

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SGT. LAURO P. ARSENAL, RUBEN A. ACERVO, WILLIAM S. TRESPECES, ATANACIO O. SARIA, MERLITO M. PEREZ AND REMY R. YSON, ACCU...

G.R. No. 124344. September 07, 1998

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

For forcibly taking one Antonio R. Tan to extort ransom and depriving him of his liberty, Sgt. Lauro P. Arsenal, Ruben A. Acervo, William S. Trespeces, Atanacio O. Saria, Merlito M. Perez and Remy R. Yson were charged with kidnapping and serious illegal detention, defined and penalized under Art. 267 of the Revised Penal Code.[1] After trial, Arsenal, Acervo and Trespeces were found guilty as principals on the crime charged and sentenced to reclusion perpetua,[2] while Perez and Yson were merely adjudged as accomplices and sentenced to an indeterminate prison term of eight (8) years and one (1) day of prison mayor as minimum, to fourteen (14) years eight (8) months and one (1) day of reclusion temporal as maximum. Saria was acquitted for insufficiency of evidence.[3]

Accused Ruben Bautista and Morito Cogollo were not tried as they remained at large.

The facts: On 17 July 1991, at around eight o'clock in the morning, Antonio R. Tan, a businessman, drove from his residence to his office on board his Toyota Cressida. Some fifty (50) meters away, his car was blocked by another car at the corner of Bolivia and Batangas Sts., Makati. Three (3) armed men alighted from the other car, approached him, and at gun point ordered him to transfer to the back seat of his car. They blindfolded and handcuffed him and told him they were from the Bureau of Customs and were bringing him to Camp Crame. They took his necklace worth P9,000.00 and his wallet containing more than P1,000.00. After traversing some distance away they stopped the car and brought him inside a house where they asked him about his wife, children and telephone number. Afterwards, they told him they were actually members of the New People's Army and needed P100,000.00.

Meanwhile, Tan's neighbors informed his son Johnny Tan about the abduction. Thinking that his father was a victim of carnappers, Johnny sought assistance from the Highway Patrol Group (HPG) headed by Capt. Mario Cruz. Thereafter, twelve (12) HPG teams were formed and scattered to conduct surveillance in strategic areas around Metro Manila.

At around eleven o'clock that morning, a man identifying himself as Jose called up Tan's residence. He informed Antonio's wife that their car was at the parking lot of Max Restaurant in Baclaran. Johnny listened to their conversation through the extension line. The driver of the Tans then retrieved the car. At four in the afternoon, Jose called up Mrs. Tan again. This time he asked for "contribution" in the amount of US\$2,000,000.00 in exchange for Antonio's life. Again, Johnny listened through the extension line.

The following day, Jose called up Mrs. Tan to inquire about the status of their ransom demand. Mrs. Tan started to have a nervous breakdown so Jose ended up talking to Johnny instead who replied that he would be soliciting help from relatives. Jose made another call that day for the same reason. Johnny relayed the telephone calls to Capt. Jose Jorge Corpuz of the HPG who secured a court order to wire-tap their telephone.[4] The HPG teams set up their command post at Tan's residence with Maj. Laurenaria in charge of the listening equipment and Capt. Corpuz of the tape recording.

From 19 to 20 July 1991 Jose repeatedly called up asking about the money so far raised by the Tan family. A fluent English-speaking person referred to by Jose as the "higher authority" among the kidnappers also negotiated with Johnny. The Philippine Long Distance Telephone (PLDT) monitoring team which was aiding the HPG was able to trace the origin of most of the calls through its sophisticated network but each time the responding HPG teams checked the particular places where the calls came from the callers were nowhere to be found.

As of 21 July 1991 the Tans were able to raise only P665,000.00. Wishing to end the negotiations, Jose called up Johnny at around four in the afternoon. Upon learning of the available amount, Jose instructed Johnny to put it in a bag and proceed to the Barrio Fiesta Restaurant in Buendia Ave., Makati, wearing a sleeveless shirt and a pair of walking shorts. Jose also told Johnny to drive the Cressida but since it was not functioning at that time Johnny suggested the Toyota Hi-lux instead, to which Jose agreed. Major Laurenaria and Capt. Corpuz of the HPG gave Johnny the go-signal to accede to the instructions of Jose, assuring him they would keep an eye on his every move. Johnny was equipped with a hand-held radio.

