

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. GERARDO AÑOVER Y MACANIP, ALJON MARTINEZ, JEFFREY AÑOVER, ACCUSED,

Ponente: CRUZ, R.A., J.

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CRUZ, R.A., J.:

THE CASE

This is an appeal under Rule 41 of the Rules of Court which seeks to reverse and aside the Judgment dated June 3, 2010][1] of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31 in Criminal Case No. 4554-SPL. The dispositive portion of the Judgment reads:

“ xxx xxx xxx

WHEREFORE, foregoing premises considered, judgment is hereby rendered finding accused Prudencio Santiago y Maliksi, Vilma Macanip y Barraza, Zosimo Lauzon y Burines, Gerardo Añover y Macanip and Alejandro Aldas y Aure guilty beyond reasonable doubt of Kidnapping for Ransom defined and penalized under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, and they are sentenced to suffer the penalty of reclusion perpetua without eligibility for parole pursuant to Republic Act No. 9346.

The accused are hereby directed to pay Eufonio Jose Naga jointly and severally the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages; and P100,000.00 as exemplary damages and to pay the costs.

The Branch Clerk of Court is hereby directed to immediately turn over the 9MM pistol and live ammunitions confiscated from Prudencio Santiago to the Firearms and Explosives Division of the Philippine National Police for its proper disposition.

SO ORDERED.

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THE ANTECEDENTS

In an Information[2] dated January 28, 2004, Prudencio Santiago y Maliksi (Santiago), Vilma Macanip y Barraza (Macanip), Alejandro Aldas y Aure (Aldas), Zosimo Lauzon y Burines (Lauzon), Gerardo Añover y Macanip (Añover), Aljon Martinez, Jeffrey Añover and five (5) John Does, as accused, were charged with kidnapping for ransom defined and penalized under Article 267 of the Revised Penal Code, as amended by R.A. No. 7659.[3] It reads:

“ xxx xxx xxx

That on or about December 2, 2003, in the City of Manila, above-named accused while conspiring, conniving, confederating and mutually helping one another, did then and there willfully, unlawfully, feloniously, with malicious and criminal intent and purpose, with the use of firearms, force, threat and intimidation, take, kidnap and carry away a certain Eufonio Jose Naga against his will and consent passing thru the Cities of Makati and Parañaque, the Municipalities of San Pedro and Biñan in the Province of Laguna and within the jurisdiction of this Honorable Court and thru the Municipality of Carmona, Cavite until they reached the Municipality of

Dasmariñas, Cavite and upon reaching the aforementioned place, detain and deprive Eufonio Jose Naga of his liberty and freedom without his consent, for the purpose of demanding and extorting money for his release in the amount of Five (5) Million Pesos which indeed they demanded from the wife of the victim to the damage and prejudice of Eufonio Jose Naga and his family.

CONTRARY TO LAW.

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During their arraignment, Accused Santiago and Macanip,[4] Aldas,[5] Lauzon[6] and Añover,[7] with the assistance of their counsels, pleaded not guilty, while the other accused remained at large.

The prosecution presented three (3) witnesses, namely, Eufonio Jose Naga, the private complainant, and the members of the rescue team, Sergeant William Borres and Police Inspector Marcelino Desamito Jr. and the following documentary exhibits: Sinumpaang Salaysay ni Eufonio Jose Naga, Sinumpaang Salaysay ni Maria Elsa Naga, Complaint Sheet, Information Sheet, Affidavit of Marcelino Desamito, Jr.[8]

The prosecution's version of the facts, as summarized by the RTC, is as follows:

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Victim Eufonio Jose Naga, a civil engineer, testified that on December 2, 2003 at about 2 (sic) PM, he was driving alone in his Isuzu Crosswind van with Plate No. VBS-468 when somewhere in Sta. Mesa, Manila near SM Centerpoint, a man suddenly got inside his van in the passenger seat, pointed a gun to his head, instructed him to just drive along and to turn right to Magsaysay Street. The man threatened that if he would not follow his instructions, “may kalalagyan ka.” He was then ordered to turn left to V. Mapa St. and ordered to park. The man became very angry and poked the gun hard on his head when he tried to park in the middle of the street and told him “Wag ka gagawa ng kahit ano. Wag ka magkakamali. Dito lang tayo.” The man made a call on his cellphone while holding his gun on his lap with another hand, uttering “dito na kami nakapark ang tagal ninyo.” After 15 to 30 minutes, three men approached the victim's van and seated themselves on the second row. One of them pointed a gun to his head, told him to continue driving then ordered him to make a u-turn in a Caltex Station, then to turn left and take the road towards Pandacan oil depot. At a point where there were no vehicles and people, he was ordered to park. At first, he did not follow but one of his assailants poked his gun on his head ordering him “Tumigil ka! Tumigil ka!” He slowed down a bit but did not stop. Two guns were pointed to his head and he was again ordered to stop. He stopped at the top of a bridge over the Pasig River, was ordered to move to the back seat and when he hesitated, was forcibly pulled out from the driver's seat towards (sic) the back seat while two men were hitting him on the head and face cursing him “putang ina ka sumunod ka kundi, papatayin ka namin.” Badly hurt and terrified, he begged them “maawa kayo sa akin.” After he was forcibly transferred to the back row of the van leaving his pants torn and his shoes off his feet, the man who first got into his van took the driver's seat, while the others tied his hands with an electric wire. They took his sunglasses and covered the lenses with (sic) thin gauze. They then asked him to put them on. Two men sat on both sides and held his arms making him immobile. Since the gauze was very thin and worn out and his sunglasses had ampermatic lenses, a kind of lense which adjusts to the condition of the light, he can still see what was happening around him. They drove along Quirino Avenue, then to South Superhighway, took the Skyway, and the South Luzon Expressway passing through Bicutan, Sucat, Alabang, Muntinlupa, San Pedro, Laguna and then exited at Carmona-Biñan interchange. He knew it was the Carmona tollgate because the tollgate teller said the toll was P26.00 and he was familiar with the toll fee since he lives in San Pablo, Laguna and would take the express way at least twice a week. They drove until they reached an old house where he saw around six to seven people. The car was parked four meters away from the house. One female whom he identified as Vilma Macanip was standing on the left side of the door while the five to six males were standing on the right side. Two of his abductors alighted and talked to them. After their conversation, he was pulled out of the van with one of them saying “baba, baba.” While he was entering the house, a woman he earlier identified as Vilma Macanip said “Ipasok siya doon, doon sa loob.” Four men pulled him inside a room where

the electric wire on his hands was untied and transferred to his legs. His hands were then tied with a nylon rope. They took off his sunglasses and asked him to shut his eyes but he slightly opened them. He saw them putting masking tape over the gauze and covered his eyes with the gauze. They pushed him on a bamboo bed which he saw through the lower portion of his blindfold. He heard his abductors saying “bahala na kayo diyan, tapos na kami, kayo naman” and the other persons answering “wag kang mag-alala, kami ang bahala dito.” He was told “pera lang ito” and instructed to keep silent. Some left the place while others stayed. They frightened him by poking guns on him and hitting him on the different parts of his body. One took his cellphone and asked for his wife's number. They also took his Seiko watch, all his money from his wallet but allowed him to keep on upon his plea the P100.00 bill his late father gave him just before he died. One of them fed him inside the room.

