



REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE

RDTL

DILI DISTRICT COURT

THE SPECIAL PANELS FOR SERIOUS CRIMES

Before:

Judge Phillip Rapoza, Presiding
Judge Maria Natercia Gusmao Pereira
Judge Siegfried Blunk

CASE NO. 10/2001

Judgement: 18/03/04

THE PUBLIC PROSECUTOR

-AGAINST-

LINO DE CARVALHO

JUDGMENT

For the Deputy General Prosecutor:

Mr. Marek Michon

For the Defendant:

Mr. Ramavarma R. Thamburan
Ms. Chithra Subramoni

I. INTRODUCTION

1. The defendant in the present case is identified as follows:
 - a. Name: Lino de Carvalho
 - b. Date of birth: 1 January 1964
 - c. Location of birth: Subvillage of Lotan, Village of Batugade, Subdistrict of Balibo, District of Bobonaro
 - d. Current residence: Subvillage of Lotan, Village of Batugade, Subdistrict of Balibo, District of Bobonaro
 - e. Status: Married, three children
 - f. Occupation: Farmer
2. The trial of the defendant before the present Special Panel began on 16 February 2004 and concluded on 17 February 2004.
3. The Special Panel rendered the following final judgment on 17 March 2004.

II. THE SPECIAL PANELS FOR SERIOUS CRIMES

4. The Special Panels for Serious Crimes were established within the Dili District Court, pursuant to Section (hereinafter "Sec.") 9 of UNTAET Regulation (hereinafter "U.R.") No. 2000/11 (as amended by U.R. No. 2001/25) in order to exercise exclusive jurisdiction with respect to the following serious criminal offences: genocide, war crimes, crimes against humanity, murder, sexual offences and torture, as specified in Secs. 4 through 9 of U. R. No. 2000/15.

III. PROCEDURAL BACKGROUND

5. On 28 October 2000, the defendant was detained crossing the border into East Timor. He was held in custody pending the issuance of a warrant for his arrest for a variety of offenses involving pro-autonomy militia attacks on persons who were believed to support independence. These included (1) the abduction and beating of Aquino Lopes and Marito Soares Pinto, (2) the abduction and beating of Francisco dos Santos, Eduardo da Cruz, Americo dos Santos and Herminio Maia, and (3) the abduction and murder of a person named Sabino (last name unknown).
6. On 31 October 2000, the defendant was transported to Becora Prison in Dili where he was held until his pre-trial release on 28 October 2002.

7. On 25 April 2001, the Public Prosecutor presented an indictment to the Special Panels for Serious Crimes charging Ruben Monteiro Goncalves (alias "Alu"), Ruben Pierre Tavares, and Lino de Carvalho with three counts of murder and three counts of maltreatment. The defendant was charged in Count 3 with the murder of Sabino dos Santos and in Counts 4, 5 and 6 with the maltreatment of Aquino Lopes, Herminio Maia and Eduardo da Cruz, respectively.
8. On 18 May 2001, the Public Prosecutor filed two new indictments. The first, "Amended Indictment 1," charged the defendant in three counts with crimes against humanity: Counts 1 and 2 alleged that he committed inhumane acts against Aquino Lopes and Marito Soares Pinto (Count 1) and Eduardo da Cruz, Francisco dos Santos, Americo dos Santos and Herminio Maia (Count 2). Count 3 alleged the murder of Sabino Pereira. The second indictment, "Amended Indictment 1A," charged the remaining two defendants, Goncalves and Tavares, with four counts of crimes against humanity: Counts 1, 2, and 3 alleged that they committed inhumane acts against Aquino Lopes, Marito Soares Pinto and Longinuis Tavares Bere, respectively. Count 4 alleged the murder of Sabino Pereira.
9. On 8 June 2001 the defendant's attorney filed a motion requesting that the Special Panel reject the amended indictment against Lino de Carvalho.
10. On 20 July 2001, the Special Panel denied the defendant's motion and gave leave to the Public Prosecutor to amend the original indictment and to file the amended indictment against the defendant.
11. On 30 July 2001, the defendant's attorney filed a written request to appeal the denial of the motion to refuse the amended indictment.
12. On 2 August 2001, the President of the Court of Appeals allowed the defendant's request for an interlocutory appeal.
13. On 20 August 2001, the defendant's attorney filed a written interlocutory appeal with the Court of Appeal.
14. On 19 October 2001, the Court of Appeal heard oral arguments by the parties with respect to the interlocutory appeal.
15. On 29 October 2001, the Court of Appeal denied the defendant's request for relief and dismissed the interlocutory appeal and upheld the Special Panel's decision granting the Prosecutor leave to file the amended indictment against the defendant. The case file was then returned to the Special Panel for trial.

