

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE ANTONIO Y SIOBAL, ACCUSED-APPELLANT.

G.R. No. 107950. June 17, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

On 5 January 1989, Adela Carbonell filed with the 11th Municipal Circuit Trial Court (MCTC) of Villasis-Sto. Tomas, Pangasinan, a criminal complaint[1] accusing Jose Antonio y Siobal of raping her daughter, Mercedita Carbonell, on 22 December 1988. The complaint was supported by the sworn statements[2] of Adela and Mercedita and the medical certificate[3] issued by Dr. Hian Kiat Dy, the Rural Health Physician of Villasis.

The MCTC subsequently issued a warrant for the arrest of Antonio which was forthwith served upon him. On 6 January 1989, the MCTC directed Antonio to submit his counter-affidavits and those of his witnesses,[4] which he did. After the preliminary investigation, the MCTC found sufficient evidence to hold Antonio for trial and ordered the transmittal of the records of the case to the Office of the Provincial Prosecutor for appropriate action.[5] Before the latter could take any action, the accused filed an application for bail with Branch 50 of the Regional Trial Court (RTC) of Villasis, Pangasinan.[6] At the hearing thereof, the parties agreed to adopt the evidence already presented during the preliminary investigation.[7] Finding no strong evidence against the accused, the RTC granted the application for bail.[8]

On 2 June 1989, a criminal complaint, dated 6 April 1989, signed by the victim with the assistance of her mother, and duly approved by the Provincial Prosecutor, was filed with the said Regional Trial Court. Its accusatory portion reads as follows:

"That on or about the 22nd day of December, 1988, in the afternoon, at Zone V, Poblacion, municipality of Villasis, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with the undersigned, who is suffering from mental illness or deficiency, against the latter's will and consent to her damage and prejudice.

Contrary to Art. 335 of the Revised Penal Code."[9]

Issues having been joined by the accused's plea of not guilty at his arraignment,[10] trial on the merits was had.

The witnesses presented by the prosecution were Mercedita B. Carbonell; Adela Carbonell; Macario Barinque, a psychologist at the National Center for Mental Health (NCMH); Dr. Dino Peña, resident physician at the NCMH; Dr. Hian Kiat Dy, Rural Health Physician of Villasis, Pangasinan; and Pfc. Ruben Pituc of the Integrated National Police of Villasis, Pangasinan.

The defense presented the accused; his wife, Emma Ramat Antonio; Pfc. Jose Abrenica; and Jose Rauro.

By its evidence, the prosecution established the following facts:

Accused Jose Antonio lives in a two-storey house located along the national highway in Zone V, Villasis, Pangasinan. He and his family occupy a room on the ground floor which serves as their living quarters, while just outside the room is a vulcanizing shop which he manages. On the other hand, Mercedita, who suffers from epilepsy, and her mother, Adela, live in a house located just across the accused's house, also along the national highway.

In the afternoon of 22 December 1988, between 12 noon and 1:00 p.m., Mercedita, who was then twenty-four years old, went to the house of the accused to get some comics which the latter had borrowed the day before. No one was at home then, except the accused who let Mercedita inside a room. While inside, he closed the windows and the door, then forcibly seized Mercedita. He held her tightly, touched her breast, and inserted his finger into her vagina. Jose forced Mercedita to stoop down, her head touching the ground, removed her underwear, lowered his pants and brief, and copulated with her while in that position.[11] Not contented, he made her lie down on the cement floor and performed the sexual act again.[12] All this time, Jose had a bolo within reach.[13] Thereafter, he allowed her to go home, but not without a threat that he would kill her if she reports the incident to her mother.[14]

At about 3:00 p.m. that same day, Adela found her daughter in her room crying. Mercedita complained of stomach pains and began to have seizures. Adela noticed that Mercedita's skirt was stained with blood. Thinking that she might just be having her monthly period, Adela fixed Mercedita up and let her sleep.[15] When Mercedita's brothers and sisters arrived home for the Christmas holiday, she was in a depressed state and would often complain of stomach pains and have epileptic seizures.

