


Republic of the Philippines
Department of Justice
National Prosecution Service
City Prosecution Office
Olongapo City


Complainant,

-versus-

I.S. No. **05-N-1999**


For: **Rape**

**L. Cpl. Daniel J. Smith, L.
Cpl. Keith Silkwood, L. Cpl.
Dominic Duplantis, L. Cpl.
Albert Lara, Cpl. Corey
Burriss and S/Sgt. Chad
Carpentier,**

Respondents.

✓-----x

COUNTER-AFFIDAVIT


I, L. CPL. DOMINIC DUPLANTIS, 20 years old, an American, with postal address c/o the Embassy of the United States of America, Roxas Boulevard, Manila, hereby depose and say that:

1. I am a member of the United States Marine Corps which participated in the recent RP-US joint military exercises at the Subic Bay Freeport Zone in Olongapo City.

2. I did not rape or molest the Complainant [REDACTED] [REDACTED] (hereinafter referred to as the Complainant). Neither did I witness the said Complainant being raped or molested at any time.

3. There is no truth to the charges being leveled at me. The statements of the Complainant and her witnesses are full of lies and half-truths obviously meant to prop up and strengthen the fabricated charges, as will be shown hereunder:

a. On 01 November 2005, I was in the company of L.Cpl. Daniel Smith (hereinafter referred to as Smith) and L.Cpl. Keith Silkwood (hereinafter referred to as Silkwood) when we went to Dewey's Bar. Upon arriving thereat, we met several other Marines. We joined them in a separate room where we sang Karaoke and danced with some local Filipino girls.

b. I recall Smith, Silkwood, Cpl. Corey Burris (hereinafter referred to as Burris) and L. Cpl. Albert Lara (hereinafter referred to as Lara) and several others from the ship. I was not drunk though I did have about 4 beers.

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c. I recall that Smith, Silkwood, together with two (2) or (3) people and myself took a taxi to Neptune Club, a bar and dance club at around 10:00 p.m.

d. We danced and stayed at Neptune Club until 11:30 p.m when Staff Sergeant Chad Carpentier (hereinafter referred to as S/Sgt. Carpentier) arrived and began rounding us up in order to make curfew.

e. Once S/Sgt. Carpentier got us together, we went to the van which would take us back to the ship.

f. When I got in the van, I saw Smith in the back seat with a Filipino girl, whom I later found out to be the Complainant. Silkwood sat in the middle seat behind the driver, and S/Sgt. Carpentier in the front seat. I sat in the middle seat beside Silkwood.

g. When I got in the van, Smith and the Complainant were kissing, giggling and fooling around. I have never seen the Complainant before and she appeared alert, talkative, and not distressed.



h. Once in the van, we departed Neptune Club. During the ride, I heard background noises coming from the rear of the van like moaning, kissing, and conversations between Smith and the Complainant. The conversations were of normal tone and they were not arguing. A few minutes later, we saw Burris and Lara walking near Yellow Cab Pizza. We stopped and they approached the van.

i. I turned back to Burris and Lara, then Lara and I began laughing and clowning around.

j. Burris and Lara decided to walk back to the ship, which was within walking distance. We closed the van door and drove off to the drop-off point for the ship.

k. After we pulled off, I heard someone say "Hey, hurry up" because we were very close to the drop-off point.

l. Once we got to the drop-off point, I got out of the van and proceeded to the gate. I was the first one out of the van so I did not see Smith or the

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Complainant get out of the van. Neither did I notice the van leave.

m. Silkwood and Smith eventually caught up with me and we headed toward the ship to sign in.

n. At no time while I was in the van did I hear any disturbance, arguing or complaining coming from Smith or the Complainant, nor did I hear any cheering from anyone in the van.

4. From the above narration and from the allegations in the complaint itself, it is clear that there was no "gang rape" committed here.

5. In the affidavit of the Complainant herself, the following is provided, to wit:

"3. T: [REDACTED] sa nong dahilan at ikaw ngayon ay narito sa tanggapan ng IIO, SBMA at nagbigay ng salaysay? [REDACTED] why are you here at the Intelligence and Investigation Office of the SBMA giving your statement?)



S: Para magreklamo po tungkol sa Sexual Assault/Abuse na ginawa sa akin kagabi nang isang U.S. servicemember. (To complain about the Sexual Assault/Abuse committed upon me last night by one U.S. servicemember)" [Translation, ours]

6. Thus, by the narration of the Complainant herself, she claims to have been assaulted by only "one (1)" person, whose identity she has even failed to ascertain.

7. This may be gathered from the affidavit of the Complainant, which provides:

"21. T: Maari mo ba itong i-describe at sa paanong paraan mo siya nakilala? (Can you describe and tell (us) how you met this person?)