Night came and these people lighted a gas lamp and several candles. They kept the door to his room open allowing them to see him from their position in the living area of the house, as he too could see his guards who included the accused Santiago, Añoover, Lauzon and Macanip. There were also other men aside from them. At any (sic) one time, there were three to four people guarding him but his guards kept changing. Every now and then, a man would cock his gun and would ask him, “iihi ka ba”. When morning came, he was fed and made to urinate. He requested for something to wipe the dirt off his eyes and while wiping his eyes, he was able to loosen his blindfold. On December 3, 2003, a cellphone was given to him and he was able to talk to his wife for about 30 seconds or a minute. They asked each other “kamusta” but before they could say anything more, the phone was snatched away from him. He kept seeing the men around him making hand signals about money.

During his four day captivity, the same routine happened. Every now and then someone would come inside the room, cock a gun to threaten him and would ask him if he wanted to urinate. He was also fed always by the same person. When night came they lighted a gas lamp and candles. He would hear the calls of “balot.” He remembered a moment when someone kept calling “Mang Jun” from outside the house. With the barrel of a gun pressed on his left head, he was told in a very low voice to keep quiet and everyone did not move until the one calling left after about 15 to 30 minutes.

He narrated some of the ordeals or mental tortures he suffered. One time, someone put four bullets in his palm and told him “alin ang gusto mo. Apat na klase iyan. Etong isa double action, ibig sabihin pag tama sa iyo puputok pa ng isa; iyong isa kahit nakabullet proof ka lulusut; itong isa may lason.” Before the man could tell him about the fourth bullet, he told him “Diyos na ang bahala sa akin.” The man then asked for his wedding ring and when he answered he cannot take it off as it had become too tight on his finger, he was told that in that case he would have to cut off his finger. He asked for oil, dipped his finger into the oil and forcibly pulled off the wedding ring. The man took the wedding ring. After a while, another one asked for cash. When (sic) told that he already took all of it, he answered he was not the one. The man then got his ATM card and asked his PIN number. Out of fear, he gave his PIN number. Thereafter, the man left and returned after a short while. One time he asked the man feeding him how much ransom they were demanding, he was told it was P2 Million. He asked what had been happening and the man told him that negotiations were going on between one of them and his wife.

About 2 (sic) PM of December 5, 2003, his fourth day in that house, the victim was rescued by the elements from the Police Anti-Crime Emergency Response (PACER) of the Philippine National Police. He first heard movements, footsteps and commotion and then gunshots coming from afar and very near him. A man with a long firearm entered the room where he was being detained and called out loudly “JOSE, JOSE” to which he did not reply thinking he was one of the kidnappers. Then this man called out again “JOSE, JOSE NAGA RESCUE KAMI.” He stood up and uttered “AKO NGA, AKO NGA.” His rescuer pulled him but his hands were tied to the window sill. After untying him he was pulled out of the room and on his way out, he stepped on a dead body. Out of the house, his rescuer made him duck as there were still shooting as he was pulled to a van. He was brought to Camp Crame and met his family there. His wife informed him that his kidnappers were

demanding P5M for his freedom.

The victim identified the accused except Aldas as the ones who watched and guarded him during his detention, the ones checking (sic) if his hands and legs were tied securely, checking (sic) his blindfold and threatening (sic) him. He said he was able to see in the house accused Gerardo Añover, at least four times at a distance of four to five meters. First, when he was playing cards with his co-accused Prudencio Santiago, whom he identified as the one who made it a point (sic) to enter and stay in the room when checking on him. The second time he saw Añover was when he was sitting in the living room across his detention room with other persons. The third time was when he was in the same living room talking to a group, one of whom he identified as accused Zosimo Lauzon, who among the group, never entered the room he was detained. The fourth time was when he was in the living room talking with a man. Accused Vilma Macanip he was able to identify as he would always see her whenever he was being fed. (sic) She was always with Prudencio Santiago whom he saw not less than five times during his captivity. The man who was shot dead during the rescue operation, he was able to identify as the one who had been feeding him during his detention. He was not able to see the face of the man who was feeding him because his view up close was limited from the waist down but was determined that the man shot dead was him because of the clothes the dead man was wearing which was the same one worn by his feeder from day one up to the end of his detention. (sic) He further testified that Vilma Macanip was among those present at the time he and his abductors arrived in the safehouse. He saw her with the group of men as he was led (sic) inside. Accused Prudencio Santiago was not among them that time. But he saw him the night of the same day playing cards in the living room. He also saw Añover, Santiago and Lauzon talking in the living room several times. Of all the people who watched and guarded him, he was only able to talk to his feeder (sic).

The victim likewise testified how his life had changed since his abduction. His whole family was traumatized and until the time he testified in court, they still could not talk about it. Everytime he would leave the house, her (sic) daughter would ask him if it would be his last. No amount of money would be enough to compensate the horrifying ordeal he went through.

On cross-examination, he explained that from afar and while lying on the bamboo bed, he could peep through the two pieces of gauze covered by the masking tape that were covering both his eyes. He could see the faces of the accused as they were in the living room while he was lying on his side in the bamboo bed. The pieces of gauze were put in place by masking tape tucked on the upper part of his eyes. When the man was near him, his view was limited to the waist and the lower part of the body. He did not dare look over the window to see the other kidnappers outside the house. He also described the four abductors whom he said he did not see again, but he believe (sic) they went back to the safehouse on the night of the day he was brought in as he recognized their voices. After his rescue, he saw the accused again during arraignment. He was so afraid to face the accused because he knew that the others were still at large and so (sic) identification in (sic) police line-up was not made upon his request. He was also so scared that when asked by the police, he did not look at the pictures of suspected persons with links to kidnapping. It was only during the preliminary investigation of the case in the Department of Justice that he finally summoned enough courage to take a look at the pictures shown to him by the investigating prosecutor that he was able to identify the accused. He was 100% sure that the accused Prudencio Santiago, Vilma Macanip, Gerardo Añover and Zosimo Lauzon were the persons who guarded him in the four days in the captivity. He also confirmed that they were not the ones (sic) abducted him in Sta. Mesa, Manila.

Staff Sergeant (sic) William Borres y Nebreja was a member of the Philippine Army detailed as intelligence operative at PACER since the year 2002. He testified that on December 4, 2003 at around 9 (sic) PM, he was in the PACER office in Camp Crame with SPO3 Efren Makiramdam and CI Isagani Nerez, when an informant tipped them of suspicious movements in a house located at the back of a funeral parlor in front of a cell site tower in Paliparan II, Dasmariñas, Cavite. At 12:30 AM of December 5, 2003, their team was dispatched to verify the report. They arrived at the target area at 2:00 AM. Using binoculars, he and SPO3 Makiramdam took

turns in observing the house from a distance of 18 to 20 meters. They saw a group of more or less ten persons engaged in a drinking spree, some playing cards while others were roaming around the house. They saw M16 rifles on a table in the veranda. Those roaming around the house had guns tucked in their waistlines. Although there was no electricity, they were able to see clearly because the place was lighted with a petromax which was as bright as a long fluorescent light and several candles. They were able to identify in the group the accused Zosimo Lauzon, Gerardo Añover and Alejandro Aldas whose faces were familiar because they were included in their watch list of kidnappers for ransom. At the time it was only Alejandro Aldas who had a warrant of arrest against him. At about 6 (sic) AM, they saw them stepped out of the safehouse and were picked up by a white Toyota sedan without (sic) plate number. A few minutes later accused Prudencio Santiago and Vilma Macanip, also stepped out of the house and left. SPO3 Makiramdam was able to follow them in another house less than a kilometer away. They continued with their surveillance until 10 (sic) AM. They called up their team leader Major Ibanez. At around 1 (sic) PM, the striking force of PACER led (sic) by Major Balles arrived. They had a briefing where they were grouped into two. The first group will strike the house where armed men were earlier observed, while the second group will attack the house of Prudencio Macanip (sic) and Vilma Macanip. He belonged to the second group. After a while, the second group received a call from the first group telling them “positive rescued ang victim.” After receiving the information, they raided the house and arrested Prudencio Santiago and Vilma Macanip. They were able to confiscate a 9MM pistol from Prudencio Santiago with several live ammunitions.