16. On 19 November 2001, the Special Panel began a preliminary hearing with respect to the amended indictment against the defendant but suspended the proceedings until 30 November 2001 in order to provide the defendant's attorney more time to prepare.
17. On 30 November 2001 the preliminary hearing was concluded and the case was scheduled for trial on 10 February 2002.
18. On 7 February 2001 the case was rescheduled for trial to 19 February 2002. On 19 February the trial began, and then continued, on 12, 13 and 14 of March 2002. The trial was then continued to 16 April 2002 on which date one of the judges was sick and unavailable. On 16 April the trial was continued to 6 May 2002. On 6 May the trial was further continued to 4 June 2002. On 4 June the trial was postponed to 4 July 2002.
19. On 5 June 2002 the defendant's attorney filed a request for the defendant's release although the motion was not heard.
20. On 4 July 2002 the trial was postponed to 9 September 2002. On 9 September the trial was postponed to 1 October 2002.
21. On 25 September 2002, the defendant's attorney filed a new application for release. On 1 October the trial was postponed to 4 November 2002. On 25 October 2002 the Special Panel conducted a review hearing and a hearing on the defendant's application for release, to which the Public Prosecutor filed a written reply.
22. On 28 October 2002 the Special Panel ordered the release of the defendant from prison and ordered substitute restrictive measures as an alternative to detention. As a result, the defendant was released from custody on that date. On 29 October 2002 the trial was rescheduled to 27 January 2003. On 24 January the trial was rescheduled to 24 March 2003. On 24 March the case was postponed to 2 June 2003 for resumption of the trial. On 30 May 2003 the trial was continued *sine die* as one of the judges on the case had concluded his term on the Special Panels and left East Timor. On 11 July 2003 the matter was rescheduled to 13 October 2003. On 1 October the case was rescheduled to 28 October 2003. On 26 October 2003 the case was rescheduled to 5 December 2003. On 20 November the case was rescheduled to 16, 17 and 18 February 2004 for trial before the present panel.
23. On 16 February 2004 the defendant came before the court in public session and pleaded guilty to Count 3 of the indictment charging him with a crime against humanity for the murder of Sabino Pereira in September 1999. On 17 February 2004 the Special Panel delivered its Disposition Relating to the Conviction of the Defendant Lino de Carvalho in public

session. The Public Prosecutor withdrew the charges contained in Counts 1 and 2 of the indictment and the parties addressed the Special Panel as to sentencing. Also on 17 February 2004, the Special Panel entered its Disposition of the Decision in public session, sentencing the defendant to seven (7) years in prison on Count 3 and deducting from his sentence the time spent in custody awaiting disposition of the matter, a period of two (2) years and one (1) day.

24. On 25 February 2004 the defendant's attorney filed a written submission with the court on the issue of imposition of court costs.
25. On 18 March 2004 the Special Panel delivered its final written decision at a public session of the court.

