of a motion for extension to file a Rule 65 petition absolutely prohibited."¹⁵

The relaxation of the 60-day period to file a Rule 65 Petition has thus been observed under the following circumstances: (1) the existence of most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; **(4) the existence of special or compelling circumstances;** **(5) the merits of the case;** (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake, or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the

⁵ G.R. No. 189191, 683 Phil. 325 (2012).

⁶ *Rollo*, p. 48.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 49.

¹⁰ *Id.*

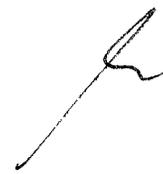
¹¹ *Id.*

¹² *Id.*

¹³ *Daniel, Inc. Philippines v. Fil-Estate Properties, Inc.*, G.R. No. 212895, 27 November 2019.

¹⁴ *Id.* citing *Laguna Metts Corp. v. CA*, 594 SCRA 139, 146 (2009).

¹⁵ *Id.* citing *Domdom v. Sandiganbayan*, 627 Phil. 341 (2010).



name of substantial justice and fair play; **(12) importance of the issues involved**; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances.¹⁶

Indeed, while the Motion for Extension itself was filed three days after the expiration of the 60-day period for the People to raise jurisdictional errors with respect to Rebuta's and Delgado's acquittal, the importance of the subject matter, that is, multiple counts of trafficking of persons with minors as victims, as well as the glaring error of the RTC, were compelling reasons to allow the same.

The failure of the OSG to specify its prayer is patently inadvertent

There is no merit to Rebuta's contention that the CA should not have granted the Petition for *Certiorari* filed by the OSG because it failed to specify its prayer. True, it is well-settled that courts cannot grant a relief not prayed for in the pleadings or in excess of what is being sought by a party to a case.¹⁷ However, an examination of the OSG's Petition shows that the omission is patently inadvertent.¹⁸ The allegations in the OSG's Petition clearly show that it had sought the nullification of the October 30, 2015 Joint Decision because it was issued with grave abuse of discretion.¹⁹ The fact that a Rule 65 Petition was filed speaks for itself.

When grave abuse of discretion taints a judgment, it becomes wholly void.²⁰ There is grave abuse of discretion when there has been an evasion of a positive duty or a virtual refusal to perform a duty prescribed by law or to act in accordance with law, such as when a judgment was rendered not on the basis of law and evidence, but on caprice, whim, and despotism.²¹

The Joint Decision manifestly ignored the categorical language of Section 3(a) of R.A. No. 9208.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Trafficking in Persons* – refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes

¹⁶ Id.

¹⁷ *Bucal v. Bucal*, 760 Phil. 912, 921 (2015).

¹⁸ *Rollo*, p. 124.

¹⁹ Id. at 108-109.

²⁰ *Imperial and Nidslan Resources and Development Corp. v. Hon. Armes*, 804 Phil. 439, 473 (2017).

²¹ *Amurao v. People and Sandiganbayan*, G.R. No. 249168, April 26, 2021.



at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as ‘trafficking in persons’ even if it does not involve any of the means set forth in the preceding paragraph. (Emphasis supplied)

The mere recruitment of a minor, even without the employment of the means of trafficking, is sufficient to justify a conviction under R.A. No. 9208, as amended, particularly, qualified trafficking.²² The victim’s consent is rendered irrelevant due to the coercive, abusive, or deceptive means employed by perpetrators of human trafficking.²³ Even without the use of coercive, abusive, or deceptive means, a minor’s consent is deemed not given out of his or her own free will.²⁴

When Rebuta recruited and/or allowed the private complainants to be employed in her establishment, she failed to exercise due diligence in ascertaining whether they were eligible to work. The private complainants categorically testified that they were engaged in pornographic performances in one form or another, or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety and/or morals. Rebuta is undoubtedly guilty of qualified trafficking.

No double jeopardy exists because the RTC acted with grave abuse of discretion

Rule 117, Section 7 provides:

Section 7. *Former conviction or acquittal; double jeopardy.* — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

In the recent case of *Austria v. AAA and BBB*,²⁵ the Court again reiterated that the constitutional right of the accused against double jeopardy attaches only when the following elements concur: (1) the accused is charged

²² Rep. Act No. 9208, Sec. 6(a), as amended by Rep. Act No. 10364.

²³ *People v. Casio*, 749 Phil. 458, 475 (2014).