It was only on 3 January 1989 that Adela was able to convince Mercedita to relate her problem. Mercedita said that she would die if she became pregnant. When Adela commented that she would not become pregnant because she is single, Mercedita revealed to her mother the incident which had transpired on 22 December 1988.[16]

The following day, Adela and Mercedita went to the police authorities to report the incident. Pfc. Ruben Pituc, who received their complaint, advised them to have Mercedita examined by a doctor. Thus, they went to Dr. Hian Kiat C. Dy, Rural Health Physician of Villasis, Pangasinan, who upon conducting a physical examination on Mercedita found the following:

"Injuries:

1. Laceration healed (old) at 5th and 7th o'clock, hymen.
2. No other significant physical findings."

Pfc. Pituc, on the other hand, went to the house of accused Jose Antonio to invite him for questioning at the police station. When they reached the station, Mercedita and her mother were already there waiting. Upon seeing the accused, Mercedita pointed to him and said in Ilocano, "niloko nac, niloko nac" (you fooled me).[18] Meanwhile, the parents of the accused and another relative, Helen Ramat, approached Adela and offered the sum of P4,000.00 as settlement, which the latter refused.[19]

Through the testimony of Dr. Dino S.C. Peña, a resident physician of the NCMH whose specialization is psychiatry and who had conducted a neuro-psychiatric examination of Mercedita,[20] the prosecution proved that Mercedita had sustained a head trauma when she was eight months old, after which she developed meningitis. When she was seven years old, she started to have frequent episodes of generalized seizures which were diagnosed as epilepsy.[21] Based on the clinical history, observations, and examinations he conducted, Dr. Peña concluded that "she was found suffering from an organic mental disorder." [22] Pertinent portions of his detailed report,[23] dated 25 October 1989, on the mental and physical condition of Mercedita read as follows:

"BRIEF BACKGROUND HISTORY:

Patient is the 5th among 7 siblings. She was born full term, a normal, spontaneous delivery in a hospital assisted by a doctor. She was breastfed until one year of age. Developmental milestones were within normal limits. At 8 months of age, patient accidentally fell from her stroller. Though there was no loss of consciousness, she developed high grade fever with convulsive seizures that she had to be confined in a hospital for one week and diagnosed to have meningitis. At the age of 7, the patient began to have frequent episodes of generalized seizures accompanied by behavioral oddities like disarranging furniture at home or throwing any object away. She was brought to physicians in Manila and Baguio and diagnosed to have an Organic Mental Disorder secondary to Seizure Disorder, Generalized. In spite of her illness, the patient was able to finish first year high school. And ever since she was maintained on Carbamazepine about two years ago, her seizure episodes have been controlled.

Last December 22, 1989, the patient was allegedly raped. A case was filed in court and subsequently an order by the Honorable Court dated September 14, 1989, received last October 9, 1989 for the patient to undergo neuropsychiatric evaluation.

MENTAL STATUS EXAMINATION: (October 9, 1989)

On her first consultation, the patient was a dark-complexioned, overweight, of small stature, young adult female, who was appropriately-dressed and did not exhibit any bizarre nor violent behavior. She could speak in Ilocano or Tagalog. And generally her verbal responses were coherent and relevant. Affect was restricted.

Regarding the incident in question which happened last December 22, 1988, she narrated in her own words -- 'nirape ako ni Antonio Siobal, siniraan niya ako sa loob ng bahay . . . kukunin ko sana 'yung mga komiks.' Added, 'pinagsamantalahan niya ako . . . papatayin niya raw ako kung sasabihin ko raw.' She denied ever having any hallucination nor morbid, illogical and absurd ideation.

She was oriented to the 3 spheres. Her memory was good as she could give the following about herself. She's 25, born on August 5, 1964, 5th of 7 siblings, reached first year high school, her sibling's and parent's names and that she's on medication for epilepsy. She had a fair grasp of general information but with poor abstract thinking.

Her judgment was unimpaired, and she has insight in reference to her seizure disorder.

PHYSICAL AND NEUROLOGICAL EXAMINATION: (October 9, 1989)

Findings are within normal limits.

On her 2nd consultation last October 16, 1989, the patient reiterated that she was raped by Antonio Siobal. She was oriented to the three spheres. Memory intact. Judgment unimpaired. And had insight.

LATEST MENTAL STATUS EXAMINATION: (October 23, 1989)

The patient was accompanied by her mother. Well-behaved and cooperative. Her verbal responses were coherent and relevant. Affect was restricted.

Repeated her story that Antonio Siobal allegedly raped her, 'niraped niya ako noong December 22, 1988 . . . sinabihan niya ako na huwag magsusumbong kung hindi papatayin niya ako.'

She denied having any perceptual nor conceptual aberrances. Related that her last seizure episode was mild and several weeks ago.

Oriented to the 3 spheres. Memory intact. Judgment unimpaired. And she had insight in reference to her seizure disorder.