On cross-examination, he testified that he had come across the names of Prudencio Santiago and Vilma Macanip as members of a criminal group but not in relation to kidnapping. He admitted that when the tip from their informant was received in the PACER office, the names Prudencio Santiago and Vilma Macanip were not mentioned. Only the names of accused Gerardo Añover, Zosimo Lauzon and Alejandro Aldas who were also involved in the earlier Betty Sy kidnap for ransom case were mentioned. They were also not sure that it was victim Jose Naga who was there, as their primary purpose was to arrest accused Añover, Lauzon and Aldas and their companions. They did not see during the surveillance Prudencio Santiago and Vilma Macanip and the victim. They noticed a white car arrived and left at 8 (sic) AM. His companions lost tract (sic) of the car because it was moving fast. Accused Santiago and Macanip they saw when they went out of the house and walked to the other house. (sic) He was with the group but not the one who personally arrested the accused Santiago and Macanip. From inquiries and information from the informant they came to know that the safehouse where the victim was detained was owned by accused-at-large Aljon Martinez.

Witness P/Inspector Marcelino A. Desamito, Jr. had been with PACER since June 10, 2003. He testified that on December 5, 2003, his team was on alert for a possible rescue of a kidnapping victim per information being relayed by their two intelligence agents Sgts. Borres and Makiramdam. At 10 (sic) AM, they were ordered to proceed to Dasmariñas, Cavite by their operations officers Col. Berris[9] and Col. Bonnel. They arrived at the Dasmariñas Police Station where a closed door operational briefing for the possible rescue of the kidnapping victim was held. Present were Col. Neris,[10] Col. Bonnel, Inspector Abala and Dasmariñas Police Chief and some junior officers. After the briefing where they were given their assigned tasks, the team composed of eight members including him proceeded to Paliparan II, Dasmariñas, Cavite where they linked up with Sgt. Borres who told them that Prudencio Santiago and Vilma Macanip were involved in the kidnapping of Jose Naga, providing food for the victim and giving aid during captivity. Sgt. Borres guided them to the safehouse and upon arrival they conducted a closed quarter battle and arrested Prudencio Santiago and Vilma Macanip inside the house. When they barged inside the house, the two were lying together. He informed them of their constitutional rights. Prudencio Santiago being shirtless, he saw immediately the Smith and Wesson caliber 9MM revolver with Serial No. A12505 tucked in his waist. (sic) He took it from him when he failed to present any license for it. Also confiscated were two magazines loaded with 16 live ammunitions. It was the team of P/Inspector Edwin Balles who conducted the rescue of Engr. Naga in another safehouse located beside a funeral parlor and cell site tower near the safehouse where they arrested Prudencio Santiago and Vilma Macanip.[11]

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On the other hand, the defense denied the above accusation. The defense presented Accused Santiago, Macanip, Lauzon, Aldas, Añover, Alfred Olleres, a former barangay secretary, and Purita Gonzales Aldas, wife of Accused Aldas, who portrayed a different version of the incident, viz:

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Accused Prudencio Santiago testified that he did not know the victim and had never seen him except during the hearings in this case. He also did not know any of his co-accused except Vilma Macanip, who was his live-in partner. On December 2, 2003, he was working as security guard at Markville Corporation located in Paliparan II, Dasmariñas, Cavite and reported for work from 7 (sic) PM until 6 (sic) AM of December 3, 2003. There was no chance for him to leave his place of work, and after work went home at Paliparan II, Dasmariñas, Cavite and stayed home the whole day. On December 3, 2003, he reported for work also at 7 (sic) PM to 6 (sic) AM of December 4, 2003, went home, rested and did household chores. On December 4, 2003, he also reported for work from 7 (sic) PM to 6 (sic) AM of December 5, 2003, went home and changed his clothes and proceeded to the house of his live-in partner Vilma Macanip at Paliparan III, Dasmariñas, Cavite. He was resting and sleeping there when around 3 (sic) PM, he was awakened when several men in police uniforms barged in and poked a gun at him. He was arrested without a warrant of arrest.

On cross-examination, he testified that he did not know of any reason why Jose Naga would testify against him, and why Police Inspector Desamito would arrest him. He also admitted that the PACER found a 9MM pistol in his possession but claimed that he presented to PACER a mission order issued by the Provincial Government of Cavite for the gun. He denied that Sgt. Borres was with the team that arrested him.

Witness Alfred Olleres testified that he was a former barangay secretary authorized by the barangay captain to bring in court the official log book of the civilian guards of Markville Corporation. He was presented to corroborate the testimony of accused Prudencio Santiago and brought with him an alleged logbook of Markville Corporation. He identified the entries with the name Santiago on the dates December 2, 3 and 4, 2003 as pertaining to accused Prudencio Santiago's tour of duty. He admitted he was not present when the entries in the logbook were made because those entries were made inside the compound of the corporation. At that time when the entries were made, he was not residing in the said compound.

Accused Zosimo Lauzon also denied any involvement in the kidnapping of Jose Naga and testified that on December 2, 3, 4 and 5, 2003, he was just in his home in Quezon City selling food stuff from about 7:00 o'clock in the morning until the whole afternoon. He was preparing food he was about to sell when operatives from the PACER entered his house and arrested him by virtue of a warrant of arrest issued by a court in Leyte for a case of murder. He was first detained at the Mandaluyong jail before he was transferred to Bicutan. He was also facing other charges for kidnapping for ransom in the Regional Trial Court of Mandaluyong City.

Accused Vilma Macanip testified that she had a five month old baby and was not venturing out of her house during the days of the victim's detention as there was nobody else but her to look after the baby. She tried to impress upon the court that she and her live-in partner and co-accused Prudencio Santiago were arrested on (sic) trumped up charge in order to silence her because she had threatened Col. Nerras[12] of PACER that she would charge him and other PACER operatives with kidnapping if they could not produce his brother Fortunato Macanip whom the PACER kidnapped on November 21, 2003. She testified too that she was tortured during her detention and interrogation at Camp Crame while she was being forced to identify the kidnappers depicted in the pictures handed to her.

Accused Gerardo Añover testified that on December 2, 2003, he was at Barangay Bumbunga, Gingoog City living in the house of her sister. He had never been to Paliparan II, Dasmariñas, Cavite and he did not know where the place was. He voluntarily surrendered himself to the NBI after his name was flashed on the television on February 2, 2004. When he was at the NBI, he found out that he also had a case in Laguna. He

was forced by the police officers to affix his thumb mark on a document and they promised to help him in his case. He further testified that he was (sic) related to the other accused Vilma Macanip who was (sic) his niece and admitted that he was presently serving sentence in the New Bilibid Prisons after a Quezon City court convicted him for kidnapping with homicide of victim Betty Sy.

