

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL TENIZO, ACCUSED-APPELLANT.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

This is the case of AAA,[1] a young boy who was raped and assaulted at the tender age of six. Scarred for life, AAA was exposed to the shame and scandal of a rape trial as he was made to recall every sordid detail of how accused-appellant abused him.

Accused-appellant ARNEL TENIZO (ARNEL) was indicted[2] for rape by sexual assault, in Criminal Case No. 124853-H, quoted herein as follows:

“That, in or about and sometime in the month of February 2002, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, 15 years of age, a minor, did then and there willfully, unlawfully and feloniously commit acts of sexual assault upon the person of one AAA by then and there inserting his penis into the mouth and anal orifice of the victim, against his will and consent, the said crime having been attended by the qualifying circumstance of minority, the victim AAA, being a child below seven (7) years of age at the time of the commission of the crime, thereby raising the crime to Qualified Rape (2nd kind), which is aggravated by the circumstances of treachery, evident premeditation, abuse of superior strength and dwelling, to the damage and prejudice of the said victim.

CONTRARY TO LAW.”[3]

ARNEL was 15 years of age at the time of the commission of the crime. He was a minor in conflict with the law and this impelled the court a quo to conduct a case study on him. The Social Case Study Report[4] recommended that he be released under the care and custody of his biological parents.[5] Meanwhile, ARNEL entered a plea of not guilty[6] and trial on the merits ensued.

The prosecution endeavored to prove that AAA was barely six years of age at the time of the rape incident.[7] On that fateful day in March 2001, ARNEL called AAA and told him to suck his penis. AAA could not fight as ARNEL was older and stronger. AAA made an upward and downward movement on his mouth while holding and sucking ARNEL's organ. AAA only stopped when he tasted how salty the penis was. ARNEL then asked AAA to eat the “milk”, a whitish substance, that came out of the former's penis. Later, ARNEL removed AAA's shorts and inserted his penis into the child's anus.

ARNEL threatened to hurt AAA if he divulged what had transpired. ARNEL repeatedly assaulted AAA on various occasions; often gave the child P3.00 after satisfying his beastly lust on him. Thereafter, AAA finally found courage to reveal to his mother the ordeal he suffered in ARNEL's hands.

The Official Medico-Legal Report[8] revealed that AAA had perianal scar at 11, 12 and 1 o'clock positions.

The defense moved for the dismissal of the case on the ground of lack of jurisdiction. ARNEL argued that the place where the alleged rape transpired was in Makati City, not in Taguig.

Inevitably, the court a quo conducted an ocular inspection so as to resolve the issue of jurisdiction. The Report[9] submitted by the Clerk of Court disclosed that the supposed acts of rape occurred in different areas of the Air Transportation Office Compound, i.e., at the house and chicken coop of ARNEL's family, both situated in Makati City; inside the restroom of a neighbor, and the uninhabited house of another neighbor, both within the boundary of Taguig.

With this Report, the court a quo declared that it had jurisdiction over the case as one of the places of the alleged rape was within the periphery of Taguig. Thenceforth, trial continued.

For his part, ARNEL denied the grave charges hurled against him. He could not think of any reason why AAA would accuse him of rape.

Arnold, the father of ARNEL, insisted that AAA's mother had made it her business to file suits so that she could ask for money in settling the cases. Arnold averred that AAA's mother filed an unjust vexation case against him and asked for P30,000.00 as settlement. He then refused to fork out the money until he was acquitted.

John-John Gonzaga, a neighbor of ARNEL, claimed that the latter did not rape AAA as it was the latter's own uncle who assaulted him.

The defense likewise avowed that the Birth Certificate[10] of AAA was spurious and fabricated. ARNEL adduced in evidence the Letter[11] dated 21 July 2011 of the National Statistics Office affirming that it did not issue the Birth Certificate of AAA and that such document had been tampered with.