²⁴ *Id.*

²⁵ G.R. No. 205275, June 28, 2022.



under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) the accused is convicted or acquitted, or the case is dismissed without his/her consent.²⁶

However, the Court has also consistently recognized that a judgment of acquittal may be assailed through a petition for certiorari under Rule 65 of the Rules of Court. In *People v. Alejandro*,²⁷ the Court ruled that the rule on double jeopardy is not without exceptions, which are: (1) where there has been deprivation of due process and where there is a finding of a mistrial, or (2) **where there has been a grave abuse of discretion under exceptional circumstances.**

Because of its very nature, a Rule 65 Petition, which is meant to correct errors of jurisdiction, does not violate the proscription against double jeopardy.²⁸

As a general rule, the prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case. The reason is that a judgment of acquittal is immediately final and executory, and the prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated. Section 21, Article III of the Constitution provides:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Despite acquittal, however, either the offended party or the accused may appeal, but only with respect to the civil aspect of the decision. Or, **said judgment of acquittal may be assailed through a petition for certiorari under Rule 65 of the Rules of Court showing that the lower court, in acquitting the accused, committed not merely reversible errors of judgment, but also exercised grave abuse of discretion amounting to lack or excess of jurisdiction, or a denial of due process, thereby rendering the assailed judgment null and void.** If there is grave abuse of discretion, granting petitioner's prayer is not tantamount to putting private respondents in double jeopardy.²⁹

In *People v. CA and Galicia*,³⁰ the Court reiterated that in a special civil action for certiorari questioning an acquittal, the appealing party, whether the State or the private complainant, must demonstrate that the lower court, though conferred with jurisdiction, blatantly abused its authority.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other

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Id.

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G.R. No. 223099, January 11, 2018.

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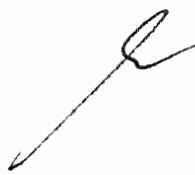
People and AAA v. Court of Appeals, 755 Phil. 80, 97-98 (2015).

²⁹

Id. at 97-98. (Citations omitted; emphasis supplied.)

³⁰

G.R. No. 159261, February 21, 2007.



words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility, and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined by law, or to act at all in contemplation of law. *Certiorari* alleging grave abuse of discretion is an extraordinary remedy. Its use is confined to extraordinary cases wherein the action of the inferior court is wholly void. Its aim is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. **No grave abuse of discretion may be attributed to the court simply because of its alleged misappreciation of facts and evidence. While *certiorari* may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.**³¹

To reiterate, a void judgment is, in legal effect, no judgment at all.³² By it no rights are divested.³³ Thus, an acquittal made under a judgment rendered with grave abuse of discretion is not the acquittal to which the protection against double jeopardy applies. A void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it.³⁴ Because of grave abuse of discretion, the tribunal is effectively nullified of its jurisdiction, which consequently cancels out the second element in double jeopardy.

There is grave abuse of discretion where power is exercised in an arbitrary, capricious; whimsical or despotic manner by reason of passion or personal hostility; patent and gross as to amount to evasion of positive duty or virtual refusal to perform a duty enjoined by law.³⁵ While *certiorari* may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.³⁶

Here, it is impossible not to see that the abuse of discretion committed by the RTC is so grave that it was effectively ousted of its jurisdiction, which prevented the first jeopardy from ever attaching. The grave abuse of discretion committed is so exceptional because it pertained to the RTC's own duty to take mandatory judicial notice of the entirety of Section 3(a) of R.A. No. 9208, which spells out in no uncertain terms that the means of coercion, abuse or deception need not apply when the trafficked person is a minor. Rule 129, Section 1 of the Revised Rules on Evidence, as amended, is unmistakable that it is the court's duty to take judicial notice of official acts of the legislative

³¹ Id. (Citations omitted; emphasis supplied.)

³² *People v. Hon. Velasco*, 394 Phil. 517 (2000), citing *People v. Court of Appeals et al.*, 189 Phil. 340 (1980).

³³ Id.

³⁴ *De Leon v. Court of Appeals*, 435 Phil. 232 (2002).

³⁵ *Non et al v. Ombudsman*, G.R. No. 239168, September 15, 2020.

³⁶ *People v. Court of Appeals*, 545 Phil. 278 (2007).



department, *i.e.*, the laws that Congress enacts. Its error, thus, does not pertain to a mere error of judgment, but an error of jurisdiction, a blatant and patent disregard of the plain language of the law. Neither is it a simple matter of misappreciation of the facts and the evidence, because the omission is a complete disregard of the law.