When Johnny arrived at Barrio Fiesta a telephone call was already waiting for him. The PLDT team traced its origin to 4220 Tomas Claudio St., Baclaran. The caller was Jose who told Johnny to get a letter from the toilet bowl inside the restaurant's comfort room. Jose then informed Johnny he would call back in ten (10) minutes Johnny found the letter which contained the following instructions from the kidnappers -

Instruction No. 1. Proceed to Tagaytay City taking coastal road;

Instruction No. 2. Upon reaching Shell gasoline station located at the right side of the coastal road, fill in gasoline, open your trunk lid, four doors and after execution then close and proceed to Tagaytay City using Aguinaldo Highway;

Instruction No. 3. Upon reaching Petron gasoline station at the intersection of Imus, Cavite, come to full stop for one minute, then open your glass window and open the light inside the car and proceed to Tagaytay City at recommended speed of 40 kms. per hour;

Instruction No. 4. Upon seeing a lighted torch at the right side of the road lower your speed to 20 kms. per hour and come to full stop upon reaching the torch, then put out your headlight and unlock four doors leaving the light inside the car open then turn right and drive straight and come to full stop on the person signaling the flashlight;

Instruction No. 5. Upon seeing somebody approaching put your both hands on your head and wait for the person to announce the pass word "Ninja."

WARNING: Surrender this letter instruction to the approaching person.[5]

The PLDT team decided to block the second call of Jose to give the HPG teams posted in Baclaran, headed by Sgt. Roberto Mabalot, sufficient time to reach the source of the call and to ascertain the identity of the caller.

In a store located at 4220 Tomas Claudio St., Sgt. Mabalot saw three (3) men. The first was dark, around 5'6" to 5'7" tall; he was using the telephone. The second was small, wearing green shirt and short pants; he was watching his companion. The third was standing near a car, apparently acting as lookout. Sergeant Mabalot reported his

observations to Capt. Corpuz who then instructed him to keep a close watch and to follow them wherever they went. Thereafter, Capt. Cruz informed the PLDT team to now allow the call from 4220 Tomas Claudio St. to be connected to Barrio Fiesta.

The second call of Jose came through around forty-five minutes after the first call. Upon learning that Johnny had found the letter, Jose passed the telephone to the "higher authority" who asked Johnny whether he brought the money with him. When Johnny answered in the affirmative, the "higher authority" advised him to adhere to the instructions so that he and his family would be reunited with their captive unharmed early that night.

After the conversation, Johnny left Barrio Fiesta and cruised all the way along Buendia Ave. towards Roxas Blvd. and the coastal road. He radioed Capt. Corpuz and transmitted to him the kidnappers' instructions. Accordingly, Capt. Corpuz ordered some of his teams to position themselves at the Shell gasoline station along the coastal road, some at the Petron gasoline station in Imus, Cavite, while the rest were "to shadow"[6] the movements of Johnny.

Back at 4220 Tomas Claudio St., Sgt. Mabalot saw the three (3) men board a Mitsubishi Lancer with Plate No. PTP 630. While tailing the car he relayed the information to Capt. Corpuz. After a while, however, he had to be relieved by M/Sgt. Palomares and Sgt. Singcay since it appeared that the three (3) men were beginning to suspect that they were being followed. Before disengaging himself, Sgt. Mabalot saw his comrades follow the Lancer as it turned left at Roxas Blvd. and headed towards the coastal road.

Along Roxas Blvd., the Lancer was spotted by unmarked HPG vehicles which allowed it to overtake them and to tail the Hi-lux. Through the untinted windows of the Lancer, Capt. Corpuz noticed that the one driving was the small man; beside him was another man, and occupying the rear seat was the tall man. While at the coastal road, Johnny received a call from Capt. Corpuz that they had already identified the suspects who were riding in the silver metallic Lancer with Plate No. PTP 630 and were following him. From a distance of some ten (10) meters, Johnny saw the Lancer from his rear view mirror. Upon reaching the Shell station along the coastal road, per instruction, Johnny stopped and alighted for gasoline refill and then opened the four (4) doors of his car. The Lancer also stopped but at Petron across Shell. The unmarked HPG vehicles posted at Petron observed that the three (3) men on board the Lancer were closely watching Johnny's movements. Captain Corpuz took note that when Johnny left, the Lancer also left Petron and followed Johnny.