Accused Alejandro Aldas on the other hand testified that he was at Legazpi City, Albay on December 2, 2003 together with his wife. He had been residing in Legazpi since 1994 until his arrest on July 23, 2004 by virtue of a warrant of arrest issued against him for carnapping. He was brought to the PACER office where he was tortured. He stayed in that office for five days. He could not identify the persons who tortured him as they were in civilian clothes. He admitted that he was presently serving sentence for kidnapping and carnapping at the NBP.

Purita Gonzales Aldas is the wife of accused Alejandro Aldas. She testified that on July 23, 2004, she was in their house with her husband in Legazpi City when her husband was arrested. They were brought to Manila in separate vehicles to a place she could not remember because she was blindfolded. She heard her husband being tortured and every time he would scream for help, she would lose consciousness.

On February 18, 2010, after all their witnesses have been presented, the defense orally offered in evidence Exhibits "1" to "4" which were the entries in the alleged logbook of Markville Corporation for December 2, 3, 4, 2003 to prove that accused Prudencio Santiago reported for work on those days, which were all admitted in evidence.[13]

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After trial, the RTC rendered a Judgment dated June 3, 2010.[14] According to the RTC, the testimonies of the prosecution's witnesses were clear, convincing and credible. Accused Santiago, Macanip, Añover and Lauzon were positively identified by the private complainant, Eufonio Jose Naga, while Accused Aldas, Añover and Lauzon were identified by Sergeant William Borres, thus, their defenses of denial and alibi are weak and self-serving. It adds that Accused Santiago, Macanip, Lauzon, Aldas and Añover conspired to kidnap the victim. Hence, it decreed:

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WHEREFORE, foregoing premises considered, judgment is hereby rendered finding accused Prudencio Santiago y Maliksi, Vilma Macanip y Barraza, Zosimo Lauzon y Burines, Gerardo Añover y Macanip and Alejandro Aldas y Aure guilty beyond reasonable doubt of Kidnapping for Ransom defined and penalized under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, and they are sentenced to suffer the penalty of reclusion perpetua without eligibility for parole pursuant to Republic Act No. 9346.

The accused are hereby directed to pay Eufonio Jose Naga jointly and severally the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages; and P100,000.00 as exemplary damages and to pay the costs.

The Branch Clerk of Court is hereby directed to immediately turn over the 9MM pistol and live ammunitions confiscated from Prudencio Santiago to the Firearms and Explosives Division of the Philippine National Police for its proper disposition.

SO ORDERED.

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Aggrieved, only Accused Aldas and Lauzon filed a Notice of Appeal,[15] which the RTC gave due course in its Order dated June 21, 2010.[16]

Per Our Resolution dated April 16, 2012,[17] We also gave due course to the appeal interposed by Accused Prudencio Santiago and Vilma Macanip.

THE ASSIGNED ERRORS

Accused Aldas and Lauzon, now appellants before Us, assign the sole error that:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT

In their Brief,[18] Accused-Appellants Aldas and Lauzon question the sufficiency of the prosecution's evidence. They argued that the testimony of Sergeant William Borres (Borres), who identified them as the perpetrators was highly suspect and incredible. First, they were not arrested during the rescue operations. Second, while Sergeant Borres conducted a surveillance, the same was only for less than twenty four (24) hours, thus, he only saw them for a short time. Third, his testimony was tainted with bias. If not for the earlier information he received, he would not have mentioned them as perpetrators. Finally, there was only a gas lamp for illumination and Sergeant Borres was about 18 to 20 meters away from the safehouse which makes it difficult for him to identify any of the malefactors.

They add that even the testimony of Private Complainant Eufonio Jose Naga is unbelievable because a gauze was placed on the sunglasses covering his eyes. He, in fact, failed to point at Accused-Appellant Aldas as one of his kidnappers. For failure of the prosecution to prove their guilt beyond reasonable doubt, they pray for their acquittal.[19]

Accused Santiago and Macanip, also as appellants[20] before Us, fault the RTC with the error, that:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

Accused-Appellants Santiago and Macanip, in their Brief,[21] pray for their acquittal and argue that the prosecution failed to discharge their burden. The testimony of the prosecution's witnesses, namely, Sergeant William Borres and Private Complainant Eufonio Jose Naga, were incredible. It was impossible for Sergeant William Borres to see them because he was 18 to 20 meters away from the safehouse and only a gas lamp illuminated the place. While Private Complainant Eufonio Jose Naga could hardly see because he was blindfolded. Moreover, even if Private Complainant Eufonio Jose Naga positively identified them, the same is doubtful because he did so only after he was informed by the state prosecutor. His identification obviously came from a polluted source or was supplied by an outside source and not from his recollection of the kidnapping incident.

More importantly, the prosecution failed to prove the elements of kidnapping under Article 267 of the Revised Penal Code, as amended by R.A. No. 7659. There is no evidence showing that a ransom was demanded for the release of the private complainant or that his deprivation of liberty was beyond three (3) days. Assuming they are criminally liable, they could only be convicted of a lesser offense of slight illegal detention under Article 268 of the Revised Penal Code.[22]

On the other hand, for the People, the Office of the Solicitor General (OSG) contends that the accused-appellants' culpability were established beyond reasonable doubt. Eufonio Jose Naga, the victim, gave a vivid narration of how he was abducted and held in captivity for four (4) days in a house somewhere in Paliparan II, Dasmariñas, Cavite until he was rescued by the members of the Police Anti-Crime Emergency Response (PACER). Obviously, what happened to him squarely falls within the context of serious illegal detention. Also, Sergeant William Borres, an intelligence operative of PACER, positively identified Accused-Appellants Aldas and Lauzon while he was conducting the surveillance. In contrast, the accused-appellants could only muster the defense of denial and alibi which cannot prevail over the witnesses' positive identification. As between the testimony of the kidnap

victim reinforced by a law enforcer's positive identification and accused-appellants' bare denial, the former is entitled to more evidentiary weight. Therefore, the RTC did not err in convicting them for the crime of kidnapping for ransom under Article 267 of the Revised Penal Code, as amended by R.A. No. 7659.[23]

OUR RULING

The basic legal precept is that criminal conviction requires of the prosecution to prove two (2) things beyond reasonable doubt: first, the fact of the crime charged, or the presence of all the elements of the crime; and second, the fact that the accused is the perpetrator of the crime.[24]

The prosecution has proven
beyond reasonable doubt
the elements of kidnapping
for ransom under Article 267
of the Revised Penal Code,
as amended by R.A. No. 7659

Accused-appellants were charged with kidnapping for ransom under Article 267 of the Revised Penal Code, as amended, by R.A. No. 7659 and their conviction for this indictment, they posit, cannot stand because there is no evidence showing that a ransom was demanded. And therefore, for failure of the prosecution to discharge the burden of establishing their guilt beyond reasonable doubt, they should be acquitted.

Kidnapping and serious illegal detention is defined under Article 267 of the Revised Penal Code, as amended by R.A. No 7659, viz:

“ xxx xxx xxx”

ART. 267. Kidnapping and serious illegal detention. — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death.