Ploughing through the respective evidence of the parties, the Regional Trial Court of Taguig City, Branch 69, rendered the impugned Decision[12] of conviction dated 3 September 2012, thusly?

“WHEREFORE, finding CICL (Child in Conflict with the Law) Arnel Tenizo alias Bruno guilty beyond reasonable doubt of the Qualified Rape (2nd kind), this court hereby sentences him to suffer an indeterminate penalty of 2 years and 10 months of Prision Correccional, as minimum to 8 years and 1 day of Prision Mayor, as maximum; and to indemnify the offended party “AAA”, civil indemnity of PhP30,000.00, moral damages of PhP30,000.00 and exemplary damages of PhP15,000.00.

SO ORDERED.”[13]

ARNEL (now, appellant) is before Us via this instant Appeal anchored on the following assignment of errors:

I

WITH ALL DUE RESPECT, THE TRIAL COURT SERIOUS-LY ERRED IN FAILING TO CONSIDER THE EXCUL-PATORY FACTS IN FAVOR OF THE ACCUSED WHICH IF DULY CONSIDERED WOULD HAVE COMPLETELY EXONERATED ACCUSED FROM THE CRIME OF RAPE.

II

WITH ALL DUE RESPECT, THE LOWER COURT GROSSLY ERRED IN CONVICTING THE ACCUSED APPELLANT SINCE THE AGE OF THE VICTIM IS NOT PROVEN BEYOND REASONABLE DOUBT BY THE PROSECUTION.

III

WITH ALL DUE RESPECT, THE LOWER COURT ERRED IN RULING THAT IT HAS JURISDICTION TO TRY THE INSTANT CASE.

IV

WITH ALL DUE RESPECT, THE DECISION OF THE TRIAL COURT IS NOT IN ACCORDANCE WITH THE CONSTI-TUTIONAL PRESUMPTION OF INNOCENCE OF THE ACCUSED.

The judgment of conviction must be sustained.

Article 266-A (2) of the Revised Penal Code explicitly provides that the gravamen of the crime of rape by sexual assault is the insertion of the penis into another person's mouth or anal orifice, or any instrument or object, into another person's genital or anal orifice.[14]

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[15]

Ultimately and frequently, the resolution of the charge of rape hinges on the credibility of the victim's testimony. The Court has consistently relied on the assessment of such credibility by the trial court, because the factual findings of the trial court, particularly those bearing on such assessment, are the product of the trial judge's peculiar opportunity to observe the deportment and demeanor of the witnesses while they personally appear and testify during the trial, as contrasted with the dependence by the appellate courts on the mute pages of the records of the trial.[16] The trial judge enjoys the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" — all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies.[17]

A painstaking review of the records convince Us that the court a quo committed no reversible error in according weight and credence to the candid testimony of AAA. His narration bears the earmarks of truth—

“Q

Why do you want to report this Arnel Teniza, has he done something wrong to you?

A

Yes, ma'am.

Q

What did he do?

A

He placed his penis inside my mouth.

Q

Was that the only thing he did to you?

A

No, ma'am.

Q

What else?

A

He also made sundot to my puwit.

Q

What did he use in making sundot your puwit?

A

His penis.[18]

x x x

x x x

Q

Mr. Witness, which happened first, the sundot or the placing of the penis into your mouth?

A

When he asked me to eat his penis.

Q

When you say eat his penis, what did he ask you to do?

A

He asked me to eat his penis.

Q

When he told you to eat his penis, what was he wearing?

A

Pants, ma'am.

Q

And where was his penis then?

A

Outside.

Q

Do you mean to say that the zipper is opened?

A

(Witness is nodding his head)

Q

How did you eat his penis?

COURT INTERPRETER:

Witness is demonstrating with his two (2) hands and making downward and upward movement in front of his mouth.

Q

What happened after you made this upward and downward movement?

COURT INTERPRETER:

Witness has no answer.

Q

And what made you stop(ped), when did you stop making that gesture?