Johnny's next stop was supposed to be at Petron in Imus, Cavite. However, he made a mistake by stopping at the Petron station in Bacoar, Cavite. Captain Corpuz noticed that the Lancer slowed down and its three (3) passengers were staring at Johnny. Fearing that their operation had been detected and Johnny was in danger, Capt. Cruz and Corpuz signaled the unmarked HPG vehicles to intercept the Lancer and apprehend its passengers, as they did. The latter resisted arrest and tried to shoot it out but were overcome by the HPG teams. Thereafter the entire group proceeded to Tagaytay City to "play the scenario," in the language of Capt. Corpuz, pursuant to the kidnappers' written instructions. But in Tagaytay City, the HPG teams could not find a lighted torch. The group then decided to go back to Silang, Cavite, to conduct a tactical interrogation of the arrested men.

In a closed gasoline station in Silang, the identities of those arrested were established as Sgt. Lauro P. Arsenal, Ruben A. Acervo and William S. Trespeces. After uncovering through his identification card that Sgt. Arsenal was an agent of the Narcotics Command (NARCOM), Capt. Corpuz who used to be a NARCOM officer appealed for Arsenal's cooperation since "nabuko na sila." For his part, Maj. Laurenaria advised Arsenal to choose between his family and his friends. Sergeant Arsenal finally yielded by informing the arresting officers that his companions were the ones who had been communicating with Johnny by telephone, the tall one being Trespeces alias Jose while the "higher authority" was Acervo, the small one wearing shorts. Captain Corpuz then asked for the exact whereabouts of Antonio Tan. Sergeant Arsenal revealed that Antonio was being detained in their

safehouse in Malagasang II, Imus, Cavite. Arsenal was then made to ride in the car of Maj. Laurenaria and the entire group proceeded to the safehouse. They entered a subdivision and after reaching a dead end walked through a calamansi farm with Maj. Laurenaria holding the belt of Arsenal who was leading the way. While trailing the path they met Saria, one of the accused. The HPG team frisked him and found a gun tucked in his waist. Then they proceeded until they reached a small house. Whereupon, Sgt. Arsenal shouted, "Toto, si Sgt. Arsenal ito. Buksan mo ang pinto." Perez and Yson opened the door and were immediately arrested. The HPG team then rescued Antonio Tan. Perez and Yson were identified by Antonio as his guards during his captivity and Saria as the person he saw outside when the door of his room was for a time left half-open. He also identified two (2) of his abductors as a certain Morito Cogollo and a "Tikboy" alias "Kalbo."

The whole group then went to Camp Crame. While there, Sgt. Mabalot positively identified Sgt. Arsenal, Acervo and Trespeces as those he had earlier seen at 4220 Tomas Claudio St., Baclaran. Sergeant Arsenal was the one waiting near the Lancer, placing the call was Trespeces, and watching the caller was Acervo. During the interrogation, Johnny Tan recognized the voice of Trespeces as that of Jose and the voice of Acervo as that of the "higher authority."

In their defense, Sgt. Arsenal, Acervo and Trespeces denied knowing Antonio Tan and any involvement in his kidnapping and illegal detention. Their version was that on 20 July 1991 Sgt. Arsenal, the nature of his job being to furnish information on drug personalities, was tasked by his superior, Capt. Charles Calima, to conduct surveillance operations in Kawit, Cavite. Captain Calima also designated civilian agent Acervo as the "buddy" of Sgt. Arsenal in the mission. Before seven in the evening of 21 July 1991 Acervo, driving a Lancer with Plate No. PTP 630, fetched Sgt. Arsenal from the latter's house. At that time, Trespeces was visiting with Sgt. Arsenal trying to convince the latter to sell fighting cocks. Sergeant Arsenal then invited Trespeces to join his mission. Since Trespeces had nothing else to do, he agreed. So they motored to the coastal road and turned left at Aguinaldo Highway. All of a sudden, an L-300 van overtook them from the right and blocked their way. Several armed men walked towards them. Sergeant Arsenal and Acervo showed their identification cards but they were handcuffed and blindfolded. They were taken to Camp Crame where they were forced to admit involvement in the kidnapping of Antonio Tan and subjected to torture and extreme physical sufferings. Captain Calima corroborated the declaration of the three (3) accused regarding the official assignment in Kawit, Cavite.

Perez, Yson and Saria likewise denied any complicity in the crime. They claimed that they were arrested without any factual or legal basis at all.

