

HC 91,952

Use of Handcuffs by the Defendant in a Jury Trial

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

In-person

Rapporteur:

Justice Marco Aurélio

Decision Date:

August 7, 2008

Matter:


CASE SUMMARY

A writ of *Habeas Corpus* (HC) filed on behalf of an individual who was restrained by handcuffs throughout their jury trial. The argument is that the decision to keep the handcuffs on during the judgment was unjustified, as there was no indication that the defendant posed a danger to others or a flight risk. Moreover, the jury is comprised of laypersons, who make decisions based on their own findings. The image of the handcuffed defendant could influence the conviction, thus violating the principles of the presumption of innocence and human dignity.

LEGAL REASONING

1. The principle of human dignity, which is the foundation of the democratic State ruled by law (article 1, item III of the 1988 Federal Constitution), is violated when a defendant is kept in handcuffs absent the risk of danger or flight. In order to preserve the defendant's dignity, it is necessary to avoid any measures that could damage their image or humiliate them, since such measures are unconstitutional.
2. The use of handcuffs is an exceptional measure that must be justified by the related authority through the presentation of objective and specific reasons that demonstrate its necessity. The presence of a limited number of police officers on the premises does not provide sufficient justification for the measure.
3. The indiscriminate use of handcuffs has a negative impact on the judgment of the jurors who sit in the jury trial. The jurors are laypersons who make decisions based on their own findings, without the need to justify their vote. Therefore, presenting the defendant in handcuffs, without any concrete justification for this practice, creates a presumption of danger that may affect the outcome, compromising the principle of the presumption of innocence (article 5, item LVII of the 1988 Federal Constitution) and the balance between prosecution and defense.

DECISION OF THE COURT

The Federal Supreme Court granted a writ of *Habeas Corpus* to overturn the jury's decision and order that a new trial be held, this time without the use of handcuffs on the defendant, unless there is a duly justified reason for doing so.

ADDITIONAL NOTES

The decision reaffirmed the exceptional nature of the use of handcuffs and the need to preserve the dignity of the defendant, particularly in cases of jury trials, in order to avoid undue influence on the jurors' decision.

Binding Precedent 11

"Handcuffs may only be used in cases of resistance and a well-founded fear of flight or danger to the physical integrity of the prisoner or third parties. There should be a written justification for the exceptional nature of the situation, under penalty of disciplinary, civil, and criminal liability of the agent or authority and the nullity of the arrest or the procedural act to which it refers, without prejudice to the civil liability of the State."