PHYSICAL AND NEUROLOGICAL EXAMINATION: (October 23, 1989)

Findings are within normal limits.

REMARKS AND RECOMMENDATIONS:

Based on the clinical history, observations and examinations conducted on the patient Mercedita Carbonell, she was found suffering from an Organic Mental Disorder. At present she does not show any sign of insanity or psychosis, hence she is deemed mentally competent to withstand the rigors of court trial.

It is recommended that she continue taking her anti-convulsant medication and regular monthly check-up at Pangasinan Provincial Hospital, Dagupan under Dr. Milagros Casanova to prevent any exacerbation of her illness."

Per the testimony of Macario Barinque, Psychologist II of the NCMH who conducted a psychological examination on Mercedita, the latter, after undergoing various tests, was found to have a Verbal Scale IQ of 57, Performance Scale IQ of 64, and a Full Scale IQ of 59. With the Verbal Scale IQ of 57, "she falls under the category of Mentally Retarded patient." The Performance Scale IQ of 64 is equivalent to "Mild Mental Retardation." The highest IQ of a person is 150 and the lowest is 0. And with her Full Scale IQ of 59, she falls under the category of "Mild Mentally Retarded patient." [24] He further disclosed that Mercedita has the mental capacity of a seven-year-old child. Thus:

"Q Now on the basis of the Weschler examination with the rate of 57, 64 and 59, what is the mental capacity of the patient?

A The patient has a mental capacity of a mild mental retardation, sir.

Q Since she has that capacity of mild mental retardation, if you measure the [mental] age of the patient, what would be her age?

A Seven (7) years old, sir." [25]

Pertinent portions of Dr. Barinque's Psychological Report [26] on Mercedita read as follows:

"TEST ADMINISTERED:

Wechsler Adult Intelligence Scale-R

Bender Visual Motor Gestalt Test

Draw a Person

Rorschach Psychodiagnostic Test

Sach Sentence Completion Test

TEST RESULTS AND EVALUATIONS:

Wechsler Adult Intelligence Scale-R:

Verbal Scale IQ - - - - - 57

Performance Scale IQ - - - 64

Full Scale IQ - - - - - 59

Current mental functioning falls along the mild mental retardation level. Scattering and spottiness of the test scores suggest mental inefficiency at the moment. Innate capacity is higher than the present one.

Psychogram suggest impairment on almost every area of her cognitive functions except only on those which measure her deductive capacity, keenness in observing details and speed of her [viso]-motor coordination which are poor.

Projective data bespeak of a low grade and repressed individual who is unable to identify with her own sex and peer group. She even misrecognizes the difference between the roles of the sexes further indicating conflicts along the sphere. She is emotionally immature and egocentric whose dependency trends and affectional needs are evident. Emotionally unstable, she sometimes lets loose her aggressivity [sic] out of inadequacy in the control of her body impulses. She places too little emphasis on impersonal matter of fact relationship with her world for sufficient control to be maintained. Non-committal attitudes are inferred.

Her high ambitions override her drives and inner resources that she meets frustrations for which she has a very low threshold. She somehow tends to withdraw from reality as she clings to her unjustified optimisms.

There is a sense of depersonalization and feeling of decline. Flattening of affect is likewise noted. Planning ability is poor.

Ego functioning is weak.

In the SSCT [Sach Sentence Completion Test], childish response is elicited when she said, 'Kung ako'y nagkaroon ng karanasang sexual ay magsusumbong ako sa nanay ko.'"[27]

The version of the defense is as follows:

Mercedita was not seen at the premises of the vulcanizing shop or the house of the accused on 22 December 1988, although she used to frequent the place to play with the three children of the Antonio's. On 22 December 1988, the vulcanizing shop was quite busy as there were many customers. Emma, Jose's wife, never left the shop because she helped in collecting the fees. The parents and brother of Emma, who occupy the second storey of the house, were also home during this time. Mercedita accused Jose because she was insisting that she be introduced to one of Jose's customers known only as Ronnie.[28]

The defense adopted as its evidence the report of Dr. Peña[29] to prove that the offended party is capable of good perception and offered the offended party's secondary student record[30] to prove that she passed her first year in high school with a general average of 79%.