IV. THE GUILTY PLEA

26. As stated earlier, the accused pleaded guilty to Count 3 of the indictment charging him with a crime against humanity for the murder of Sabino Pereira. In accordance with Sec. 29A.1 of U.R. No. 2000/30, as amended by U.R. No. 2001/25, the Special Panel sought to verify the validity of guilty plea. To this end, the Panel advised the accused:
 - (a) That he had the right to remain silent. He was also advised that he had the right to speak and to make a statement about the charges against him;
 - (b) That if he remained silent, his silence would not be held against him;
 - (c) That if he chose to make a statement that included an admission of guilt, and if the court accepted his admission and determined that he was guilty, then the court could convict him on the charge based on his admission and all the evidence presented without further trial;
 - (d) That an admission of guilt by the defendant would be seriously considered by the Court at the time of sentencing with respect to his remorse, repentance and acceptance of responsibility for the crime charged.

27. The Special Panel also asked the defendant:

- (a) If his admission of guilt was made voluntarily and after consulting with his lawyers;
- (b) If he had had sufficient opportunity to discuss the case with his lawyers and if he was satisfied with the legal advice and assistance that his lawyers had provided him;
- (c) If he understood the nature and consequences of his admission of guilt;
- (d) If he understood that by admitting his guilt he was giving up any opportunity to present a defense or to have witnesses testify on his behalf;
- (e) If he understood that any discussions between his lawyers and the Prosecutor about the case, including the penalty to be imposed, did not bind the court; and
- (f) If he was confused in any way by the proceeding and if he had any questions that he wanted to ask either his lawyers or the court.

28. The defendant replied in the affirmative to all these questions except the last, to which he responded that he was not confused by the proceedings and he had no questions that he wanted to ask either his lawyers or the court.

29. On 16 February 2004 the defendant pleaded guilty to the murder of Sabino Pereira in September 1999. He also admitted to all the essential facts of the case as contained in the indictment, the witness statements and other evidence submitted to the Court by the Prosecutor.

30. The Special Panel accepted the defendant's plea of guilty and found that all the essential facts required to prove the crime to which the plea related were established as required by Sec. 29A.2 of U.R. No. 2000/30, as amended.

31. The accused Lino de Carvalho was then convicted of a crime against humanity for the murder of Sabino Pereira as part of a widespread and systematic attack against a civilian population with knowledge of the attack, pursuant to Sections 14.3(a) and 5.1(a) of U. R. No. 2000/30, as amended.

V. APPLICABLE LAW

32. As established in U.R. No.1999/1, U.R. No. 2000/11 (as amended by U.R. No. 2001/25), and U.R. No. 2000/15, the Special Panels for Serious Crimes shall apply the following:

- (a) UNTAET Regulations and directives;
- (b) The laws applied in East Timor prior to 25 October 1999 until replaced by UNTAET Regulations or subsequent legislation, insofar as they do not conflict with internationally recognized human rights standards, the fulfillment of the mandate given to UNTAET under the United Nations Security Council Resolution 1272 (1999), or UNTAET regulations or directives. Law 10/2003 of the National Parliament clarified that the law applied prior to 25 October 1999 was Indonesian legislation;
- (c) Applicable treaties and recognized principles and norms of international law, including the established principles of international law of armed conflict.

VI. FACTUAL CONTENTIONS OF THE PUBLIC PROSECUTOR AND THE DEFENSE

The facts of the case, as alleged by the Public Prosecutor in the indictment, are summarized as follows:

- 33. In 1999 more than twenty-four pro-autonomy militia groups operated in East Timor. These groups participated in a widespread and systematic attack on the population and acted with impunity.
- 34. The militia groups operated in close cooperation with the Indonesian military forces (TNI) and carried out a widespread and systematic attack against the civilian population throughout East Timor, including the District of Bobonaro.
- 35. During 1999 numerous pro-autonomy militia groups operated in the District of Bobonaro, including the Saka Loromonu militia in the subdistrict of Balibo.