The trial court convicted Sgt. Arsenal, Acervo and Trespeces as principals of the crime charged based on clearly detailed evidence showing conspiracy among them -

The only possible participation of accused Sgt. Lauro Arsenal, Ruben Acervo and William Trespeces is with respect to the negotiations for the payment of the ransom money and for the eventual delivery of the said ransom money to the kidnappers. The testimony of prosecution witness, Johnny Tan, son of the kidnapping victim Antonio Tan, deals with the negotiations for the raising of the amount of ransom money and the near delivery of the amount of P665,000.00 as ransom money. During the negotiations which was done by telephone, Johnny Tan heard the voice of a "person" who identified himself as "Jose" every day for five (5) days from July 17, 1991 until July 21, 1991 and also heard twice over the phone the voice of one who was referred to by "Jose" as a "higher authority" and who spoke fluent English. During the interrogations in Camp Crame after the arrest of accused Arsenal, Acervo and Trespeces, Johnny Tan was afforded the privilege to hear the voices of the accused. Johnny Tan identified the voice of William Trespeces as the voice of the person who spoke every day with him (Johnny Tan) for five (5) days and who identified himself over the phone as "Jose." Johnny Tan identified the voice of Ruben Acervo as the voice of the person who was referred to over the phone as the "higher authority" among the kidnappers and who spoke fluent English.

The negotiations over the phone with the kidnappers was monitored by the special operations unit of the Highway Patrol Group; with the use of sophisticated equipment and with the cooperation of the Philippine Long Distance, they were able to trace the place where the kidnappers were calling. They were able to trace many calls to the Tan residence during the three (3) days (July 19-21, 1991) negotiations with the kidnappers. The responding units of the special operations group were not able to arrive early at the calling point and get a good look at the kidnappers who were calling. However, in the afternoon of July 21, 1991, the team of Sgt. Mabalot, which was then in the vicinity of "Max Baclaran," was instructed over the wireless telephone by Capt. Corpuz to proceed to 4220 Tomas Claudio Street, Pasay City which is not far from "Max Baclaran." Immediately, the Sgt. Mabalot team proceeded towards Tomas Claudio Street, Pasay City, thru Roxas Boulevard. Upon arrival at the corner of Roxas Boulevard and Tomas Claudio Street, Sgt. Mabalot parked his vehicle and walked to the address, 4220 Tomas Claudio Street. The said address is a big old house below which is a store and inside said store is a telephone where Sgt. Mabalot saw two men, one being 5'7" while the other one being quite shorter, near the telephone. When the two men came out of the store, Sgt. Mabalot had a good look at them. Sgt. Mabalot noticed that when they left in their metallic Lancer car bearing plate no. PTP 630, there were already three (3) men inside. Sgt. Mabalot came to know the names of the three (3) men when they were already in Camp Crame in the evening of July 21, 1991.

Sgt. Mabalot saw the metallic Lancer car proceed towards Roxas Boulevard but it suddenly turned around and came back, cruising along Tomas Claudio Street. Fearing that the suspects might have already suspected that they were being tailed, Sgt. Mabalot called up Capt. Corpuz and asked that his team be relieved from the task of following the metallic Lancer car. Hence, Capt. Corpuz instructed the team of Sgt. Palomares and Sgt. Singcay to take the place of the Mabalot team in following the metallic Lancer car where the three (3) suspects rode on. Sgt. Mabalot saw the metallic Lancer car of the suspects turn left upon reaching Roxas Boulevard, ostensibly to proceed to the coastal road. Upon reaching the end of Roxas Boulevard and before the coastal road, the Mabalot team disengaged itself from tailing the metallic Lancer car of the suspects. The Palomares team took over in tailing the metallic Lancer car along the coastal road.

When Johnny Tan reached the Shell gas station at the end of the coastal road and filled some gasoline into his tank per written instruction of the kidnappers, the metallic Lancer car of the suspects also stopped at the opposite side of the road in front of the Petron gas station. When Johnny Tan left the Shell gas station, the metallic Lancer car followed Johnny Tan who was then driving his Hilux.

When Johnny Tan stopped at the Bacoor Petron gas station, which was a mistake on his part because the written instruction was for him to stop at the Imus Petron gas station, the metallic Lancer car of the suspects slowed down.