A

Because it is salty.

Q

Did you observe anything that came out from his penis?

A

Yes, ma'am. (Witness is also nodding his head)

Q

What did you see?

A

Penis.

Q

You said there was (a) substance that came out from the penis which you said “maalat” or salty, what is this?

A

Milk.

Q

And after that, what happened?

A

He asked me to eat the milk.

Q

Mr. Witness, you said he “sundot” your “puwit”, your anus, can you describe to us how he did it? Did he remove your underwear? What were you wearing at that time?

A

Shorts.

Q

And under your shorts, you have your brief?

A

None, ma'am.

COURT INTERPRETER:

The witness is also shaking his head.

Q When he made “sundot” your “puwit”, do you mean he removed your shorts?

COURT INTERPRETER:

The witness is nodding his head.

Q What did you feel, did you feel anything in any parts of your body?

A It is painful.

Q In what portion of your body was it painful?

A At my “puwit”, anus.

Q How about when he was asking you to eat his penis, what did you feel?

A Salty.

Q And was there anything or was there any change in you after the incident?

A Yes, ma'am.

Q What?

COURT INTERPRETER:

The witness cannot answer.

Q When did you tell your parents about this thing?

A Long after already.

Q Why, why did it take you long to tell your mother about this?

A Because he told me not to tell anybody.

Q Why, what will he do if you tell anybody about it, about the incident?

A That he will hurt me.

Q Do you think he will hurt you when you tell this thing to your mother?

A Yes, ma'am.[19]

x x x

x x x

Q

Now, it's more than one (1) year since the incident, what do you feel whenever you remember what happened, was it a good or a bad experience?

A

Bad, Ma'am.

Q

How about now, can you still feel anything in your anus?

A

Witness shaking his head.

Q

Does (sic) your friends know of this incident?

A

Yes, Ma'am.

Q

How do they treat you?

A

I am a rapist, Ma'am.

Q

When they say that, what do you do, do you still play with them?

A

No more, Ma'am.

Q

Do you try to avoid them?

A

Witness shaking his head.

Q

Do you stay at home now more often than before?

A

Yes, Ma'am.

Q

If you see Bruno in your place, are you afraid of him?

A

Witness nodding his head.

Q

At the time that Bruno was doing this to you, why did you not run?

A

He told me not to run, Ma'am.

Q

And do you still remember the date and time that this incident happened?

A

Witness shaking his head.

Q

And do you know, where this happened?

A

Witness nodding his head.

Q

Where did this incident happened?

A

At their house, Ma'am.

Q

Where is there thouse?

A

There, Ma'am.

Q

When you say there, is it in Pasig, Taguig, Pateros, or San Juan, or Malabon?

A

Taguig, Ma'am.

Q

How far is his house from your house, how many houses between your house and their house?

A

One, Ma'am.

Q

And that house is also within the same street where you live?

A

Witness nodding his head.

Q

Why did you not run out of the house when he was doing this to you?

A

He would hurt me, Ma'am.

Q

Who is stronger, you or Bruno?

A

Him, Ma'am.

Q

When he was calling you inside the house, what did he say you were supposed to do inside the house?

A

He wants me to eat his penis, Ma'am.

Q

Why, when you were already walking on the street, do (sic) you already know?

A

He made me eat his penis, Ma'am.

Q

Do you mean to say that when he called you and you were already walking on the street, you already knew that he will make you do that to you?

A

Yes, Ma'am.

Q

Was that the first time that he ever did that?

A

No, Ma'am.

Q

How many times have he done that to you?

A

For a long time, Ma'am.

Q

When you say “matagal”, what do you mean by “matagal”, was it for several times already?

A

Many times, Ma'am.

Q And do you think it's good for you to follow what he is telling you?

A No, Ma'am.

Q And why do you still follow him in that case?

A No answer.

Q Was there any consideration whenever you allowed him to do that to you?

A Yes, Ma'am.