An examination of the Petition for *Certiorari* filed by the OSG shows that it imputed grave abuse of discretion on the part of the RTC for acquitting Rebuta and Delgado, contrary to law and jurisprudence.³⁷ Although the RTC is clothed with jurisdiction to try and decide trafficking in persons cases, it was not at liberty to ignore the crystal clear statutory definition that trafficking in persons can still be committed even if the recruitment of a minor does not involve coercive, abusive, or deceptive means.

In this case, the RTC clearly omitted application of the second paragraph of Section 3(a) of R.A. No. 9208, as amended, in its disquisition, which is crucial because it pertains to the elements of the crime of trafficking of persons.

First, as to the charge of Qualified Trafficking in Persons in Crim. Cases Nos. 19762 to 19765 and 20113, particular Sections 3(c) [sic] and 4(a) of Rep. Act No. 9208, **the Court hereby adopts and makes as integral part hereof the discussion on this matter contained in its Resolution dated May 15, 2014**, as follows:

Rep. Act No. 908 [sic] has been explained as follows:

Section 3(a) of Republic Act No. 9208 (RA 9208), otherwise known as the Anti-Trafficking in Persons Act of 2003, defines Trafficking in Persons, as follows:

Trafficking in Persons - refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services slavery, servitude or the removal or sale of organs.

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The Anti-Trafficking in Persons Act is a new law passed last 26 May 2003, designed to criminalize the act of trafficking in persons for prostitution sexual exploitation, forced labor and slavery, among others.

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Rollo, p. 108.

From the facts above-narrated, it is clear that no threat, force, coercion, abduction, fraud and/or deception was exercised by either of the accused Rebuta or Delgado to compel the private complainants to work as GRO's in the Apple Bar for the purpose of exploiting them for prostitution. On the contrary, it was the private complainants themselves who voluntarily applied for their jobs as such GRO's and by lying about their ages, were the ones who employed deception so that they may be hired by Rebuta.³⁸ (citations omitted; emphasis supplied)

In fact, I cannot but express bafflement why the RTC omitted the second paragraph of Section 3(a) of R.A. No. 9208, as amended, in its Joint Decision. It should be pointed out that the RTC merely adopted and made integral to the Joint Decision "the discussion on this matter contained in its Resolution dated May 15, 2014."³⁹ While the portion of its discussion in the said Resolution was reproduced, the RTC's reference left out the entirety of the second paragraph of Section 3(a) which expressly provides that the recruitment, among others, of a child for the purpose of exploitation shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

It is also noteworthy that the RTC omitted the second paragraph of Section 3(a) of R.A. No. 9208 twice: in the Resolution dated May 15, 2014, and in the assailed Joint Decision dated October 30, 2015, which cites the said Resolution. Its act smacks of utter caprice and arbitrariness and should be annulled for being an error of jurisdiction.

This omission amounts to an evasion of a positive duty to apply the entire text of the law, not merely parts of it which are convenient. The RTC cannot close its eyes to the express provision of law, especially when it refers to the very elements of the crime that the prosecution seeks to prove. Grave abuse of discretion, as an exception to the rule against double jeopardy, is patent and the Joint Decision is consequently rendered in excess of jurisdiction and thus null and void.

The warrantless arrest and seizure during the raid were valid

With respect to Rebuta's allegations that the raid was an impermissible warrantless arrest, the contention is equally untenable.

It bears noting that Rebuta never bothered to raise the illegality, much less the irregularity, of her arrest before her arraignment. The right to question the validity of an arrest may be waived if the accused, assisted by counsel, fails to object to its validity before arraignment.⁴⁰ In her Omnibus Motion to Quash and Fix Bail,⁴¹ Rebuta mainly argued that she did not force or otherwise

³⁸ *Rollo*, pp. 87-89.

³⁹ *Id.* at 87.

⁴⁰ *Lapi v. People*, G.R. No. 210731, February 13, 2019.

⁴¹ *Rollo*, pp. 53-57.



coerce the private complainants to work for her, and therefore the facts averred in the Informations against her do not constitute an offense.⁴² Nowhere did Rebuta bother to raise the issue of her arrest.

*People v. Valencia and Simbillo*⁴³ is instructive:

There is entrapment when law officers employ ruses and schemes to ensure the apprehension of the criminal while in the actual commission of the crime. There is instigation when the accused is induced to commit the crime. The difference in the nature of the two lies in the origin of the criminal intent. In entrapment, the *mens rea* originates from the mind of the criminal. The idea and the resolve to commit the crime comes from him. In instigation, the law officer conceives the commission of the crime and suggests to the accused who adopts the idea and carries it into execution.