36. From April through September 1999, the defendant Lino de Carvalho was in charge of the Saka Loromu militia operating in the subvillage of Lotan, village of Batugade, subdistrict of Balibo in the District of Bobonaro.
37. From approximately April through September 1999, members of the Saka Loromonu militia worked closely with members of the TNI and other militia groups and carried out a widespread and systematic attack in the District of Bobonaro against members of the civilian population who were perceived to be pro-independence or to support Falintil.
38. As part of that widespread and systematic attack, in September 1999, members of the Saka Loromu militia abducted Sabino Pereira, a supporter of independence, and delivered him to the militia headquarters in Batugade which was located in the home of Ruben Pereira Tavares, the Deputy Commander of the militia in Batugade. Pereira was beaten in the home of Tavares by members of the militia in the presence of both Tavares and Ruben Monteiro Goncalves, also known as "Alu," the Commander of the militia in Batugade.
39. After the beating of Pereira, Goncalves ordered several militia members, including the defendant, to kill Pereira.
40. Those militia members, including the defendant, took Pereira to Palaka Beach where they stabbed the victim numerous times. The defendant also stabbed Pereira, who then died.
41. At trial, the defendant admitted to the allegations contained in the indictment with respect to Count 3 which charges him with a crime against humanity for the murder of Sabino Pereira. He further admitted to all the essential facts of the case as contained in the witness statements and other evidence submitted to the Court by the Prosecutor.

VII. FINDINGS OF THE COURT

A. FACTUAL FINDINGS

42. On the basis of all the evidence, the Special Panel considers the following as proved:
43. In 1999 more than twenty-four militia groups operated in East Timor. These groups participated in a widespread and systematic attack on the population

and acted with impunity.

44. The militia groups operated in close cooperation with the Indonesian military forces (TNI) and carried out a widespread and systematic attack against the civilian population throughout East Timor, including the District of Bobonaro.
45. During 1999 numerous pro-autonomy militia groups operated in the District of Bobonaro, including the Saka Loromonu militia in the subdistrict of Balibo.
46. From April through September 1999, the defendant Lino de Carvalho was in charge of the Saka Loromonu militia operating in the subvillage of Lotan, village of Batugade, subdistrict of Balibo in the District of Bobonaro.
47. From approximately April through September 1999, members of the Saka Loromonu militia worked closely with members of the TNI and other militia groups and carried out a widespread and systematic attack in the District of Bobonaro against members of the civilian population who were perceived to be pro-independence or to support Falintil.
48. As part of that widespread and systematic attack, in September 1999, six members of the Saka Loromonu militia abducted Sabino Pereira from Kolam Susu in West Timor, where Pereira was staying with relatives.
49. Sabino Pereira was a young man who had been raised by Mattheus Metta Pereira, his uncle, and Mathild Pereira, his aunt. He lived with them in Maliana, located in the District of Bobanaro. He worked as a farmhand and he operated a tractor with which he plowed fields belonging to his employer.
50. Pereira worked for Ruben Monteiro Goncalves, also known as "Alu." Goncalves was the Commander of the militia in Batugade.
51. Pereira was a supporter of independence for East Timor and was a member of a clandestine youth group that conducted pro-independence activities.
52. The militia members who abducted Pereira in West Timor took him by truck to militia headquarters in Batugade, which was located in the home of Ruben Pereira Tavares, the Deputy Commander of the militia in Batugade. Tavares was present, as was Goncalves, the Commander of the Batugade militia and Pereira's employer.
53. While in the home of Tavares, Pereira was severely beaten by members of the militia in the presence of both Tavares and Goncalves. At a point, one of the militia members struck him across the forehead with a machete, producing a cut in his scalp of approximately 15 cm. Pereira bled profusely.

