

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ABDILA SILONGAN Y LINANDANG, MACAPAGAL SILONGAN Y LINANDANG, AKMAD AWAL Y LAGASI, TEDDY SILONGAN, ROLLY LAMALAN Y SAMPOLNAK, SACARIA ALO...**

*G.R. NO. 137182. April 24, 2003*

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**PER CURIAM:**

For automatic review is the decision[1] dated January 18, 1999, of the Regional Trial Court of Quezon City, Branch 103, in Criminal Case No. 98-75208 convicting appellants Abdila Silongan, Macapagal Silongan, Akmad Awal, Rolly Lamalan, Sacaria Alon, Jumbrah Manap, and Ramon Pasawilan of the crime of Kidnapping for Ransom with Serious Illegal Detention[2] and sentencing them to suffer the penalty of death. The appellants were also ordered to pay jointly and severally, Alexander Saldaña[3] and Americo Rejuso, Jr., indemnification damages of P50,000 each and moral damages of P100,000 and P50,000, respectively.

The amended information,[4] under which the appellants have been tried and convicted, reads as follows:

That on or about 8:30 o'clock in the evening of March 16, 1996, at Sitio Kamangga, Barangay Laguilayan, Municipality of Isulan, Province of Sultan Kudarat, Philippines and within the jurisdiction of this Honorable Court, the said accused, in the company with other unidentified persons, conspiring, confederating and mutually aiding one another, did then and there, willfully, unlawfully and feloniously kidnap ALEXANDER SALDANA, AMERICO REJUSO, JR., ERVIN TORMIS and VICTOR CINCO for the purpose of demanding ransom in the amount of Twelve Million Pesos (P12,000,000.00), detaining and depriving Alexander Saldana of his personal liberty up to September 24, 1996.

CONTRARY TO LAW....

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Upon arraignment,[5] all the appellants pleaded not guilty to the charge. Subsequently, this Court issued a Resolution[6] on December 9, 1997, granting the request of the Secretary of Justice for a change of venue from the RTC, Branch 19, Isulan, Sultan Kudarat, to any of the special crimes court of the RTC of Quezon City. The case was raffled to the RTC, Branch 103, Quezon City, and trial ensued.

The facts established by the prosecution are as follows:

On March 16, 1996, businessman Alexander Saldaña went to Barangay Laguilayan, Isulan, Sultan Kudarat with Americo[7] Rejuso,[8] Jr., Ervin Tormis, and Victor Cinco to meet with a certain Macapagal Silongan alias Commander Lambada.[9] They arrived in the morning and were able to talk to Macapagal concerning the gold nuggets that were purportedly being sold by the latter.[10] During the meeting Macapagal told them that someone in his family has just died and that he has to pick up an elder brother in Cotabato City, hence, they had better transact business in the afternoon.[11]

In the afternoon, Alexander's group and Macapagal, with a certain Teddy Silongan and another person named

Oteng[12] Silongan, traveled to Cotabato City to fetch Macapagal's brother.[13] Afterwards, the group returned to Isulan on Macapagal's orders. At Isulan, Macapagal gave additional instructions to wait until dark allegedly because the funeral arrangements for his relative were not yet finished.[14] When the group finally got on their way, Macapagal ordered the driver to drive slowly towards the highway.[15] Oteng Silongan and his bodyguards alighted somewhere along the way.

Then around 7:30 p.m., as they headed to the highway, Alexander Saldaña noticed that Macapagal Silongan was busy talking over his hand-held radio with someone. But because the conversation was in the Maguindanaoan dialect, he did not understand what was being said. At 8:30 p.m., they neared the highway. Macapagal ordered the driver to stop. Suddenly, 15 armed men appeared. Alexander and his three companions were ordered to go out of the vehicle, tied up, and blindfolded. Macapagal and Teddy were also tied up and blindfolded, but nothing more was done to them.[16] Alexander identified the appellants Oteng Silongan, Akmad Awal,[17] Abdila Silongan alias Long Silongan,[18] and Rolly Lamalan as belonging to the group that abducted them.[19] He also pointed to an elder brother of Macapagal, alias Keddy, alias Wet, and an alias Ngunib as also belonging to the group.[20]