1. If the kidnapping or detention shall have lasted more than three days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

xxx xxx xxx“

For the accused to be convicted of kidnapping and serious illegal detention, the prosecution is burdened to prove beyond reasonable doubt all the elements of the crime, namely, (1) the offender is a private individual; (2) he kidnaps or detains another, or in any manner deprives the latter of his liberty; (3) the act of detention or kidnapping must be illegal; and (4) in the commission of the offense, any of the following circumstances is present: (a) the kidnapping or detention lasts for more than three (3) days; (b) it is committed by simulating public authority; (c) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill

him are made; or (d) the person kidnapped and kept in detained is a minor, the duration of his detention is immaterial. Likewise, if the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his detention is immaterial.[25]

Parenthetically, the elements of kidnapping for ransom under Article 267 of the Revised Penal Code, as amended by R.A. No. 7659, are as follows: (a) intent on the part of the accused to deprive the victim of his liberty; (b) actual deprivation of the victim of his liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim.[26]

After wading the records, We find that the foregoing elements were duly established by the prosecution. The fact that the kidnapping for the purpose of extorting ransom is apparent in the testimony of Eufonio Jose Naga, the victim. He narrated in detail how he was abducted at gun point somewhere in Sta. Mesa, Manila, near SM Centerpoint on December 2, 2003,[27] that he was taken by four (4) men against his will;[28] thereafter, he was turned-over to the accused-appellants, illegally detained in a safehouse until December 5, 2003 and heard several times “pera lang ito;” that his eyes were covered by a gauze placed on the lenses of the sunglasses and his hands and legs were tied,[29] thus, deprived of liberty; and that, accused-appellants made demands for the delivery of a ransom in exchange for his release but payment of the ransom money was not made because he was rescued by PACER on December 5, 2003.[30]

As held in the case of *People of the Philippines v. Garcia, et al.*,[31] neither actual demand for or actual payment of ransom is necessary for the crime of kidnapping to be committed. It is enough if the crime was committed “for the purpose of extorting ransom, thus:

“ xxx xxx xxx”

xxx In *People v. Salimbago*, we ruled -

No specific form of ransom is required to consummate the felony of kidnapping for ransom so long as it was intended as a bargaining chip in exchange for the victim’s freedom. In municipal criminal law, ransom refers to the money, price or consideration paid or demanded for redemption of a captured person or persons, a payment that releases from captivity. Neither actual demand for nor actual payment of ransom is necessary for the crime to be committed. It is enough if the crime was committed “for the purpose of extorting ransom.” Considering therefore, that the kidnapping was committed for such purpose, it is not necessary that one or any of the four circumstances be present.

So the gist of the crime, as aptly stated in American jurisprudence from which was derived the crime of kidnapping for ransom, is “not the forcible or secret confinement, imprisonment, inveiglement, or kidnapping without lawful authority, but x x x the felonious act of so doing with intent to hold for a ransom the person so kidnapped, confined, imprisoned, inveigled, etc

xxx xxx xxx “

Private Complainant Eufonio Jose Naga's testimony reveals every relevant detail of the kidnapping incident and is more than sufficient to satisfy the motive of the accused-appallants to obtain ransom money from his family. In short, the private complainant's testimony constitutes persuasive proof that the accused-appellants committed the crime of kidnapping. The prosecution has indeed proven that the motive for the kidnapping was to obtain ransom money for the victim.

The accused-appellants
were positively identified
by the prosecution witnesses

Accused-appellants also fault the RTC in giving full credence to the testimonies of Private Complainant Eufonio Jose Naga and Sergeant William Borres. They aver that their identification as assailants is doubtful and the testimonies of the prosecution witnesses are highly suspect, incredible and contrary to human experience, thus, cannot be used as bases for their conviction.

The determination of the credibility of the witnesses and their testimonies, then as now, is best undertaken by the trial court. The findings of the trial court, its calibration of the testimonial evidence of the parties, its assessment of the probative weight of the evidence on record and its conclusions anchored on the said evidence are accorded high respect, if not conclusive effect, because of its unique advantage of observing at close range the demeanor, deportment and conduct of the witnesses as they testify, unless the trial court ignored, misunderstood or misinterpreted cogent facts and circumstances which if considered would change the outcome of the case.[32]

After an assiduous review of the records and guided by the foregoing legal aphorism and finding nothing that would indicate any misinterpretation or misapprehension of facts, We also sustain the findings of the RTC. As discussed earlier, not only did private complainant established the elements of kidnapping for ransom but he also positively and accurately identified the accused-appellants as the perpetrators. His testimony[33] would attest to this, viz:

“ xxx xxx xxx

Q You likewise mentioned during the first hearing that there were watchers, what do you mean by watchers?

A Sir for me, watchers are the one (sic) who stayed there, make it a point that I cannot escape. They were the one (sic) who took their turns in checking if all the ties or the cord in my hand (sic) and legs are tied. They checking (sic) my blindfold, they were also the one (sic) threatening me, they were the same people feeding me and they are the same people who took turns in checking me.

Q These watchers of yours that you are referring to, are they inside the courtroom?

A Yes, sir.

Q Please point to them.

A The one in the front row in the middle wearing white shirt, sir (pointed to a man inside the courtroom who, when asked his name answered in the name of Gerardo Añoover).

Q What did he do, the man you pointed at, when you term (sic) him as a watcher?

A He would be staying in the opposite room, at time (sic) he would (sic) approached me and checked the cords in my hands and legs, sir.

QUESTIONS FROM THE COURT

Q How did you know that it was accused who checked you and also saw it (sic) that your hands were tied with that cord?

A I can see him apart from the time he stand (sic) up and go (sic) approached the room and I can hear the footstep (sic) that carry on. I cannot see them while in front of me because of the blindfold but before they go inside the room, I can see them, maam (sic).

Q What would be the distance from you to Gerardo Añoover when you saw his face? A It is the same distance we have now, maam (sic) (referred to a distance which was agreed upon of about/between four (4) to five (5) meters).

Q How many times were you able to see the face of Gerardo Añoover?

A Minimum of four (4) times maam (sic).

Q The first time that you saw him, what exactly did he do, if any?

A I saw him playing cards, maam (sic).

Q At a distance of four to five meters away from you?

A Yes, maam (sic).

Q With whom was he playing cards, if you know?

A The one is a tall guy and I can see his face and the other one is the person in white and blue shirt, maam (sic) (pointed to somebody in the courtroom).

Q Is he inside the courtroom?

A Yes maam (sic). The man in the second row, second man (pointed to a man inside the courtroom who, when asked his name answered by the name of Prudencio Santiago),

Q The second time that you saw Gerardo Añover, what if any was he doing?

A He was just sitting in a room across the living room, maam (sic).

xxx xxx xxx

Q During the first time that you saw Gerardo Añover, was there any conversation that took place between you and him?

A There was none, maam (sic).

Q During the second time?

A What he did was cock the gun, maam (sic).

Q The third time where did you see Gerardo Añover?

A In the same place because the only place I can see in the house is the living room and the room where I stayed maam (sic).

Q And does the Court understand that Gerardo Añover was in the living room?

A Yes maam (sic). He would either be in the living room or approaching (sic) the room where I was staying.

xxx xxx xxx

Q Can you identify those people he was talking to?

A Yes, maam (sic). That person in white shirt inside this courtroom.

Q What row?

A He is sitting in the second row, the man behind the person in orange shirt (pointed to a man inside the courtroom, when asked identified himself as Zosimo Lauzon).

xxx xxx xxx

Q How many times did you see Prudencio Santiago in that living room?