After the suspects riding in the metallic Lancer car who turned out to be Sgt. Arsenal, Ruben Acervo and William Trespeces were arrested, they proceeded to Tagaytay City to follow the instruction of the kidnappers to Johnny Tan to look for a man with a torch. Obviously, the idea of the special operation unit of the Highway Patrol Group was to follow the written instructions of the kidnappers so they can deliver the ransom money and thereafter obtain the release of Antonio Tan, the release of the latter being their primary objective. However, because no person with a torch appeared in Tagaytay City (that) must have snagged their plans. Hence, they turned back from Tagaytay City to Silang, Cavite in order to extract information as to the whereabouts of the kidnapping victim. Fortunately, Sgt. Lauro Arsenal responded favorably to the appeal of Capt. Corpuz for cooperation and agreed to take them to the place where Antonio Tan was being kept. Sgt. Arsenal guided the special operations team of the Highway Patrol Group to barangay Malagasang II, Imus, Cavite particularly to a subdivision thereat next to the end of which is a calamansi farm where the assault team guided by Sgt. Arsenal, then being held in the waist by Capt. Laurinaria, went to a house where they found the kidnapping victim, Antonio Tan.[7]

Perez and Yson were found guilty only as accomplices in the offense charged after having been positively identified by their victim Antonio Tan as his guards during his five (5)-day captivity. Saria, on the other hand, was

acquitted, apparently for insufficiency of evidence, as his mere presence in the vicinity of the safehouse did not necessarily mean participation in the conspiracy.

Accused-appellants Arsenal, Acervo and Trespeces argue that they were not positively identified by Antonio Tan as those who either abducted him or guarded him during his detention. They dispute the sufficiency of the circumstantial evidence appreciated by the trial court. They also posit that the manner of eliciting the identification by Johnny Tan of the voices of Acervo and Trespeces is illegal per se because they were compelled to talk in the same manner as the taped telephone conversations and without the presence of counsel. Besides, Johnny admitted his lack of expertise in voice identification. They further maintain that Sgt. Mabalot did not have any chance to see the face of the person making the telephone call nor had any knowledge of the subject matter of the telephone conversation. They claim that Sgt. Arsenal's alleged cooperation in leading the HPG teams to the place where victim Antonio Tan was being kept is inadmissible in evidence since it was procured without the assistance of counsel.

We are not persuaded. The fact that victim Tan did not positively identify accused-appellants as either his abductors or guards during his detention seems unimportant as their precise role had been delineated by the prosecution's evidence as referring merely to the negotiations for the delivery of the ransom money.

Although Johnny Tan mentioned in his testimony that in Camp Crame accused-appellants Acervo and Trespeces were made to talk in the same manner as the taped telephone conversations,[8] definitely this was not the only basis for his recognition of their voices. Instead, with eyes focused at a direction other than that of Acervo and Trespeces, and occupying the other side of the room in Camp Crame, Johnny listened to their voices as they were being interrogated.[9] This situation provided him with enough concentration to enable him to identify that Jose was Trespeces while the "higher authority" was Acervo. Johnny may not be an expert in voice identification, but such expertise was unnecessary in this case since his reliance on his sense of hearing and recollection sufficed.

Noteworthy is that Johnny heard the voice of Jose twice on 17 July, twice on 18 July, four times on 19 July, once on 20 July and five times on 21 July, or a total of fourteen (14) times.[10] This frequency of calls adequately familiarized Johnny with the voice of Jose. As regards the voice of the "higher authority" that was Acervo, Johnny heard his voice on 20 July and 21 July.[11] These calls could also have acquainted Johnny with the voice of the "higher authority" as they were made on two (2) consecutive days. It is quite natural for one receiving calls from a kidnapper to pay particular attention to his voice and remember it as it is a means of identifying him. But even if we should entertain doubt on the identification of Acervo's voice, still the totality of the evidence against accused-appellants points to their culpability, as we shall elucidate hereunder.

Although Sgt. Mabalot testified that he did not clearly see the face of the caller but only his profile, he apparently had ample opportunities to observe all the appellants. When he reached 4220 Tomas Claudio St., he stopped in front of the caller and his companion for two (2) or three (3) seconds, at a distance of about three (3) meters,[12] then he sped away.[13] He parked his car along Roxas Blvd., alighted and walked[14] until about five (5) meters away from the store[15] where he noticed the caller to be a dark man, around 5'6" to 5'7" tall; that watching him was a small man wearing green shirt and short pants; and that another companion was standing near the car as if acting as lookout.[16] At that time, the sun was still up.[17] Furthermore, while Sgt. Mabalot might not have overheard their telephone conversation, such failure was reduced to insignificance by his positive observation that accused-appellants rode in a Lancer with Plate No. PTP 630 which he tailed, followed by M/Sgt. Palomares and Sgt. Singcay, until spotted by the HPG teams tailing the Hi-lux from Roxas Blvd. up to Aguinaldo Highway.