The four victims were taken to a mountain hideout in Maganoy, Maguindanao, where a certain Salik Karem, Hadji Kutang Omar alias Commander Palito, and Jumbrah Manap met them.[21] Initially, the three demanded fifteen million pesos (P15,000,000) from Alexander Saldaña for his release, but the amount was eventually reduced to twelve million pesos after much haggling.[22] They made Alexander write a letter to his wife to pay the ransom. The letter was hand-carried by a certain Armand Jafar, alias Dante, and two of the victims, Ervin Tormis and Victor Cinco, who both later managed to escape.[23] No ransom was obtained so Commander Palito and Jumbrah Manap sent other persons and one of the victims, Americo Rejuso, Jr., to renegotiate with Alexander's wife. No agreement was likewise reached.

Seven days later, Alexander Saldaña and Americo Rejuso, Jr., were transferred to the town proper of Maganoy. Commander Palito, Jumbrah Manap, Sacaria[24] Alon alias Jack Moro,[25] Ramon Pasawilan,[26] guarded them. When the kidnappers learned that the military was looking for Alexander, they returned to the mountain hideout and stayed there for two weeks.[27]

At one time, Alexander Saldaña was made to stay at a river hideout where a certain Commander Kugta held him and sheltered his abductors for at least a week.[28] There, Alexander saw Macapagal Silongan with Jumbrah Manap and other armed men. These men brought Alexander to Talayan where he met Mayangkang Saguile. From Talayan, Mayangkang and his men brought Alexander to Maitum, Kabuntalan, Maguindanao, where Mayangkang's lair is located. Mayangkang made Alexander write more letters[29] to the latter's family. On several occasions, Mayangkang himself would write letters[30] to Alexander's wife. Alexander personally was detained in Kabuntalan for a total period of five (5) months and was kept constantly guarded by armed men. Among his guards were the appellants Macapagal Silongan, Abdila Silongan, Akmad Awal, and a certain Basco Silongan.[31]

On September 24, 1996, Mayangkang released Alexander Saldaña to the military in exchange for a relative who was caught delivering a ransom note to Alexander's family. However, only eight of the accused were brought to trial, namely, Abdila, Macapagal, and Teddy, all surnamed Silongan, Akmad Awal, Rolly Lamalan, Sacaria Alon, Jumbrah Manap, and Ramon Pasawilan.

The prosecution presented Alexander Saldana; his wife, Carmelita Saldaña, and a certain Major Parallag who was responsible for Alexander's release. Carmelita testified as to matters relayed to her by Americo Rejuso, Jr., and identified the ransom notes sent to her. Major Parallag, for his part, testified as to the operations undertaken by the military to effect the rescue of Alexander.

In their defense, all the accused, except Macapagal and Teddy Silongan, denied ever having met Alexander Saldaña and his three (3) companions much less having kidnapped them.[32] Additionally, all eight of the accused established that they came under the control of the government military authorities when they surrendered as Moro Islamic Liberation Front (MILF) and Moro National Liberation Front (MNLF) rebels.[33] They claim they voluntarily surrendered when a certain Perry Gonzales convinced them that the government would grant them amnesty, pay for their guns, and give them the items listed in their lists of demands.[34]

On the witness stand, appellant Macapagal Silongan admitted being with Alexander's group in the van when they were waylaid. But he denies involvement in the kidnapping.[35] In fact he said when Alexander Saldaña saw him in the mountains, he was there specifically to beg Mayangkang Saguile to release Alexander. He further claimed that he was also hogtied by the armed men who blocked the van that evening of March 16, 1996. He testified that he was separated from Teddy Silongan and did not know what happened to Teddy.[36] He admitted knowing Alexander Saldaña for four months prior to March 16, 1996 because the latter asked for his help in locating a plane that crashed in the mountains.[37] According to him, Alexander Saldaña hired him to act as a guide in treasure hunting. When asked to give more information about the plane, Macapagal Silongan stated that he saw it before he met Alexander, and that when he saw said plane it had no more sidewalls. He added that many people have already seen the plane and that vines and mosses have grown about the plane because it had been quite some time since it crashed.[38]