Entrapment has been sanctioned as a means of arresting offenders who traffic persons. Casio explained the import of entrapment operations and the flexibility accorded to police officers, especially in cases of human trafficking:

In *People v. Padua*, this court underscored the value of flexibility in police operations:

A prior surveillance is not a prerequisite for the validity of an entrapment or buy-bust operation, the conduct of which has no rigid or textbook method. Flexibility is a trait of good police work. However, the police carry out its entrapment operations, for as long as the rights of the accused have not been violated in the process, the courts will not pass on the wisdom thereof. The police officers may decide that time is of the essence and dispense with the need for prior surveillance.

This flexibility is even more important in cases involving trafficking of persons. The urgency of rescuing the victims may at times require immediate but deliberate action on the part of the law enforcers.

Here, the prosecution established that accused-appellants were arrested *in flagrante delicto* when they peddled the women to the confidential asset who was accompanied by undercover police.⁴⁴ (citations omitted; emphasis supplied)

Failure by the accused to raise the issue of the illegality of the arrest before arraignment shall be deemed a waiver thereof.⁴⁵ Nowhere in the Motion to Quash did Rebuta or Delgado raise such an issue. They are now barred from raising the same on appeal.

⁴² Id.

⁴³ G.R. No. 234013, June 16, 2021.

⁴⁴ Id. (Citations omitted; emphasis supplied.)

⁴⁵ *Vaporoso and Tulilik v. People*, G.R. No. 238659, June 3, 2019.

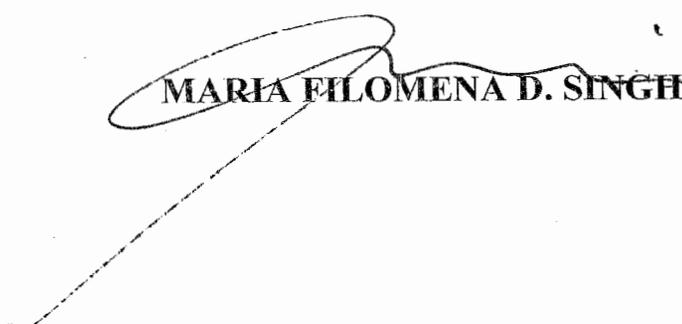


The OSG is also correct that Rebuta's absence at Apple Bar during the raid did not render unlawful her subsequent arrest.⁴⁶ Section 26-A of R.A. No. 9208, as amended, clearly identifies trafficking in persons as a continuing offense.⁴⁷ As recounted by the CA, on the day of the raid, two operatives of the National Bureau of Investigation (NBI) went to Apple Bar "to confirm if indeed the minor girls were still" there.⁴⁸ It is noteworthy that Apple Bar has two branches, and the NBI operatives only raided the Dalisay-Gante branch, where the minor private complainants were discovered and confirmed to be working.⁴⁹ As such, her continued hiring of the minors constituted a continuing violation of R.A. No. 9208 and the raid on Apple Bar falls under the *in flagrante delicto* exception.

Conclusion

In sum, it is my studied position that the Decision, dated September 26, 2018, of the Court of Appeals in CA-G.R. SP No. 07226 is correct and should be affirmed. There exists no substantial, special, or cogent reason to warrant the Court's exercise of its discretionary appellate jurisdiction.

As a final note. These involve very serious charges for what is referred to as the modern day form of the evil of slavery, human trafficking, and not just simple but qualified human trafficking with not one (1), not two (2), but five (5) minors as victims. Human trafficking is an acknowledged crime against humanity that preys on the poverty-stricken members of our society. It thrives on subjugation and abuse, and is perpetuated through a financial stranglehold. Here, the accused Rebuta is the best exemplification of how this economic bondage is actualized at the expense of human lives, resulting to the destruction of Filipino families. The facts and evidence stand clearly bright in support of a conviction. The law is equally stark. The acquittal blatantly ignored both the evidence and the law. The Court should not allow this injustice to add to the violations committed against the minor victims in this case. Otherwise, it fails in its duty to uphold the law and to render justice.


MARIA FILOMENA D. SINGH

⁴⁶ *Rollo*, pp. 271-272.

⁴⁷ *Id.*

⁴⁸ *Id.* at 32.

⁴⁹ *Id.*