On 24 July 1992, the trial court promulgated its decision[31] finding the accused guilty of the crime of rape and disposing as follows:

"WHEREFORE, this Court finds the accused Jose Antonio y Siobal guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 335 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua, to indemnify the offended party, Mercedita B. Carbonell, in the sum of P10,000.00 as moral damages and to pay the costs."[32]

The judgment of conviction was not predicated on carnal knowledge through force or intimidation. As ruled by the trial court:

"There is nothing in the evidence of the prosecution that the victim put up any resistance or struggle. Neither did she cry for any help before or during the alleged sexual act, although she claims that the accused had a bolo beside him. Nor was she threatened by the accused before the sexual intercourse. She was, however, threatened after the intercourse. Furthermore, the prosecution's evidence do not show that force or intimidation was used by the accused before or during the sexual intercourse." [33]

Rather, the judgment was based on the finding that the offended party is suffering from "organic mental disorder," and deprived of reason because she is "a moron or a person with a mild retardation level . . . like a seven year old

child."[34] Pertinent portions of the trial court's disquisitions read as follows:

"The thrust, however, of the prosecution's theory and evidence is that Mercedita, who was over 24 years old when the sexual intercourse took place, is suffering from mental illness or deficiency and, as such, the accused took advantage of her mental condition to commit the acts complained of.

That the victim is afflicted with epilepsy is a fact established by the prosecution's evidence. Even the accused himself admitted that Mercedita is suffering from epilepsy and has witnessed her seizures. As shown in the report of Dr. Peña (Exh. 'A') Mercedita has had, since the age of 7, frequent episodes of generalized seizures. Even the Court has witnessed Mercedita suffer epileptic seizure. During the trial of this case, specifically on January 12, 1990, the Court saw Mercedita's body and lower and upper extremities shake and her eyeballs turn around. Then Mercedita lost consciousness. Mercedita was unconscious for more than an hour.

That Mercedita is suffering from organic mental disorder is likewise established by the prosecution's evidence. As shown in the psychological report (Exh. 'B'), Mercedita, has a verbal scale IQ of 57; performance IQ of 64 and full scale IQ of 59. As testified to by Dr. Peña in Court, a person with an IQ of 55 to 70 is classified as a moron or a person with a mild retardation level; that this person is classified as an immature individual but his memory would not be impaired; that he could reach only up to Grade VI. (TSN, Jan. 11, 1990, p. 3). Furthermore, he stated that person with a mild mental retardation level would be like a 7 year old child capable of perceiving and making known her perception to others. (TSN, Jan. 10, 1990, p. 11).

While Dr. Peña's credentials as an expert psychiatrist is not impressive, not having undergone training abroad and not having graduated [with] any master's degree in psychiatry, we believe that the number of patients he has examined from his specialization in psychiatry (he is now in his 3rd year, out of a residency of 4 years) eminently qualifies him as an expert witness.

By the same standard, we also believe that Mr. Barinque, a psychologist of the National Mental Hospital is eminently qualified to testify as an expert witness on his line of specialty -- psychology and psychological testing to measure the mental capacity of persons.

x x x

Even granting that Mercedita gave her consent to the sexual intercourse, it appearing from the evidence that she did not struggle or put up any resistance or did not cry for help or assistance before and during the sexual act, by reason of her mental condition, she is incapable of giving consent to the sexual act. As held by the Supreme Court, she is in the same class as a woman deprived of reason or otherwise unconscious. (People vs. Sunga, 137 SCRA, 130 [1985])."[35]

The accused seasonably appealed to us his conviction and, in his appeal brief,[36] imputes to the trial court the commission of this lone error:

"THE TRIAL COURT ERRED IN FINDING ACCUSED APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE FACT THAT THE EVIDENCE FOR THE PROSECUTION IS INSUFFICIENT TO CONVICT."[37]

The accused specifically argues that the "prosecution failed to show that the victim was actually suffering from epileptic fit at the time of the alleged rape, [and] the testimony of the victim herself would tend to show that she was not insane." [38] On the contrary, "[i]ntelligent and responsive answers were elicited from the victim during her testimony especially on how she was allegedly raped by accused-appellant. Moreover, the victim's scholastic performance would seem to be that of an average person." [39]

The accused does not categorically deny that he had carnal knowledge of Mercedita. Rather, he anchors his defense on the trial court's finding that the sexual intercourse was not accompanied by force or intimidation, and

on his contention that Mercedita was not insane nor having an epileptic seizure at the time of the alleged rape.

The issue then boils down to a determination of whether the degree of Mercedita's mental retardation deprives her of reason such that any carnal knowledge of her may be considered rape under paragraph 2, Article 335 of the Revised Penal Code.