Appellant Teddy Silongan, for his part, testified that his cousin Macapagal Silongan contacted him so he could act as interpreter for Macapagal because Alexander could not speak Maguindanaoan and Macapagal does not understand any other language. He added that after the van stopped, one of those who stopped the van opened its rear door and then someone hit him with the butt of a gun rendering him unconscious. When he regained consciousness he found himself hogtied like Macapagal but could not find Alexander's group or the van.[39]

All eight of the accused, except Akmad Awal, admitted having signed separate extra-judicial confessions[40] admitting to their complicity in the kidnapping of Alexander Saldaña and his companions, but they asserted that they did not understand what they were signing.[41] Additionally, they assert that they did not know or hire Atty. Plaridel Bohol III, the lawyer who appears to have assisted them in making their confessions.[42]

After trial, the RTC rendered judgment[43] on January 18, 1999, the decretal portion of which reads as follows:

ACCORDINGLY, judgment is hereby rendered finding the herein accused:

- ABDILA SILONGAN y Linandang;
- MACAPAGAL SILONGAN y Linandang;
- AKMAD AWAL y Lagasi;
- ROLLY LAMALAN y Sampolnak;
- SACARIA ALON y Pamaaloy;
- JUMBRAH MANAP y Bantolinay; and
- RAMON PASAWILAN y Edo

GUILTY beyond reasonable doubt, as principals, of the crime, herein charged, of Kidnapping for Ransom as defined by law, and the said seven (7) accused are hereby sentenced to DEATH as provided for in Article 267 of the Revised Penal Code, as amended by RA 7659.

On the civil aspect, the above-named seven (7) accused are hereby ordered jointly and severally to pay

Alexander Saldana the sum of Fifty Thousand Pesos (P50,000.00) as indemnification damages and One Hundred Thousand Pesos (P100,000.00) as moral damages; and to pay Americo Rejuso, Jr. the sum of Fifty Thousand Pesos (P50,000.00) as indemnification damages and Fifty Thousand Pesos (P50,000.00) as moral damages.

The accused TEDDY SILONGAN is hereby ACQUITTED of the charge of Kidnapping for Ransom filed in this case.

Cost against the accused, except Teddy Silongan.

SO ORDERED.

Hence, this automatic review.[44] The appellants in their brief allege that the trial court committed the following errors:

I

THE TRIAL COURT ERRED IN CONCLUDING THAT PROSECUTION EVIDENCE HAS ESTABLISHED THE GUILT OF ACCUSED BEYOND REASONABLE DOUBT DESPITE MATERIAL INCONSISTENCIES IN THE TESTIMONIES OF PROSECUTION WITNESSES;

II

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE PUT UP BY ACCUSED WHICH ARE VALID, CREDIBLE AND IN ACCORDANCE WITH HUMAN EXPERIENCES.[45]

Essentially, the issue before this Court is whether the guilt of the appellants has been proven by credible evidence beyond reasonable doubt.

The appellants assert that the identification of the kidnappers of Alexander Saldaña is gravely flawed. They contend that Alexander Saldaña and Americo Rejuso, Jr., could not have positively identified Rolly Lamalan, Akmad Awal, Sacaria Alon, and Abdila Silongan as their abductors[46] because the incident happened at night in a place where there was no electricity,[47] and more importantly, because both of them were hogtied and blindfolded at the time.

Americo Rejuso, Jr., erroneously pointed to Akmad Awal when asked to identify the accused Teddy Silongan. Neither did he know the names of Jumbrab Manap and Ramon Pasawilan.[48] Alexander Saldaña, for his part, testified that Mayangkang Saguile detained him for five months in Kabuntalan,[49] but when asked in open court to point to Mayangkang Saguile,[50] he pointed to someone who was not Mayangkang Saguile. The appellants claim the real Mayangkang Saguile remains at large.