A Almost everytime food is being served, sir.

xxx xxx xxx

PROS. VILLANUEVA

Q How many times did you see Prudencio Santiago in that house?

A Around five (5) times, sir.

xxx xxx xxx

Q How about Mr. Lauzon whom you identified earlier, why do you say that he is one of your watchers?

A I can see him also in the living room, sir.

xxx xxx xxx

COURT

Q Is Mr. Lauzon inside the courtroom?

A Yes, maam (sic).

Q He is the man in white?

A Yes, maam (sic), the man in the second row.

xxx xxx xxx

PROS. VILLANUEVA

Q How about Vilma Macanip whom you identified in court, why do you term (sic) her as your watcher?

A Everytime I see her it would be the time that I will be fed, sir.

xxx xxx xxx

Q How many times did you see Vilma Macanip in that living room?

A Almost as often times as Mr. Prudencio Santiago.

COURT Q And you saw Prudencio Santiago at least five times?

A Yes maam (sic).

xxx xxx xxx “

Private Complainant Eufronio Jose Naga consistently pointed to the accused-appellants and never wavered in his testimony under rigorous cross-examination,[34] thus:

“ xxx xxx xxx

Q How were you able to see the faces of the accused who are now present in court?

A I was lying down and when I was lying down on my side like this I can see through the hole of the blindfold, Your Honor.

Q The door was opened?

A Often times, Your Honor.

Q And you saw people in the living room?

A Yes, Your Honor.

Q Okay, the Court wants you to look inside the courtroom and tell us if any or all the people who were there in the living room are here?

A Some of them are here, Your Honor.

Q Point to them.

A From the first row, the man in white shirt, Your Honor.

COURT: (to the man pointed to by the witness)

Will you please rise? What is your name?

(The man stood up and identified himself as Gerardo Añover.)

Q Who else?

A That man in black, Your Honor.

COURT: (to the man pointed to by the witness)

All right, please stand, what's your name?

(The man stood up and identified himself as Prudencio Santiago)

Q Anymore?

A That lady in gray, Your Honor.

COURT: (to the lady pointed to by the witness)

What's your name?

(The lady in gray stood up and identified herself as Vilma Macanip).

Q Who else?

A That man behind him in black, Your Honor.

COURT: (to the man pointed to by the witness)

Please stand up, what's your name?

(The man stood up and identified himself as Zosimo Lauzon)

xxx xxx xxx “

It is clear that Private Complainant Eufronio Jose Naga had the opportunity to see the faces of his kidnappers. We, like the RTC, find that his testimony, which was clear, straightforward and categorical, more than satisfies the judicial mind and conscience. It is a natural reaction for victims of crimes to strive to remember the faces of their assailants and the manner in which they committed the crime.^{xxxv} It is also settled that the victim's in-court identification is more than sufficient to establish the identities of accused-appellants as among the malefactors.^[36] Hence, there is usually no reason for us to doubt his testimony or to suspect his motives. The same holds true with the testimony of Sergeant William Borres,^[37] who conducted the surveillance before the rescue operations. He positively identified Accused-Appellants Lauzon, Añover and Aldas. Absent any evidence showing any reason or motive for prosecution witnesses to perjure, the logical conclusion is that no such improper motive exists, and their testimonies are worthy of full faith and credit.^[38] As against the positive identification of the accused-appellants by the private complainant and Sergeant William Borres, the accused-appellants' defenses

of denial and alibi crumble.

In fine, when the credibility of witnesses is in issue, the RTC's assessment is accorded great weight and respect because it was able to observe the demeanor of the witnesses and is consequently in a better position to determine which of the witnesses are telling the truth. Indeed, unless the RTC has overlooked or misinterpreted some facts or circumstances of weight and substance, We view that its findings are not to be disturbed on appeal.

The RTC also did not err in finding that conspiracy exists. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[39] It may be implied if it is proved that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent of each other, were, in fact, connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment.[40]

As reflected in the records, the testimony of Private Complainant Eufronio Jose Naga is replete with instances of accused-appellants' involvement with the crime. After his abduction and upon arrival at the safehouse, private complainant was turned over to the accused-appellants.[41] They tied private complainant's hands and feet, threatened him several times, guarded him to make sure that he cannot escape and even demanded ransom in exchange for his freedom. Accused-appellants who acted as watchers or guards at the safehouse clearly demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose. It appears that they have performed positive acts to actively detain the private complainant, hence, they are answerable as principals regardless of their degree of participation, for in the contemplation of the law, the act of one becomes the act of all.

The penalty of reclusion
perpetua without eligibility
for parole and the award of
exemplary damages are
sustained, however, the
amount of civil indemnity
and moral damages must
be modified

Under Article 267 of the Revised Penal Code, as amended by R.A. No. 7659, the penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person. However, due to the enactment of R.A. No. 9346,[42] death penalty may no longer be imposed. Instead, in line with prevailing jurisprudence,[43] accused-appellants shall suffer the penalty of reclusion perpetua without eligibility for parole.

The award of civil indemnity by the RTC is proper but should be increased from P50,000.00 to P75,000.00, Philippine Currency in accordance with current jurisprudence.[44] Moral damages may also be recovered in cases of illegal or arbitrary detention.[45] Because the victim is assumed to have suffered moral injuries and sufferings,[46] the award of moral damages is likewise proper but the same should be increased from P50,000.00 to P100,000.00, Philippine Currency. And, when the crime of kidnapping is attended by a demand for ransom, by way of example or correction,[47] exemplary damages may be awarded. The RTC's award of exemplary damages in the amount of P100,000.00, Philippine Currency, is affirmed.

WHEREFORE, premises considered, the appeal is DISMISSED. The assailed Judgment dated June 3, 2010 of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31 in Criminal Case No. 4554-SPL is AFFIRMED WITH MODIFICATION, in that, the civil indemnity to be paid by the accused-appellants is increased from

P50,000.00 to P75,000.00, Philippine Currency and the moral damages to be paid by the accused-appellants is increased from P50,000.00 to P100,000.00, Philippine Currency.

SO ORDERED.

Salazar-Fernando, R.A., Chairperson, and Sison-Gonzales, M., JJ., concur.

[1] Penned by Judge Sonia T. Yu-Casano; Records, pp. 709-722.

[2] Ibid., pp. 1-8.

[3] Also known as “An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Laws, As Amended, Other Special Penal Laws, And For Other Purposes.”

[4] Certificate of Arraignment, Id., p. 68.

[5] Certificate of Arraignment, Id., p. 130.

[6] Certificate of Arraignment, Id., p. 98.

[7] Certificate of Arraignment, Id., p. 79.

[8] See RTC Order dated July 11, 2008, Id., p. 527.

[9] Should be Col. Nerez

[10] Should be Col. Nerez.

[11] Supra, Note 1, pp. 710-715.

[12] Should be Col. Nerez.

[13] Ibid., pp. 715-717.

[14] Supra, Note 1.

[15] Id., p.729.

[16] Id., p. 730.

[17] Rollo, pp. 191-192.

[18] Accused-Appellants Alejandro Aldas and Zosimo Lauzon's Brief; Ibid., pp. 99-118.

[19] Ibid.,

[20] Per Our Resolution dated April 16, 2012, Rollo, pp. 191-192.

[21] Accused-Appellants Prudencio Santiago and Vilma Macanip's Brief, Ibid., pp. 204-222.