S: May isa pong servicemember na nakipagsayaw sa akin. "Gerald" o "Genard" po ang pangalan niyang naibigay sa akin. Matangkad po siya, maputi, blonde hair, katamtaman ang laki ng katawan, matangos ang ilong, pagitan ng 20-23 ang taong gulang." (A servicemember danced with me.



The name he gave was Gerald or Genard. He was tall, white, had blonde hair, was of medium built, had a straight nose and was between the ages of 20 to 23)." [Translation, ours].

8. Notably, nowhere in the statements of the Complainant and her witnesses can it be inferred that the Complainant was forced to ride the van.

9. To conclude or even speculate that the Complainant was "gang raped" would require one to stretch his imagination beyond the realm of reason and fairness.

10. Significantly, the allegation that the Complainant was carried like a pig and left on the pavement, is a blatant lie.

11. Such act would have been the height of imprudence, considering that there were many people, marines and civilians, at the drop-off point where we all alighted from the van.

12. If indeed we had committed a crime, the presence of so many people who could have identified us would have deterred us from disposing of the object thereof, in full view of

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the public and in such a way as to attract unwanted attention. In other words, if we had raped the Complainant, we would not have dropped her off in the presence of so many persons or would be witnesses.

13. Also, the very same statement that the Complainant was "carried like a pig" (*binuhat na parang baboy*) found on two (2) different affidavits given by two (2) different persons, runs contrary to the normal course of things for it is unlikely that two (2) unrelated persons viewing the event/act from different perspectives, would describe said event/act in the same exact way.

14. Furthermore, in the affidavit of Ma. Fe Castro, one of Complainant's witnesses, she claims, "*Napansin ko po na may bumaba na isang Negro mula sa van. Sumunod po ang tatlong US service member na Caucasian, at may buhat buhat na isang babae, na tila o parang lango sa alcohol (o anupaman) xxx*" (I noticed that "a Negro alighted from the van. After him, three Caucasian US service members followed carrying a woman who appeared to be under the influence of alcohol or some other substance.) [Translation, ours]

15. Whereas, in the affidavit of Timoteo Soriano, Jr., he claims, "*xxx at hawak nitong sina Smith, Borris na isang Negro*



at iyong dalawa pa nilang kasama na hindi ko alam ang pangalan ay binuhat itong si [REDACTED] na parang baboy xxx" (Smith, Burris, and two other men whose names, I do not know carried the Complainant like a pig.) [Translation, ours].

16. Thus, in the affidavit of Castro "three (3) Caucasian service members" carried the Complainant and left her on the pavement, whereas in Soriano's affidavit, there were four (4) people who carried the Complainant - Burris, Smith and two (2) white men.

17. To confuse matters, some more, Fe Castro in her supplemental affidavit submitted on November 23, 2005, claims, "*Hinawakan ng lalaking PUTI na naka "blue-colored shirt" ang paa ng babae at may isa pang lalaki na PUTI rin mula sa van ang humawak sa may braso nito, naka "light-colored shirt" na puti, payat at halos hanggang balikang lang ng naka "blue-colored shirt" x x x Ibinaba ng dalawang puti ang babae sa parking lot malapit sa aming nakapark na sasakyan*". (One white male wearing a blue colored shirt held the woman on her feet and another white male also from the van held her somewhere on her arm, he was wearing a light colored shirt and stood only at shoulder height of the white male wearing a blue colored shirt.) [Translation, ours].



18. Now, contrary to her first statement, Fe Castro claims that the Complainant was carried not anymore by three (3), but by two (2) white males.

19. These serious and irreconcilable inconsistencies only prove that these witnesses are lying. However, notwithstanding the inconsistencies, it may likewise be inferred from the said statements that I did not participate in the alleged *carrying of the Complainant like a pig*. For in Castro's second statement, it is clear that three (3) white males allegedly carried the Complainant, whereas in Soriano's statement, the persons who purportedly carried the Complainant like a pig were identified as Burris, Smith and two (2) other white males, the names of whom he did not know. I could not possibly be identified as one of the white males, for I am an African American.

20. From the foregoing, it is crystal clear that no rape, whether individually or in conspiracy with others, was ever committed.

21. There is neither legal nor factual basis for the criminal complaint for rape filed by the Complainant against

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us, particularly with reference to myself. Thus, the said complaint should be dismissed.

25 November 2005, Manila.


L. CPL. DOMINIC DUPLANTIS

SUBSCRIBED AND SWORN TO before me, this
25 NOV 2005 at CITY OF MANILA.

I hereby certify that I have examined the affiant and I am satisfied that he executed the foregoing voluntarily and freely and they fully understood its contents.


RODRIGO T. EGUIA
ASSISTANT CITY PROSECUTOR
Administering Officer