The appellants also point to inconsistencies in the testimony of Alexander Saldaña who testified that Teddy and Macapagal Silongan were among the 15 armed persons who stopped the vehicle and abducted the group[51] after having earlier testified that the two were inside the van and were unarmed.[52] Also, Alexander testified that they were abducted around 7:30 p.m. on March 16, 1996, but at pre-trial, the time of the abduction was stipulated to be around 8:30 p.m. on the same date.[53]

The appellants further argue that the fact that they are rebel surrenderees precludes conviction for the common crime of kidnapping.[54] Citing *People v. Hernandez*,[55] they contend that common crimes are absorbed in rebellion. Therefore, the trial court erred when it convicted them of kidnapping for ransom.

Finally, appellants assert that some of them are illiterate and that the trial court should have accordingly mitigated their liability.

At the outset, we hold that the trial court correctly ruled that the extrajudicial statements of the appellants are

inadmissible in evidence. The assistance afforded by Atty. Plaridel Bohol is not the assistance contemplated by the fundamental law. Atty. Bohol limited his assistance “(f)or the purpose of (the) written waiver” as expressly stated by him in all confessions. It does not appear that he was present and independently and competently participated in all the investigation proceedings. All the accused, except Teddy Silongan, are conversant only in the Maguindanaoan dialect and yet the statements were written in almost perfect Filipino. There is no evidence that the accused, prior to the taking of the supposed confessions, were made aware of their right to be silent and to have independent and competent counsel. Neither is there evidence that, as required by Rep. Act. No. 7438, [56]the statements were read to and explained to the accused by the investigating officer.

This notwithstanding, we find there exist sufficient evidence on record to sustain the conviction of the appellants.

The rule in evidence, which the Court has always applied, is that positive identification prevails over the simple denial of the accused. Denial, like alibi, is an insipid and weak defense, being easy to fabricate and difficult to disprove. A positive identification of the accused, when categorical, consistent and straightforward, and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over this defense.[57]

The conditions which purportedly created serious doubt on the ability of prosecution witnesses Alexander Saldaña and Americo Rejuso, Jr., to identify positively their abductors did not perdure throughout the duration of their captivity. The records bear out that Alexander and Americo both had a number of opportunities to see the faces of the appellants. They were transferred from one lair to another without blindfolds and often in broad daylight. These improved circumstances necessarily permitted both Alexander and Americo to see the faces of the appellants. Moreover, it must be remembered that Alexander was detained for six months. During this period, Alexander saw them, ate with them, and actually lived with them. Appellants Akmad Awal and Ramon Pasawilan have both acted as guards to Alexander many times: Akmad in Kabuntalan[58] and Ramon in the mountain hideout of Maganoy[59] as well as when Alexander was transferred to the hideout in the town proper of Maganoy.[60] For their part, the appellants Jumbrah Manap, Abdila Silongan, and Sacaria Alon guarded Alexander both in the mountain hideout of Maganoy and in Kabuntalan.[61] These instances, among many others, gave Alexander ample time to see and imprint their faces in his memory. We likewise note that as borne by the records, the kidnappers made little or no attempt to conceal their identities. In fact, they even told Alexander their names when he asked for them.[62] The positive identification Alexander and Americo made in open court[63] thus deserves much weight. We have held in *People v. Bacungay*,[64] that “it is the most natural reaction for victims of crimes to strive to remember the faces of their assailants and the manner in which they committed the crime.”

That prosecution witness Americo Rejuso, Jr., does not know the names of the abductors is not sufficient to cast doubt on his testimony. It is not necessary that the name of an accused be specifically stated by a witness in an affidavit or in his testimony. Victims of crimes cannot always identify their assailants by name. It is imperative, however, that the attacker be pointed out and unequivocally identified during the trial in court as the same person who committed the crime.[65] We hold that this imperative requirement has been met as to all appellants.