54. During the beating Pereira admitted that he was a clandestine pro-independence activist. The militia members also found a band around his waist that identified him as a pro-independence activist.
55. After the beating had stopped, militia members tied Pereira's hands behind his back with a rope. Goncalves then ordered several of the militia members, including the defendant, to kill Pereira.
56. A number of militia members, including the defendant, and a Timorese member of the TNI, took Pereira to Palaka Beach in a truck, arriving at approximately 11:00 PM. They lifted Pereira out of the truck and one of the militia members ordered the others to kill Pereira.
57. As Pereira was walking to the beach he was stabbed in the back by two of the militia members and he fell to the ground. Another militia member rolled him over and stabbed him in the chest while a fourth militia member stabbed him on the left side of the chest. Another stabbed him in the stomach.
58. The defendant had lingered by the truck and was told that if he did not also stab Pereira it would prove that he was not pro-autonomy. The defendant went over to Pereira, who was still alive although lying on the ground. The defendant stabbed him in the back and Pereira died.
59. At a point, one of the militia members, although not the defendant, severed Pereira's head from his body and placed it in a sack. The body was left on the beach and the head was brought back to Tavares's house to prove that the execution had occurred.
60. Later in the evening, militia members retrieved Pereira's body and dumped it on the side of the road in nearby Saniri village as a warning to the inhabitants to support the pro-autonomy cause.

B. LEGAL FINDINGS

61. Individual criminal responsibility

Section 14.3 of U.R. No. 2000/15 sets out the basis for an individual's criminal responsibility. It reads as follows:

14.3 In accordance with the present regulation, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the panels if that person:

(a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

Consequently, pursuant to Sec. 14.3(a) of U.R. No. 2000/15, a person can be individually responsible for a crime whether he committed the crime as an individual or jointly with another. Here the defendant was one of several people who joined together to kill Sabino Pereira, and the defendant was the last assailant to stab the victim before he died. Even though the fatal wound or wounds are not identified in the autopsy report, the defendant testified in Court that he stabbed the victim and then the victim died. The Court is satisfied that the defendant's individual criminal responsibility stems from his act of stabbing Pereira in the back, causing the victim's death.

62. Crime against humanity - Murder

Section 5.1 of U.R. No. 2000/15 sets out a number of criminal offenses which can be qualified as crimes against humanity if they were "committed as part of a widespread or systematic attack and directed against any civilian population, with knowledge of the attack." The provision thus describes the necessary elements that all crimes against humanity have in common, sometimes referred to as the *chapeau* requirements.

To qualify as a crime against humanity, an offense designated in Sec. 5.1 of U.R. No. 2000/15 must be committed in the following context:

1. There must be an "attack."
2. The attack must be "widespread or systematic."
3. The attack must be "directed against any civilian population."
4. The designated crime must be committed "as part of" such an attack.
5. The perpetrator of a designated crime must have "knowledge of the attack."

From April through September 1999, the defendant Lino de Carvalho was in charge of the Saka Loromonu militia operating in the subvillage of Lotan, village of Batugade, subdistrict of Balibo in the District of Bobonaro. The Saka Loromonu was a pro-autonomy militia group that operated in closed cooperation with the TNI. It carried out a widespread and systematic attack against the civilian population, especially in the District of Bobonaro. The abduction and murder of Sabino Pereira was part of such an attack. As a member and subvillage leader of the Saka Loromonu the defendant had knowledge of the widespread and systematic nature of the attack by the militia. Accordingly, the *chapeau* requirements of Sec. 5.1 of U.R. No. 2000/15 have been satisfied.

Section 5.1 (a) of U.R. No. 2000/15 provides that murder can be qualified as a crime against humanity. However, the crime of murder is itself not defined in Sec 5.1. The Special Panel addressed the definition of murder as a crime against humanity in the case of *The Public Prosecutor v. Joni Marques*, Case No. 09/2000, often referred to as the Los Palos case. In that case the Special Panel set out the following definition of the offence:

643. *The Panel, having assessed the shortcomings in the definition of murder as crime against the humanity in Sec. 5.1 (a) of UR-2000/15 is persuaded of the benefit of the guidance provided by the Preparatory Committee for the Rome Statute of the International Court and the precedents from the International Tribunal, with the remarks foreseen in Sect. 18 of UR-2000/15.*