As regards the argument of accused-appellants relating to their right under Sec. 12, Art. III, of the Constitution, Sgt. Arsenal's confession is not the sole link to his and his co-appellants' culpability. Their conviction must stand

because the evidence of the prosecution against them is overwhelming. Sergeant Mabalot saw accused-appellants at 4220 Tomas Claudio St., Baclaran, when he went there after the kidnappers' call to Johnny at Barrio Fiesta was traced to that place. Trespeces was using the telephone, while Acervo watched beside him and Sgt. Arsenal acted as lookout. After making the call, the trio boarded a Lancer with Plate No. PTP 630. Sergeant Mabalot tailed them until he was strategically relieved by M/Sgt. Palomares and Sgt. Singcay.

The Lancer was the same car that was observed by the HPG teams trailing the Hi-lux driven by Johnny along Roxas Blvd. on his way to Tagaytay City to deliver the ransom money. When the Hi-lux stopped at Shell along the coastal road in accordance with the kidnappers' instruction, the Lancer also stopped at Petron on the other side of the road. The passengers of the Lancer were seen by HPG teams posted at Petron intently watching Johnny as the latter, following the kidnappers' instructions, opened and closed the trunk and the four (4) doors of his vehicle as it was being refueled. When the Hi-lux resumed its way to Tagaytay City, the Lancer followed suit. And when Johnny made a mistake by stopping at Petron in Bacoor, Cavite, instead of the one in Imus, Cavite, the Lancer slowed down, its passengers watching Johnny. At this juncture, fearing their operation was uncovered and Johnny's life was in peril, the HPG teams decided to swoop down on accused-appellants and effect their arrest. It was then that the identities of the passengers of the Lancer were established to be those of accused-appellants. During the interrogation at Camp Crame, Johnny identified the voices of Jose and the "higher authority" as those of Trespeces and Acervo, respectively. For his part, Sgt. Mabalot positively recognized accused-appellants as the persons he saw at 4220 Tomas Claudio St.

Accused-appellants' version that they were on their way to a police mission in Kawit, Cavite, to track down drug personalities when apprehended deserves scant consideration. Although Capt. Calima confirmed that a day previous to the incident he gave such mission to Sgt. Arsenal and Acervo,[18] his corroboration however was limited only to that factual matter. When asked if Sgt. Arsenal and Acervo did in fact operate in Cavite, he replied that he simply presumed that his agents did.[19] In other words, he did not know whether they in fact pursued the operation in Cavite; if so, whether it was on the date and time of the incident. It appears that the version of accused-appellants is nothing but a convenient ruse to explain their presence at Aguinaldo Highway. But what surfaced was that while they were supposedly on a mission in Kawit, Cavite, they were in fact engaged in an illegal operation in Tagaytay City to which they gave priority treatment, which turned out to be their pitfall from which they cannot escape the force of the law.

WHEREFORE, the decision of the court a quo finding accused-appellants SGT. LAURO P. ARSENAL, RUBEN A. ACERVO and WILLIAM S. TRESPECES guilty beyond reasonable doubt of kidnapping and serious illegal detention and sentencing them to reclusion perpetua is AFFIRMED. Costs against accused-appellants.

SO ORDERED.

Davide, Jr., (Chairman), Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] Art. 267 of the Revised Penal Code, then prevailing, states -

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 five 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, 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.

[2] RA No. 7659, which took effect 31 December 1993, amended par. 1 of Art. 267 by shortening the period to three (3) days. It also amended par. 4 by inserting the phrase "except when the accused is any of the parents" in relation to the minor.

But while death is the proper penalty under the law, its imposition was proscribed by the Constitution at the time the offense was committed. RA No. 7659 subsequently restored the death penalty.

[3] Decision penned by Judge Teofilo L. Guadiz Jr., RTC-Br. 147, Makati City; Rollo, p. 57.

[4] Exh. "E;" Records, p. 12.

[5] Exh. "B;" Records, p. 232.

[6] As understood, "to follow closely."

[7] Rollo, pp. 120-122.

[8] TSN, 24 September 1991, pp. 24 and 41.

[9] Id., p. 47.

[10] TSN, 10 September 1991, pp. 16-38.

[11] Id., pp. 30 and 38.

[12] TSN, 21 October 1991, p. 30.

[13] Id., p. 32.

[14] TSN, 10 October 1991, p. 29.

[15] TSN, 21 October 1991, pp. 44 and 45.

[16] TSN, 10 October 1991, pp. 30 and 31.

[17] TSN, 21 October 1991, p. 36.

[18] TSN, 11 October 1994, p. 14.

[19] Id., p. 15.

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