Moreover, not only are the testimonies of Alexander Saldaña and Americo Rejuso, Jr., consistent in all material aspects, they are also replete with precise details of the crime and the specific involvements of the different accused therein. In more than one instance, Alexander has identified the appellants to be his kidnappers. He has recounted both on the witness stand as well as in his sworn statement the specific acts performed by the appellants. The records of this case reflect that in more than one instance, the appellants have acted together as guards to Alexander in Kabuntalan, Maganoy, and while he was being transferred from one lair to another.[66] There can be no question, therefore, that the appellants committed the crime. Absent any showing that the trial court overlooked, misunderstood, or misapplied any fact or circumstance of weight and influence which could

affect the outcome of the case, the factual findings and assessment of credibility of a witness made by the trial court remain binding on the appellate tribunal.[67]

The records are bereft of any evidence that Alexander Saldaña entertained any particular or specific prejudice against the appellants especially because there were 68 accused in this case. The trial court correctly opined that it was quite strange that Alexander would point to the appellants as the perpetrators of the crime if it were true that all of them, except Macapagal and Teddy, do not know or have not even met Alexander. Indeed, it was in Alexander's best interest to implicate only those people who were responsible for abducting him. He has nothing to gain by implicating and testifying against persons innocent of the crime. In *People v. Garalde*,[68] this Court ruled that when there is no evidence to show any dubious reason or improper motive why a prosecution witness would testify falsely against an accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.

The essence of the crime of kidnapping and serious illegal detention as defined and penalized in Article 267[69] of the Revised Penal Code is the actual deprivation of the victim's liberty coupled with proof beyond reasonable doubt of an intent of the accused to effect the same. It is thus essential that the following be established by the prosecution: (1) the offender is a private individual; (2) he kidnaps or detains another, or in any other 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 four circumstances enumerated in Article 267 be present.[70] But if the kidnapping was done for the purpose of extorting ransom, the fourth element is no longer necessary.[71]

There is no mistaking the clear, overwhelming evidence that the appellants abducted Alexander Saldaña and his companions at gunpoint and deprived them of their freedom. That the appellants took shifts guarding the victims until only Alexander was left to be guarded and in transferring Alexander from one hideout to another to prevent him from being rescued by the military establish that they acted in concert in executing their common criminal design.

Macapagal's participation is clearly evident from the records. Aside from being one of Alexander's armed guards in Kabuntalan,[72] and having been part of a party which brought Alexander from the river hideout of Commander Kugta to Mayangkang Saguile's lair in Talayan,[73] indirect evidence also support Macapagal's participation in the criminal design. First, Macapagal made several postponements of their trip on March 16, 1996 until it was already 7:30 in the evening. His reason that someone in his family died is not corroborated at all. Teddy, his cousin, never mentioned it, and his other relative, co-accused Abdila Silongan, was reticent about it. In fact, nobody told the trial court the name of the deceased relative. Secondly, Americo testified that when they stopped over at Macapagal's house, he heard the wife of Macapagal utter the words "kawawa naman sila" as they were leaving.[74] Thirdly, it was established that Macapagal ordered the driver to proceed slowly towards the highway. During this time, he was busy talking on his handheld radio with someone and the victims heard him say "ok." When they were near the highway, he ordered the driver to stop whereupon 15 armed men appeared and blocked their vehicle. Finally, while the 15 men took away Alexander Saldaña and his three companions, nothing was done to Macapagal or to Teddy Silongan. By their own admission, they were just left behind after being hogtied. How they managed to escape was not explained. All these taken together give rise to the reasonable inference that Macapagal had concocted the funeral for a supposed recently deceased relative purposely to afford his co-conspirators time to stage the kidnapping. Then, also, it was through Macapagal's indispensable contribution that the armed men were able to stop the vehicle at a precise location near the highway.

Likewise, the prosecution has established beyond reasonable doubt that the kidnapping was committed "for the purpose of extorting ransom" from Alexander, as to warrant the mandatory imposition of the death penalty. For the crime to be committed, at least one overt act of demanding ransom must be made. It is not necessary that there

be actual payment of ransom because what the law requires is merely the existence of the purpose of demanding ransom. In this case, the records are replete with instances when the kidnappers demanded ransom from the victim. At the mountain hideout in Maganoy where Alexander was first taken, he was made to write a letter to his wife asking her to pay the ransom of twelve million pesos. Among those who demanded ransom were the appellants Ramon Pasawilan,[75] Sacaria Alon,[76] and Jumbrah Manap.[77] Then, when Alexander was in the custody of Mayangkang Saguile, not only was he made to write more letters to his family, Mayangkang himself wrote ransom notes. In those letters, Mayangkang even threatened to kill Alexander if the ransom was not paid.