[22] Ibid.,

[23] Plaintiff-Appellee's Brief, Ibid., pp. 138-167.

[24] Dayap v. Sendiong, G.R. No. 177960, January 29, 2009. See People v Latayada, G.R. No. 146865, February 18, 2004. citing People v. Santos, 388 Phil. 993, 1004, June 8, 2000.

[25] People vs. Uyboco, G.R. No. 178039, January 19, 2011. citing People v. Cruz, Jr., G.R. No. 168446, 18

September 2009, 600 SCRA 449, 463-464 citing *People v. Soberano*, G.R. No. 116234, 6 November 1997, 281 SCRA 438, 446; *People v. Tan*, G.R. No. 177566, 26 March 2008, 549 SCRA 489, 498 citing *People v. Ejandra*, G.R. No. 134203, 27 May 2004, 429 SCRA 364, 381-382. See also *People of the Philippines v. Pickrell*, G.R. No. 120409, October 23, 2003.

[26] *People of the Philippines v. Petrus Yau and Susana Yau*, G.R. No. 208170, August 20, 2014. citing *People v. Cenahonon*, 554 Phil. 415, 432-433 (2007).

[27] TSN dated July 14, 2004, pp. 5-7. Pertinent portions of the direct examination of Eufonio Jose Naga read:

“ xxx xxx xxx

Q Do you remember your whereabouts in the afternoon of December 2, 2003?

A I was somewhere at Sta. Mesa near SM Centerpoint, sir.

Q What were you doing then?

A I was driving my vehicle, sir?

xxx xxx xxx

COURT

Q By the way, what kind of vehicle were you driving?

A Isuzu Crosswind with Plate No. VBS-468, Your Honor.

xxx xxx xxx

Q

What happened while you were driving your vehicle, an Isuzu Crosswind in the vicinity of SM Centerpoint, Sta. Mesa, Manila?

A

Surprisingly, a man got inside my van and pointed a gun on my head, sir.

Q

What kind of gun was this?

A

It was a revolver gun, sir.

Q

And were you able to look at the face of this man who pointed a gun at you?

A

Yes, sir.

Q

For how long were you able to look at his face?

A

Several times, 15 to 30 seconds, sir.

Q

This man who surprisingly got into your vehicle and pointed at you, is he inside the courtroom?

A

No, sir.

XXX XXX XXX

PROS. VILLANUEVA

Q After this man pointed a gun at you, what happened next?

A He instructed me to drive along and turn right to Magsaysay Street, sir.

Q Did you follow his instruction?

A Yes, sir.

Q What happened next after he instructed you to drive along Magsaysay Street?

A He said that I have to follow his instruction, or else “may kalalagyan ka,” sir.

Q What do you understand by the word “may kalalagyan ka?”

A “Papatayin niya ako” or something.

COURT

Q Aside from you, were there any other occupants or passenger in that Isuzu Van?

A None, Your Honor.

Q So you were alone?

A Yes, Your Honor.

PROS. VILLANUEVA

Q What do you feel after this man told you “sumunod ka kung hindi may kalalagyan ka?”

A I was very terrified, sir.

xxx xxx xxx

[28] Ibid., pp. 10-12. Pertinent portions of the direct examination of Eufronio Jose Naga read:

“ xxx xxx xxx

Q

What happened next after he made a call?

A

He was talking with somebody on the other line and said “dito na kami naka park ang tagal niyo, “ sir.

Q

What happened next?

A

We waited for a while around 15 to 30 minutes, sir.

Q

And what was the result of your waiting for 15 to 30 minutes?

A

After waiting, three (3) men approached the vehicle, sir.

Q

What happened after three (3) men approached your vehicle?

A

These three (3) men boarded the vehicle, sir.

Q

What happened next, after these three (3) men boarded your vehicle?

A

Immediately after boarding the vehicle, they closed the door, sir.

Q

What part of the vehicle did they board on?

A

The three men stayed at the back, at the second row, sir.

Q

What happened next?

A

Another men (sic) pulled his gun and pointed it on my head, sir.

xxx xxx xxx

[29] Ibid., pp. 19-20. Pertinent portions of the Direct examination of Eufonio Jose Naga read:

“ xxx xxx xxx

Q What happened after you were pulled inside the room?

A When I was inside the room, they changed the electric wire, it was transferred to my legs, another was placed and tied on my right side. They took off my glasses and asked me to shut my eyes although I slightly opened it and I saw that they putting (sic) gauze into a tape, sir.

Q What kind of tape was that?

A I think it was (sic) masking tape, sir.

Q What happened next after that?

A They put gauze with (sic) masking tape to cover my eyes, sir.

Q What happened next after they covered your eyes with masking tape and gauze?

A They instructed me to sit down on a bed made of bamboo, sir.

Q What transpired next, after you were made to sit down on a bamboo bed?

A These people were talking as if the abductors tell them “bahala na kayo diyan,” sir.

Q What else?

A Then they confirmed “wag kang mag-alala,kami ang bahala dito, “sir.

COURT

Q What else did they talk about?

A They have given me instruction not to be noisy and told me that “pera lang ito,” sir.

xxx xxx xxx“

See also TSN dated September 13, 2004. Cross-examination of Eufronio Jose Naga, pp. 17, which reads:

“ xxx xxx xxx

Q After the masking tape was placed on your eyes they ordered you to lie on the wooden bed, am I correct?

A They pushed me down to sit, sir.

Q Is it not that they also tied your feet at that time?

A Yes, sir.

Q After tying your feet, that is the time that the masking tape was placed on your eyes?

A Yes, sir.

Q Your hands were also tied?

A Yes, sir.

Q Did you see what material was used in tying your hands?

A Cord, sir smaller than this. (Witness demonstrating by showing his last finger or small finger).

Q What kind of cord, electric cord?

A Rope, sir.

Q What material is that?

A I think nylon, I know it is nylon, sir.

Q How about the material used in tying your feet?

A It is an electric wire, sir.

Q So, you just thought it was (sic) electric wire?

A I touched it, sir.

xxx xxx xxx“

[30] Ibid., pp. 35-37 Pertinent portions of the Direct examination of Eufronio Jose Naga read:

“ xxx xxx xxx

Q What transpired that night of December 4, 2003, Thursday?

A I talked to the one who fed me, how much they are asking?

Q What was his answer, if any?

A He said, P2 Million, sir.

Q What is this money for?

A

I believe that is for ransom and he told me what's the meaning “wag ka lang”... I cannot say the exact words but the meaning is may I quote “pera lang ito,” sir.

Q From whom were they demanding it?

A From my wife, sir.

Q What else happened that night of December 4, 2003?

A I asked them what's happening and he told me that there is a transaction going on, sir.

Q Between whom?

A Between one of them and my wife, sir.

XXX XXX XXX

Q

The following morning, December 5, what transpired?

A

Somebody would turn off the light, (sic) he fed me, occasionally, I would talk to the one who fed me what is the status then he said, the negotiation is going on. The routine, I urinated, I got so tired because I have not been sleeping for the past few days for a while sir.

Q

What happened after you rested for a while?

A

After a short rest, suddenly I heard fast movement, commotion, footsteps, sir.

Q

What happened after you heard fast movement, footsteps?

A

I got so nervous then suddenly, I heard gunshots, sir.

Q

At around what time is this?

A

I would say around 2:00 o'clock in the afternoon, sir.

Q

So, how many gunshots did you hear?

A

One from afar, one from very near inside our place, sir.