Intelligence, as defined by David Weschler,[40] is the "aggregate or global capacity of the individual to act purposefully, to think rationally, and to deal effectively with his environment. It is global because it characterizes the individual's behavior as a whole; it is an aggregate because it is composed of elements or abilities which though not entirely independent, are qualitatively differentiable." [41] Most intelligence tests are now based on the assumption that full maturity of intelligence is reached at 15 years of age. After that age, it was found that there was little increase in native intelligence as distinguished from knowledge.[42]

Intelligence has been classified as follows:

CLASSIFICATION I.Q. Range

Very Superior 128 and over

Superior 120 – 127

Bright Normal 111 – 119

Average 91 – 110

Dull Normal 80 – 90

Borderline 66 – 79

Defective 65 and below[43]

In the present case, according to the testimony of Dr. Peña and Mr. Barinque, Mercedita Carbonell, at the age of twenty-five years was found to have a verbal I.Q. of 57, which falls under the category of mentally retarded; performance I.Q. of 64, which is the utilization of her eyes and hand coordination and is equivalent to that of a mild mentally retarded individual; and full scale I.Q. of 59, which is again indicative of mild mental retardation. Relative to the table above, the victim's I.Q. of 57-64 falls under the category of mentally defective.[44]

As observed by Dr. Peña and Mr. Barinque, Mercedita has poor abstract thinking with a fair grasp of general information, although her judgment is unimpaired, and she is capable of perceiving and making her perception known. Mercedita is thus considered a mild mentally retarded individual, with a mental age of a 7-year-old child.[45] Because of her organic mental disorder, the most that she can achieve is up to the mental age of a 9 to 10-year-old child, which would still be way off the borderline level of intelligence. This means that despite her age, she thinks like a child or is "isip-bata."

A big difference between a mental retardate and an ordinary 6 or 7-year-old child would be in the speed of learning. A mental retardate would take about twice as long to learn anything as the ordinary 6-year-old child, although she may have quite a good memory just like the victim in this case.[46]

Having the mentality of a 6 to 7-year-old child, Mercedita could not have validly given her consent to or opposed the sexual act.

We do not agree with the accused's contention that Mercedita can be considered an average person because she finished first year high school. Scholastic performance is not necessarily indicative of the mental age of an individual. It is true that a person suffering from mild mental retardation at the school age of 6 to 21 years would

have difficulty learning general high school subjects and would need special education particularly at secondary school age levels.[47] But they could still be considered educable, for as long as there is close guidance. Moreover, schools have different academic standards; it is not surprising then that Mercedita was able to finish first year high school with merely passing grades.[48] The measurement of the IQ, on the other hand, is based on an established formula (obtained by multiplying the mental age of the subject, ascertained by testing, by 100 and dividing the result by the chronological age)[49] which is plotted and standardized.

Regarding the accused's contention that the victim is an epileptic and not insane, studies show that epilepsy is a symptom of some underlying brain damage or disorder. Their occurrence together is usually not coincidental, but the result of the underlying brain disorder.[50]

It has time and again been held that a person is guilty of rape when he has sexual intercourse with a female who is mentally incapable of validly giving consent to or opposing the carnal act. This rule has been reiterated by this Court in the following cases: *People vs. Race*,[51] which upheld convictions for the crime of rape; *People vs. Gallano*,[52] where the 31-year-old victim had the mental level of a 7-year-old child; *People vs. Asturias*,[53] where the 17-year-old victim had a mental level lower than that of a 7-year-old child; *People vs. Sunga*,[54] where the 23-year-old victim had the mentality of an 8 to 9-year-old child; and *People vs. Palma*,[55] where the victim was a 14-year-old retardate with an intellectual capacity described as "borderline mental deficiency."

We have held that if the mental age of a woman above twelve years is that of a child below twelve years, even if she voluntarily submitted to the bestial desires of the accused, or even if the circumstances of force or intimidation, or of the victim being deprived of reason or otherwise unconscious are absent, the accused would still be liable for rape under the third paragraph of Article 335. The rationale for this is that if sexual intercourse with a victim under twelve years of age is rape, then it should follow that carnal knowledge of a woman whose mental age is that of a child below twelve years would also constitute rape.[56]

In any event, the complainant's testimony also shows that the accused resorted to force and intimidation. For rape to exist, it is not necessary that the force or intimidation employed in accomplishing it be so great or of such character as could not be resisted, it is only necessary that the force or intimidation be sufficient to consummate the purpose which the accused had in mind.[57] Intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule. It is therefore enough that it produces fear -- fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at the moment or even thereafter, as when she is threatened with death if she reports the incident.[58]

In this case, Mercedita was forcibly taken by the accused. She was held tightly and was forced to stoop so he could perform the sexual act. All the time, a bolo was readily available in case she resisted. After which, Mercedita was told not to tell anyone what had happened, otherwise she would be killed.

