

Bail, Waiver, and *Kumander Bilog*

Hans Leo J. Cacadac

36 *ATENEO L.J.* 132 (1992).

SUBJECT(S): CONSTITUTIONAL LAW

KEYWORD(S): RIGHT TO BAIL, WAIVER, BILL OF RIGHTS

As a general rule, a waiver is applicable to all rights and privileges to which a person is legally entitled. Questioning its application to so personal a right, the right to bail, had become necessary in light of the Supreme Court's decision in *People v. Donato*. On the one hand, since the right to bail is embodied in the Bill of Rights of the 1987 Constitution, it can be argued that it can be waived, as in the case of the rights against unreasonable searches and seizures, the right to be heard, the right to counsel, and the right to remain silent. On the other hand, since the substantive requirements of these rights are different, it may be difficult to generalize these rights and on that account, to regard them as waivable.

The factual aspects of *People v. Donato* leave much to be doubted with respect to the waiver of the right to bail. In fact, it can be gainsaid that Rodolfo Salas, a.k.a. *Kumander Bilog*, did not show unequivocal intent to waive his right to bail, which is the third requisite for a valid waiver. While the Supreme Court declares that there can be a valid waiver of the right to bail, there was a lack of an explanation why. Thus, there may be a need to reevaluate this pronouncement.