Q What?

A Money?

Q How much?

A Three (P3.00) Pesos, Ma'am.

Q When does he give you this money, before or after?

A After doing it to me, Ma'am.”[20]

The court a quo witnessed firsthand AAA’s demeanor under exhaustive interrogation. Having personally heard AAA, the court a quo was in a better position to pass judgment on his credibility. Whence, the court a quo unerringly ruled that appellant sexually assaulted AAA.

Professing his innocence, appellant denounces the appreciation by the court a quo of Section 6, Republic Act No. 9344[21] —

“SECTION 6. Minimum Age of Criminal Responsibility. — A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.” (Emphasis supplied)

Appellant laments that the prosecution failed to prove that he acted with discernment in committing the crime. His

assertion, however, does not have the ring of truth.

The Social Case Study Report revealed that appellant, who was then 16 years of age at the time he was interviewed by the social worker, was able to distinguish right from wrong. He could not have possessed the wisdom or the insights of a mature man, but he was certainly able to appreciate the consequences of his actions. On this account, We resonate the court a quo's disquisition that appellant acted with discernment during the sexual assault—

“As applied here, this court finds that the CICL (Child in Conflict with the Law)[22] who is above 15 years old acted with discernment. A careful reading of the Social Case Study Report filed on February 13, 2003 supports such finding. In the Report, the CICL denied the commission of the crime. The CICL alleged that it was AAA who had a bad reputation, AAA being a known liar, thief and having had committed sexual acts to some children. This statement, although in the form of a denial, supports the finding that the CICL understood the differences between right and wrong and the consequences of a wrongful act.”[23] (Emphasis not Ours)

Next, appellant takes issue with the jurisdiction of the court a quo asseverating that the place of the alleged rape was committed not in Taguig but in Makati City.

Invariably, the court a quo conducted an ocular inspection to pass upon the question of jurisdiction. The Report dated 22 June 2007 of the Branch Clerk of Court/ Commissioner speaks volumes as it categorically declared that the sexual assault was committed in areas within the territorial jurisdiction of Taguig. Pertinent portions thereof read—

“x x x x x

c. Inside a comfort room of a certain Weng which at present is no longer there. It is however clear that indeed a comfort room was previously erected thereon. The place pointed to by the minor victim is outside the fenced ATO compound which is near the victim's house. According to a boarder of Weng who did not want to disclose her name, their place is within the jurisdiction of Taguig City.

d. The victim likewise pointed to a house with a red roof but inside a fence with a gate. Victim narrated that the particular house was still uninhabited during the time of the incident and the same was not fenced. Upon query with the Zone leader of that place and the neighbors, said house is in APOVAI, which is in Taguig City.

- We were able to talk to Elsa Molar, Zone leader of 7-B which is the place where the comfort room is located. She explained that there are four different zones and that Zone 7-B which is particularly known as Kaunlaran Pinaglabanan Pagkakaisa is within Taguig City. The house with a red roof is within Zone 7-D which is particularly known as AFPoVAI, also in Taguig City.”[24]

Indeed, the foregoing Report put the kibosh on the issue of jurisdiction. No less than a barangay official declared that one of the places of incident was Taguig. Worth reverberating are the pronouncements of the court a quo—

“An ocular inspection is part of the trial, during which evidence is received. In this case, during the ocular inspection, during which the defense was duly represented, AAA pointed to different places at the vicinity of the ATO Compound where the CICL supposedly molested him. That at least of one of such several places was reported by disinterested persons in the barangay, one of whom was a zone leader, to be within Taguig City sufficed to confer jurisdiction to this court. Also, that later on, witness for the defense Arnold Tenizo introduced his voter's I.D. And DTI Certification both stating that their residence is within Makati City, is of no moment. The voter's I.D. And DTI Certification can hardly be considered as proof of the official boundaries

of Makati and Taguig City at the vicinity of ATO Compound.”[25]