Well-settled is the rule that positive testimony is stronger than negative testimony. The lone testimony of the victim in the crime of rape, if credible, is sufficient to sustain a conviction. This is because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[59]

The award of P10,000.00 as moral damages to indemnify the victim must be increased to P40,000.00 considering the condition of the victim, who is a retardate, and pursuant to the ruling in *People vs. Arena*[60] and *People vs. Race*. [61]

WHEREFORE, except as above modified, the decision of Branch 50 of the Regional Trial Court of Villasis,

Pangasinan, in Criminal Case No. V-0185, finding accused-appellant JOSE ANTONIO y SIOBAL guilty beyond reasonable doubt of the crime of rape, is hereby AFFIRMED.

Costs against the accused-appellant.

SO ORDERED.

Cruz, (Chairman), Bellosillo, Quason, and Kapunan, JJ., concur.

[1] Original Records (OR), 1.

[2] Id., 3-4.

[3] Id., 2.

[4] Id., 13.

[5] OR, 40-44.

[6] Id., 46.

[7] Id., 64.

[8] Id., 66-70. Per Judge Cesar J. Mindaro.

[9] Id., 74.

[10] Id., 94.

[11] TSN, 5 January 1989, 2; OR, 9.

[12] TSN, 12 January 1990, 21.

[13] Id., 19.

[14] Id., 13.

[15] TSN, 6 June 1990, 4, 11.

[16] Id., 5.

[17] OR, 2.

[18] TSN, 25 May 1990, 5.

[19] TSN, 6 June 1990, 17.

[20] TSN, 10 January 1990, 4-5.

[21] Id., 5-6.

[22] TSN, 10 January 1990, 8.

[23] Exhibit "A"; Exhibit "1"; OR, 108-109.

[24] TSN, 9 May 1990, 11-12.

[25] TSN, 16 May 1990, 24.

[26] Exhibit "B"; Exhibit "4"; OR, 110-111.

[27] OR, 110-111.

[28] TSN, 27 June 1990, 2-9.

[29] Exhibit "A," which it marked as Exhibit "1."

[30] Exhibit "2"; OR, 47.

[31] OR, 208-231; Rollo, 19-42. Per Judge Alfonso G. Abad.

[32] Id., 231; Id., 42.

[33] OR, 226.

[34] Id., 227.

[35] OR, 226-230.

[36] Rollo, 66-78.

[37] Id., 68.

[38] Rollo, 75.

[39] Id.

[40] David Weschler designed the Weschler Adult Intelligence Scale, the test which was given to the victim in this case to determine her mental capacity.

[41] WALTER J. COVILLE, ET AL., ABNORMAL PSYCHOLOGY 209 (1960 Ed.).

[42] LAWRENCE C. KOLB, NOYE'S MODERN CLINICAL PSYCHIATRY 305-306 (7th ed. 1968).

[43] Weschler's Classification of Intelligence, found in COVILLE, supra, footnote no. 41 at 210.

[44] TSN, 9 May 1990, 12.

[45] TSN, 10 January 1990, 11; TSN, 16 May 1990, 24.

[46] BRIAN H. KIRMAN, THE MENTALLY HANDICAPPED CHILD 138 (1972 ed.).

[47] KOLB, supra, footnote no. 42 at 308.

[48] OR, 47.

[49] BENJAMIN F. MILLER & CLAIRE BRACKMAN KEANE, ENCYCLOPEDIA & DICTIONARY OF MEDICINE & NURSING 489 (1972 ed.)

[50] MICHAEL CRAFT, TREGOLD'S MENTAL RETARDATION 331 (12th ed. 1979).

[51] 212 SCRA 90 [1992].

[52] 108 SCRA 405 [1981].

[53] 134 SCRA 405 [1985].

[54] 137 SCRA 130 [1985].

[55] 144 SCRA 236 [1986].

[56] People vs. Race, supra.

[57] People vs. Matrimonio, 215 SCRA 613 [1992].

[58] People vs. Grefiel, 215 SCRA 596 [1992].

[59] People vs. Tismo, 204 SCRA 535 [1991]; People vs. Matrimonio, supra.

[60] 198 SCRA 172 [1991].

[61] Supra.

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