As regards the argument that the crime was politically motivated and that consequently, the charge should have been rebellion and not kidnapping, we find the same likewise to be without merit. As held in *Office of the Provincial Prosecutor of Zamboanga Del Norte vs. CA*,[78] the political motivation for the crime must be shown in order to justify finding the crime committed to be rebellion. Merely because it is alleged that appellants were members of the Moro Islamic Liberation Front or of the Moro National Liberation Front does not necessarily mean that the crime of kidnapping was committed in furtherance of a rebellion. Here, the evidence adduced is insufficient for a finding that the crime committed was politically motivated. Neither have the appellants sufficiently proven their allegation that the present case was filed against them because they are rebel surrenderees. This court has invariably viewed the defense of frame-up with disfavor. Like the defense of alibi, it can be just as easily concocted.

Finally, that appellants Jumbrah Manap, Abdila Silongan, Rolly Lamalan, Sacaria Alon, and Macapagal Silongan are illiterate is not sufficient to lower the penalty. Article 63 of the Revised Penal Code is specific. It states that “(i)n all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.” Hence, while illiteracy is generally mitigating in all crimes, such circumstance, even if present, cannot result in a reduction of the penalty in this case.

Considering that it has been proven beyond reasonable doubt that the abduction of Alexander Saldaña, Americo Rejuso, Jr., Ervin Tormis, and Victor Cinco were for the purpose of extorting ransom, the trial court correctly imposed the death penalty.

As already stated, the trial court ordered the appellants to pay, jointly and severally, Alexander Saldaña and Americo Rejuso, Jr., indemnification damages of P50,000 each and moral damages of P100,000 and P50,000, respectively. However, to be entitled to actual damages, it is necessary to prove the actual amount of loss with reasonable degree of certainty, premised upon competent proof and on the best evidence available to the injured party.[79] There is no evidence adduced before the trial court as to actual damages suffered by either Alexander or Americo. Hence, we are constrained to delete the award. This notwithstanding, under Article 2221[80] of the New Civil Code, nominal damages are adjudicated in order that a right of the plaintiff, which has been violated by the defendant, may be vindicated by him. Conformably, the Court rules that both Alexander and Americo shall be awarded P50,000 each as nominal damages.[81]

We affirm the award of P100,000 to Alexander and P50,000 to Americo as moral damages. The amount of moral anxiety suffered by the two victims is in no wise the same. Undoubtedly, Alexander’s family had undergone greater distress in the uncertainty of seeing Alexander again.

Three Justices of the Court maintain their position that R.A. No. 7659 is unconstitutional insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority that the law is constitutional, and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the decision of the Regional Trial Court of Quezon City, Branch 103, convicting the appellants

ABDILA SILONGAN, MACAPAGAL SILONGAN, AKMAD AWAL, ROLLY LAMALAN, SACARIA ALON, JUMBRAH MANAP, and RAMON PASAWILAN of the crime of Kidnapping for Ransom with Serious Illegal Detention and sentencing them to suffer the penalty of DEATH is AFFIRMED. Further, the appellants are ORDERED to pay, jointly and severally, Alexander Saldaña and Americo Rejuso, Jr., nominal damages of P50,000.00 each and moral damages of P100,000.00 and P50,000.00, respectively.

In accordance with Section 25 of R.A. No. 7659 amending Article 83 of the Revised Penal Code, let the records of this case be forthwith forwarded, upon finality of this decision, to the Office of the President for possible exercise of the pardoning power.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and Azcuna, JJ., concur.

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[1] Rollo, pp. 31-40.

[2] Article 267, Revised Penal Code.

[3] Also spelled as Saldana in some parts of the records.

[4] Vol. I, Records, pp. 93-98.

[5] Id. at 293.

[6] Id. at 304-305.

[7] Sometimes spelled as Amerigo.

[8] Sometimes spelled as Rioso.

[9] Supra, note 3 at 4.

[10] Ibid.

[11] TSN, 20 July 1998, p. 8.

[12] Sometimes spelled as Koteng or Koting.

[13] Supra, note 10 at 9.

[14] Id. at 10.

[15] Supra, note 3 at 5.