So, too, We refuse to budge on appellant's disputation that AAA's mother had made it her business to file suits in order to collect money when the case is eventually settled. Appellant's nitpicking does not sit well with Us. It is quite unthinkable for a mother to teach her child to fabricate a story and expose him to a rape trial with all its attendant scandal and humiliation just to extort money from unsuspecting victims. Indubitably, a mother would not subject her child to a public trial with its accompanying stigma as the victim of rape, if said charges were not true.[26]

With the foregoing discourse, there is not a morsel of doubt that the judgment of conviction deserves affirmance. The prosecution demonstrably proved beyond reasonable doubt the culpability of appellant.

Still and all, a modification of the penalty is in order.

Rape by sexual assault in Article 266-A (2) of the RPC is punishable under Article 266-B by prision mayor, the duration of which is from six (6) years and one (1) day to twelve (12) years. The latter article also provides that if the rape is committed with any of the 10 aggravating/qualifying circumstances therein enumerated, the penalty shall be reclusion temporal which has a range of twelve (12) years and one (1) day to twenty (20) years.[27] One of such aggravating/qualifying circumstances is when the victim is a child below seven (7) years of age.

How old was AAA when he was sexually molested?

There is no quibbling that the birth certificate of AAA contained several irregularities as confirmed by the National Statistics Office.[28] We could no longer use this document to ascertain his age; thus, We cash in on *People v. Buado, Jr.*,[29] quoting *People v. Pruna*,[30] which laid down the juris-prudential guideposts to establish the age of AAA—

"In order to remove any confusion that may be engendered by the foregoing cases, we hereby set the following guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance.

- The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
- In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
- If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:
- If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

- If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
- If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old
- In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.
- It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.
- The trial court should always make a categorical finding as to the age of the victim."[31] (Emphasis supplied)

The mother of AAA categorically declared that she gave birth to AAA on 30 November 1995.[32] Albeit the birth certificate of AAA later turned out to be spurious, this should not detract from the cold fact that the mother can establish pedigree for she has firsthand knowledge of the date she gave birth to her child. As AAA was six years of age on the date of the commission of the crime, appellant should be meted the penalty of reclusion temporal.

Considering, however, that appellant was 15 years of age at the time he sexually assaulted AAA, he is entitled to the privileged mitigating circumstance of minority pursuant to Article 68(2)[33] of the Revised Penal Code, as amended. Applying the Indeterminate Sentence Law, the penalty should be within the range of prision mayor or 10 years and 1 day to 12 years as minimum, and 17 years, 4 months and 1 day to 20 years of reclusion temporal, as maximum.[34]

At the time the judgment was promulgated, appellant was already 25 years of age.[35] The Office of the Solicitor General (OSG) postulates that since he was still a child at the time he committed the crime, he should be allowed to serve his sentence in an agricultural camp or other training facility.

The OSG's postulation is well-taken.

Along this grain, *People v. Monticalvo*[36] enunciates—

"To give meaning to the legislative intent of Republic Act No. 9344, the promotion of the welfare of a child in conflict with the law should extend even to one who has exceeded the age limit of 21 years, so long as he/she committed the crime when he/she was still a child. The offender shall be entitled to the right to restoration, rehabilitation and reintegration in accordance with Republic Act No. 9344 in order that he/she is given the chance to live a normal life and become a productive member of the community. The age of the child in conflict with the law at the time of the promulgation of the judgment of conviction is not material. What matters is that the offender committed the offense when he/she was still of tender age. The appellant, therefore, shall be entitled to appropriate disposition under Section 51 of Republic Act No. 9344, which provides for the confinement of convicted children as follows:

SEC. 51. Confinement of Convicted Children in Agricultural Camps and Other Training Facilities. — A child in

conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

To conform to this Court's ruling in *People v. Sarcia*,^[37] the case shall be remanded to the court of origin to effect appellant's confinement in an agricultural camp or other training facility."