644. *The Panel accepts the opinion of the parties in relation to the general mens rea provided by Sect. 18 of UR-2000/15. For this reason, an accused charged with murder as a crime against humanity shall have his or her mens rea deemed by this Panel insofar as he or she has shown intent to cause the death of the victim or be aware that it will occur in the ordinary course of events. Accordingly, the Panel lists the four requisite elements of murder as a crime against humanity:*

645. *The victim is dead.*

646. *The death of the victim is the result of the perpetrator's act.*

647. *The act must be a substantial cause of the death of the victim.*

648. *At the time of the killing the accused must have meant to cause the death of the victim or was aware that it would occur in the ordinary course of events.*

649. *In summary, in a murder, as a crime against humanity, there is no requirement of premeditation as the mental element for murder as a crime pursuant to Sect. 340 of Penal Code Indonesia (KUHP). The mens rea is restricted to the deliberate intent to cause the death of the victim or that such result would occur in the ordinary course of events.*

This definition of murder as a crime against humanity described in *The Public Prosecutor v. Joni Marques* is adopted in this case as well. Although there is some redundancy between paragraphs 646 and 647 of the decision, each deals with a different aspect of the same issue. Paragraph 646 asserts that there must be a causal relationship between the perpetrator's act and the victim's death. Paragraph 647, on the other hand, states that the perpetrator's act must be a "substantial" cause of the victim's death. We take this to mean that the perpetrator's act may not be too remote as a cause, but must be one that proximately caused the victim's demise.

Thus, the requirements for murder as a crime against humanity have been satisfied in the present case, as:

- a. The victim is dead;
- b. The perpetrator's act was a substantial cause of the victim's death; and

- c. The perpetrator intended to cause the death of the victim or reasonably knew that his act was likely to result in the victim's death.

VIII. VERDICT

63. For the aforementioned reasons, and considering the defendant's admission of guilt for the murder of Sabino Pereira in September 1999, as well as his admission to all the essential facts of the case as contained in the indictment, the witness statements and other evidence submitted to the Court by the Public Prosecutor pursuant to Sec. 29A of U.R. No. 2000/30 (as amended by U. R. No. 2001/25) the Special Panel accepted the defendant's plea of guilty on 16 February 2004 and found that all the essential facts required to prove the crime to which the plea related were established as required by Sec. 29A.2 of the aforementioned regulation.
64. Accordingly, the accused Lino de Carvalho stands convicted of a crime against humanity for the murder of Sabino Pereira as part of a widespread and systematic attack against a civilian population with knowledge of the attack, pursuant to Sections 14.3(a) and 5.1(a) of U. R. No. 2000/15
65. Pursuant to this finding of guilty, the Court will proceed to sentence the defendant and impose an appropriate penalty.

IX. SENTENCING

A. Mitigating circumstances

66. The defendant voluntarily pleaded guilty without equivocating. He did so understanding the nature of the charges and the possible consequences of his plea.
67. The defendant's admission of guilt demonstrated his remorse, repentance and acceptance of responsibility for the crime charged.
68. The defendant's plea spared the witnesses and those affected by his actions the need to testify.
69. The defendant's plea included a full disclosure of the facts surrounding the crime and assisted in the administration of justice.
70. The defendant was not the person who proposed that the victim be killed. The murder of the victim was ordered by the commander of the militia. At the scene of the murder the defendant remained behind near the car as other

militia members went to the beach to kill Sabino Pereira. After several had already stabbed the victim, the defendant was told that he was not pro-autonomy if he did not also stab Pereira. The defendant then did so, after which Pereira died. The defendant's crime thus occurred in a coercive environment that constitutes a mitigating circumstance.

71. The defendant addressed the Special Panel and explained the circumstances in which he committed the offense and expressed his sorrow for what had occurred.