Q

Inside what?

A

Inside the house, sir.

Q

For how long was this gunshots (sic)?

A

I would say 60 to 90 seconds, sir.

Q

So, there were many gunshots?

A

Yes, one from inside, outside, inside, outside, something like that, sir.

Q

What happened next after you heard gunshots one from inside and outside?

A

Then, suddenly a man with a long gun entered the door and said “Jose Jose,” sir.

Q

What happened after his man with a long gun uttered “Jose, Jose?”

A

I did not reply because I thought there was (sic) another kidnappers then, sir.

Q

What happened after that?

A

I listened again and I heard “Jose, Jose Naga rescue kami,” sir.

Q

So what happened after you heard “Jose, Jose Naga rescue kami?”

A

I said “ako nga, ako nga,” and I stood up, sir.

Q

What happened next after you stood up?

A

The rescuer pulled me but my hands was tied at the window, sir.

Q

What happened next?

A

I told him “nakatali ako sa bintana.” So, it took time for me to take off the “tali” from the window and he hold me out until I stepped on somebody lying on the floor, sir.

xxx xxx xxx

[31] G.R. Nos. 133489 & 143970, January 15, 2002. citing People of the Philippines v. Salimbago, G.R. No. 121365, 14 September 1999, 314 SCRA 282, 301.

[32] People of the Philippines v. Pua, G.R. No. 144050, November 11, 2003.

[33] TSN dated August 3, 2004, Direct Examination of Eufronio Jose Naga, pp. 6-15

[34] TSN dated August 16, 2004. Cross-examination of Eufronio Jose Naga, pp. 12-14.

[35] People of the Philippines v. Hamton, et al., G.R. Nos. 134823-25, January 14, 2003. citing People vs. Bacungay, G.R. No. 125017, March 12, 2002; People vs. Garcia, G.R. Nos. 133489 & 143970, January 15, 2002; People vs. Candelario, 311 SCRA 475 (1999). See also People v. Pangilinan, G.R. Nos. 134823-25, January 14, 2003. citing People vs. Bacungay, G.R. No. 125017, March 12, 2002; People vs. Garcia, G.R. Nos. 133489 & 143970, January 15, 2002; People vs. Candelario, 311 SCRA 475 (1999).

[36] People of the Philippines v. Salvador, et al. G.R. No. 201443, April 10, 2013. citing People v. Jalosjos, 421 Phil. 43, 73-74 (2001). People v. Pepino, G.R. No. 183479, June 29, 2010, 622 SCRA 293, 303.

[37] TSN dated September 27, 2004. Direct Examination of Sergeant William Borres, pp.8-11. Pertinent portions of his testimony read:

" xxx xxx xxx

PROS. VILLANUEVA

Please step down from the witness stand and tap them on the shoulders.

A (Witness tapping the shoulder of one lady inside the courtroom who when asked her name answered by the name Vilma Macanip, Prudencio Santiago, Zosimo Lauzon, Gerado (sic) Añoover and Alejandro Aldas).

Q

What were they doing then at that time?

A

They were playing tong-its and drinking beer, sir.

Q

Do you know them at that time?

A

Some, sir.

Q

Who do you know at that time?

A

Zosimo Lauzon, Gerardo Añoover and Aelandro Aldas, sir.

Q

Why do you know them?

A

Because they were included in the watch list as kidnappers or KFR members, sir.

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PROS. VILLANUEVA

Q Mr. witness, you tapped the shoulder of Vilma Macanip and Prudencio Santiago, why do you know them?

A We saw them there at the safehouse, at about 6:00 in the morning Alejandro Aldas, Zosimo Lauzon, Gerardo Añoover and Jeffrey Añoover alias Reyboy went out of the safehouse, sir.

Q What did they do when they went out of the that safehouse?

A They were picked up by a white car Toyota Sedan without any plate number, sir.

Q What time as this Mr. witness?

A About 6:00 in the morning?

Q What happened after they were picked up white Toyota Sedan?

A A minute later the two came out, a male and female came out, sir.

Q To whom are you referring to this man and a woman came out from that house?

A (Witness pointing to a person who when asked his name answered by the name of Prudencio Santiago and a lady who when asked her name answered by the name of Vilma Macanip).

Q Will you please step down from the witness stand and tap the shoulder of this couple whom you saw came out

of that house?

A (Witness tapping the shoulder of a man who when asked his name answered by the name of Prudencio Santiago and a female who identified herself as Vilma Macanip).

Q

Where did they come from?

A

From the safehouse, sir.

Q

And what time was this?

A

6:15 and 6:20 in the morning.

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[38] People of the Philippines v. Bringas, G.R. No.189093, April 23, 2010.

[39] Article 8 of the Revised Penal Code.

[40] People of the Philippines v. Trestiza, et al, G.R. No. 193833, November 16, 2011. citing People v. Pagalasan, 452 Phil. 341, 363 (2003) paraphrasing Regina v. Murphy, 172 Eng. Rep. 502 (1837).

[41] TSN dated July 14, 2004. Direct examination of Eufronio Jose Naga, pp. 16-17, reads:

" xxx xxx xxx

Q By the way, where were these people positioned?

A One female on the left and the rests on the right side of the door, sir.

Q Were you able to look at their faces?

A Yes, sir.

Q For how long were you able to look at their faces?

A A minute or so, sir.

Q What transpired next after these two men got off from your vehicle and talked to these people?

A After they have their conversation, they forced me to get down from the vehicle, sir.

Q You mentioned a while ago that you saw a female?

A Yes, sir.

Q Will you find out and see for yourself whether that female is inside this courtroom?

A Yes, she is inside, sir.

Q Will you kindly point to her?

A

Yes, sir. The woman seated on the first row, third from the right bench of this courtroom. (Witness pointed to a woman inside this courtroom who when asked her name answered by the name of Vilma Macanip.)

Q And how about these other men whom you saw, are they inside this courtroom?

A Yes, sir.

Q Will you kindly point to them?

A Yes, sir. The one in white, the one in black and the one in orange.

COURT

Q The first one, what is your name?

A Gerardo Añover, Your Honor.

Q How about the other one?

A Prudencio Santiago, Your Honor.

Q How about the one in orange?

A Zosimo Lauzon, Your Honor

(Witness pointing to these three men inside this courtroom who when asked their names identified themselves as Gerardo Añover, Prudencio Santiago and Zosimo Lauzon).

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[42] Otherwise known as “An Act Prohibiting The Imposition Of Death Penalty In The Philippines.”

[43] People of the Philippines v. Petrus Yau and Susana Yau, G.R. No. 208170, August 20, 2014. See People of the Philippines v. Gambao, et al., G.R. No. 172707, October 1, 2013. See also People of the Philippines v. Jatulan, G.R. No. 171653, April 24, 2007.

[44] People of the Philippines v. Salvador, et al., G.R. No. 201443, April 10, 2013. citing People of the Philippines v. Bautista, G.R. No. 188601, June 29, 2010.

[45] People of the Philippines v. Garalde, G.R. No. 173055, April 13, 2007. See Article 2219 (5) of the Civil Code of the Philippines.

[46] People of the Philippines v. Trestiza, et al., Supra Note 40.

[47] People of the Philippines v. Petrus Yau and Susana Yau, Supra, Note 43. People of the Philippines v. Bringas, Supra Note 38. See also Article 2230 of the Civil Code of the Philippines.

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