[16] Ibid.

[17] Vol. III, Records, pp. 85, 88; TSN, 20 July 1998, p. 14.

[18] Id. at 85; Ibid.

[19] TSN, 20 July 1998, p. 14.

[20] Ibid.

[21] Vol. III, Records, p. 85.

- [22] Supra, note 3 at 5.
- [23] Supra, note 16 at 88.
- [24] Sometimes spelled as Zacaria.
- [25] Vol. III, Records, p. 88, sometimes spelled as Molo.
- [26] Supra, note 10 at 19-20.
- [27] Supra, note 24.
- [28] Id. at 89.
- [29] Id. at 74-79.
- [30] Id. at 80-83.
- [31] Id. at 90; TSN, 20 July 1995. p. 26
- [32] TSN, 7 October 1998, p. 6; TSN, 18 September 1998, pp. 105-107.
- [33] Vol. III, Records, pp. 116-135.
- [34] Id. at 117, 119, 122, 127.
- [35] TSN, 2 December 1998, p. 3.
- [36] Ibid.
- [37] Id. at 4.
- [38] Id. at 13-14.
- [39] Id. at 16-17.
- [40] Vol. III, Records, pp. 7-73.
- [41] Supra, note 34 at 19-21.
- [42] Id. at 11, 19; TSN, 18 September 1998, p. 102.
- [43] Supra, note 1.
- [44] See Revised Penal Code Article 47 par. 2 as amended by Sec. 22, Republic Act No. 7659 otherwise known as the Death Penalty Law.
- [45] Supra, note 1 at 79.
- [46] Id. at 90.
- [47] Vol. II, Records, p. 350.
- [48] TSN, 10 August 1998, pp. 17-21.
- [49] Supra, note 10 at 25, 34.
- [50] Id. at 5.
- [51] TSN, 22 July 1998, pp. 9-11.

[52] Supra, note 10 at 37.

[53] Supra, note 1 at 10.

[54] Id. at 96-98.

[55] 99 Phil. 515, 520-521 (1956).

[56] AN ACT DEFINING CERTAIN RIGHTS OF PERSONS ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING, AND INVESTIGATING OFFICERS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

[57] People v. Bacungay, G.R. No. 125017, 12 March 2002, p.8.

[58] TSN, 20 July 1998, p. 26; Vol. III, Records, p. 90.

[59] Supra, note 24 at 86.

[60] Supra note at 25.

[61] Supra, note 24 at 85-87, 90; TSN, 20 July 1998, p. 26.

[62] Supra, note 24 at 87.

[63] Supra, note 10 at 4-6, 11, 14, 34-36; TSN, 10 August 1998, pp. 13-21.

[64] G.R. No. 125017, 12 March 2002, p. 11, citing People vs. Candelario, G.R. No. 125550, 28 July 1999, 311 SCRA 475, 492.

[65] People v. Feliciano, G.R. No. 102078, 15 May 1996, 256 SCRA 706, 713.

[66] Supra, note 10 at 19-20, 23.

[67] People v. Ticalo, G.R. No. 138990, 30 January 2002, p. 5.

[68] G.R. No. 128622, 14 December 2000, 348 SCRA 38, 67.

[69] 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.

- If the kidnapping or detention shall have lasted more than three days.

- If it shall have been committed simulating public authority.

- 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.

- 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 abovementioned were present in the commission of the offense.

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[70] Luis B. Reyes, The Revised Penal Code, 14<sup>th</sup> ed., p. 542.

[71] *People v. Salimbago*, G.R. No. 121365, 14 September 1999, 314 SCRA 282, 301.

[72] *Supra*, note 10 at 26.

[73] *Id.* at 23.

[74] *Supra*, note 1 at 34.

[75] *Supra*, note 3 at 5.

[76] *Supra*, note 24.

[77] *Id.* at 85.

[78] G.R. No. 125796, 27 December 2000, 348 SCRA 714, 725.

[79] *People v. Samolde*, G.R. No. 128551, 31 July 2000, 336 SCRA 632, 654.

[80] Article 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

[81] See *People v. Pastrana*, G.R. No. 143644, 14 August 2002, p. 9.

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