B. Aggravating circumstances

72. The victim had been tied, beaten, repeatedly stabbed and was lying on the ground completely defenseless when the defendant stabbed him.

C. Sentencing policy

73. According to Sec. 10.1 (a) of U.R. No. 2000/15, in determining the terms of imprisonment for crimes charged under Sec. 5 of that regulation, the Panel shall be guided by the sentencing practices of the courts of East Timor and also of international tribunals. Moreover, Sec. 10.2 of the aforementioned regulation provides that the Panel shall take into account "such factors as the gravity of the offence and the individual circumstances of the convicted person."

74. The penalty imposed on a defendant found guilty by the Special Panel serves several purposes.

First, the penalty is a form of just retribution against the defendant, on whom an appropriate punishment must be imposed for his crime.

Second, the penalty is to serve as a form of deterrence to dissuade others who may be tempted in the future to perpetrate such a crime by showing them that serious violations of law and human rights shall not be tolerated and shall be punished appropriately.

Third, the objective of prosecuting and punishing the perpetrators of the serious crimes committed in East Timor in 1999 is to promote national reconciliation and the restoration of peace.

75. The Panel considered all the pertinent mitigating and aggravating circumstances as well as the sentencing policy applied in the courts of East Timor and international tribunals as well as the purposes of a sentence outlined above.

X. DISPOSITION

A. Disposition of the charges

Having found the defendant Lino de Carvalho guilty on Count Three of the indictment, and Count One and Count Two having been withdrawn by the Public Prosecutor; and

Having considered the pertinent mitigating and aggravating circumstances, the aforementioned sentencing policy and the provisions of U. R. No. 2000/30 (as amended and U. R. No. 2000/15),

The Special Panel for Serious Crimes finds and imposes sentence as follows:

With respect to the defendant Lino de Carvalho:

- A. GUILTY on the charge of crime against humanity for the murder of Sabino Pereira, committed in September 1999, in the village of Batugade, Subdistrict of Balibo, District of Bobonaro, committed as part of a widespread and systematic attack against a civilian population with knowledge of the attack, pursuant to Secs 14.3 (a) and 5.1 (a) of U.R. Regulation No. 2000/15, and
- B. SENTENCES, in punishment for that crime, the defendant Lino de Carvalho to an imprisonment of seven (7) years, and
- C. ORDERS the defendant Lino de Carvalho to pay two-thirds of the costs of the criminal procedure.

B. Credit for time served

According to Sec. 10.3 of U. R. No. 2000/15, Sec. 42.5 of U. R. No. 2000/30, as amended, and Article 33 of the Indonesian Penal Code, the Special Panel deducts the time spent in detention by Lino de Carvalho, due to an order of an East Timorese Court. The defendant Lino de Carvalho was arrested and detained between 28 October 2000 and 28 October 2002 and was thus in detention for two (2) years and one (1) day. Accordingly, that period of previous detention shall be deducted from the sentence imposed by this Court, together with such additional time that he may serve pending the determination of any final appeal.

C. Enforcement of the sentence

Pursuant to Secs. 42.1 and 42.5 of U.R. No. 2000/30, as amended, the defendant shall be immediately imprisoned and shall spend the duration of the sentence in East Timor.

The sentence shall be executed immediately, with this Disposition to serve as a Warrant of Arrest.

This decision is provided in one copy to the defendant and his legal representative, the Public Prosecutor and to the prison manager.

The defendant has the right to file a notice of appeal within ten (10) days from the date of this judgment and a written statement of appeal within the following thirty (30) days pursuant to Sec. 40.2 and 40.3 of U.R. Regulation No. 2000/30, as amended.

This judgment was rendered and delivered on 1st March 2004 by the Special Panel for Serious Crimes sitting at the Court of Appeals building in Caicoli, Dili, by:

Judge Phillip Rapoza, Presiding

Judge Maria Natércia Pereira

Judge Siegfried Blunk



(Done in English, which is the authoritative text.)