As to award of damages. The court a quo committed no reversible error in awarding P30,000.00 as civil indemnity and P30,000.00 as moral damages for rape through sexual assault.^[38] However, prevailing jurisprudence dictates that the award of exemplary damages should be increased from P15,000.00 to P30,000.00. In addition, and in conformity with the current policy, We also impose on all the monetary awards for damages interest at the legal rate of six percent (6%) per annum from the date of finality of this decision until fully paid.^[39]

WHEREFORE, the Appeal is hereby DENIED. The Decision of conviction dated 3 September 2012 of the Regional Trial Court of Taguig City, Branch 69, in Crim. Case No. 124853-H, is --- in that (1) accused-appellant ARNEL TENIZO is sentenced to suffer the penalty of 10 years and one day to 12 years of prision mayor, as minimum, and 17 years, four months and one day to 20 years of reclusion temporal, as maximum; (2) the award of exemplary damages is increased to P30,000.00; and (3) all damages shall be subject to interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision. This case is ORDERED REMANDED to the court a quo for appropriate disposition and to effect accused-appellant's confinement in an agricultural camp or other training facility, in accordance with Section 51 of Republic Act No. 9344.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Ybañez and Sadang, JJ., concur.

[1] "The identity of the victim or any information which could establish or compromise his identity, as well as those of his immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 5, 2004." *People v. Lomaque*, 697 SCRA 383, 389 (5 June 2013).

[2] Original Records, pp. 1-2.

[3] Original Records, p. 1.

[4] *Id.* pp. 18-23.

[5] *Id.*, p. 30.

[6] *Id.*, p. 349.

[7] *Id.*, p. 215.

- [8] Original Records, p. 207.
- [9] *Id.*, pp. 166-167.
- [10] *Id.*, p. 24.
- [11] *Id.*, p. 314.
- [12] Original Records, pp. 349-359.
- [13] *Id.*, pp. 358-359.
- [14] See *Pielago v. People*, 693 SCRA 476, 488 (13 March 2013).
- [15] *People v. Grande*, 609 SCRA 93, 99 (23 December 2009).
- [16] *People v. Buado, Jr.*, 688 SCRA 82, 95 (8 January 2013).
- [17] *People v. Rivera*, 705 SCRA 187, 201 (4 September 2013). (*Italics not Ours*).
- [18] TSN, 10 June 2003, pp. 6-7.
- [19] TSN, 10 June 2013, pp. 8-12.
- [20] TSN, 30 July 2003, pp. 12-16.
- [21] Juvenile Justice and Welfare Act of 2006
- [22] Referring to appellant.
- [23] Original Records, p. 358.
- [24] Original Records, p. 167.
- [25] *Id.*, p. 353.
- [26] See *People v. Amistoso*, 688 SCRA 376, 393 (9 January 2013).
- [27] See *People v. Lomaque*, 697 SCRA 383, 407-408 (5 June 2013).
- [28] Original Record, p. 314.
- [29] 688 SCRA 82 (8 January 2013).
- [30] 390 SCRA 577 (10 October 2002).
- [31] *People v. Buado, Jr.*, 688 SCRA 82, 104-105 (8 January 2013).
- [32] TSN, 8 July 2008, p. 11.
- [33] ART. 68. Penalty to be imposed upon a person under eighteen years of age. — When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraph next to the last of article 80 of this Code, the following rules shall be observed:
- x x x
- x x x
- Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by the law shall be imposed, but always in the proper period.

[34] See *People v. Hermocilla*, 527 SCRA 296, 305 (10 July 2007).

[35] Original Records, p. 361.

[36] See 689 SCRA 715, 742-743 (30 January 2013).

[37] 599 SCRA 20 (10 September 2009).

[38] See *People v. Lomaque*, 697 SCRA 383, 409 (5 June 2013).

[39] See *Pielago v. People*, 693 SCRA 476, 489 (13 March 2013).

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