

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NESTOR VELUZ, ACCUSED-APPELANT.

G.R. No. 167755. November 28, 2008

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-167755/>

AUSTRIA-MARTINEZ, J.:

For review before this Court is the February 9, 2005 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00073 which affirmed the Decision[2] dated April 30, 2002 of the Regional Trial Court (RTC) of Baler, Aurora, Branch 96, finding Nestor Veluz (appellant) guilty of one count of rape of a minor mental retardate and sentencing him to suffer the penalty of death, with modification as to the damages awarded to the victim.

The Information, dated December 13, 1999, in Criminal Case No. 2535, reads as follows:

That on October 23, 1999 or earlier in x x x, Aurora and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, and unlawfully and feloniously have carnal knowledge for four times of thirteen year old AAA[3] who has a mental age only of four (4) to five (5) years old and the said accused was then aware of the mental disability and or physical handicap of the said offended party.[4]

When arraigned, appellant pleaded "not guilty." [5] Thereafter, trial ensued.

The prosecution presented eight witnesses, namely: 1) Senior Police Officer 3 (SPO3) Loreto Gavina; 2) Nimia C. de Guzman; 3) Dr. Rodolfo Eligio; 4) BBB, the aunt of AAA; 5) AAA; 6) Corazon Rivera; 7) Loreto Cuaresma; and 8) CCC, the father of AAA.

On the other hand, the defense presented two witnesses, namely: 1) appellant and 2) Kathleen Veluz (Kathleen), his daughter.

The prosecution evidence seeks to establish the following facts:

AAA testified that she was called by Kathleen to go to the latter's house; and when inside the house, she was raped by appellant.[6]

Corazon Rivera (Rivera) testified that on October 23, 1999, at around 10 a.m., she went to the house of appellant to ask for saluyot. Upon reaching his house, Rivera peeped through the window and saw appellant and AAA lying on the elevated bamboo platform (papag). Appellant was naked and his buttocks was moving up and down while AAA's blouse was rolled up and both were lying down facing each other side by side. Rivera watched appellant doing the pumping motion for three minutes and then left to call BBB, the aunt of AAA.[7]

Upon reaching the house of appellant, BBB saw appellant and AAA lying naked on the bed. After seeing the scene inside the house of appellant, BBB called appellant and requested that AAA be allowed to go out. Since appellant did not immediately answer, BBB said that she would call a bantay bayan. BBB did not find a bantay bayan but instead she saw Loreto Cuaresma (Cuaresma), one of the barangay kagawads. Cuaresma told BBB to go ahead and that he would follow. When BBB went back to the house of appellant, she saw AAA at the back of

the said house, sitting on the ground and perspiring. She asked AAA what happened and the latter answered, "Iniyot ng matagal." [8] BBB asked AAA when she was "iniyot" and the latter answered, "Nabayagon." [9]

Furthermore, BBB asked AAA how many times she had intercourse. AAA responded by showing her four fingers. In addition, when AAA told BBB that she had intercourse a long time ago, BBB asked if it happened again on that day and the answer was "wen" or yes. [10]

Cuaresma followed BBB after five minutes. Upon reaching the house of appellant, he saw AAA sitting and perspiring and her hair entangled. Cuaresma observed that AAA looked as if she was out of her mind. Cuaresma asked AAA what appellant did to her and the latter answered, "Iniyot nak." When asked how many times, AAA raised her four fingers. Cuaresma asked AAA who molested her and the latter answered that it was appellant. Cuaresma then told BBB to bring AAA home and that he would look for CCC, the father of AAA. [11]

Upon locating CCC, Cuaresma told him that he should go home because something happened to AAA. Later, BBB told CCC that AAA was raped by appellant. CCC asked AAA if she was raped by appellant and the latter answered, "Yes." [12]

BBB and CCC immediately brought AAA to the XXX police station. SPO3 Loreto Gavina (SPO3 Gavina) told the group to bring AAA to a doctor for a medical examination. [13]

AAA was then brought to the YYY Memorial Hospital where Dr. Rodolfo V. Eligio (Dr. Eligio) conducted the examination. Dr. Eligio found that there were incomplete lacerations of the hymen at the 3 o'clock and 7 o'clock positions, but the same were old. Dr. Eligio concluded that AAA could have been "used" a week or two earlier and that in the absence of seminal fluid he could not tell whether AAA was raped on the day she was examined. However, Dr. Eligio clarified that if the ejaculation took place outside the vagina, it would explain why there was no sperm inside the vagina. Furthermore, Dr. Eligio manifested that if a woman had sex three times before and subsequently engages in sex for more than three times, the lacerations caused by the first intercourse would be healed; it does not mean that the subsequent intercourse would not anymore produce lacerations if the penis is big, but if the penis is of normal size, the subsequent intercourse would no longer cause lacerations. [14] Dr. Eligio put into writing his findings in a "medico legal certificate." [15]

After Dr. Eligio conducted his examination, BBB and CCC brought AAA back to the XXX police station at 5:15 p.m. They told SP03 Gavina that AAA was really raped which prompted the group to look for appellant. Appellant was brought to the municipal building. While AAA and appellant were facing each other, SP03 Gavina asked AAA several times whether she was raped by appellant. AAA answered "yes." SP03 Gavina also asked AAA how many times appellant abused her; AAA raised her four fingers. According to SP03 Gavina, CCC, the father of AAA, was not dictating to her when she was answering his questions. However, SP03 Gavina noticed that AAA had difficulty in speech, that was why her companions were helping her to talk. [16] SP03 Gavina then executed a Sinumpang Salayaysay [17] in connection with the investigation he conducted.

On November 17, 1999, Nimia C. de Guzman (De Guzman), a clinical psychologist, administered several examinations on AAA without the assistance of any relative. As a result of the examinations, De Guzman found out that while AAA was then 14 years old, her mental capacity was only that of a 4-5-year old child. De Guzman put her findings in a Psychological Report. [18]

For the defense, evidence is as follows:

Kathleen, 12 years old, testified that on October 23, 1999, she did not call AAA to play; that she was at the house of her uncle on October 22, 1999 because her grandmother died, and that she went home in the morning of October 23, 1999 to get some clothes; and that appellant, her father, was not at their house in the morning of

October 23, 1999. In addition, Kathleen claimed that she did not see AAA inside their house nor did she see AAA on her way home that day.[19]

Appellant testified as follows: on October 22, 1999, he and his three children were in the house of his brother-in-law because his mother-in-law died. He helped in preparing the tent, repaired the light, and along with Cuaresma, made the coffin of his mother-in-law. Appellant and Cuaresma did not sleep and stayed in the house. On October 23, 1999, appellant brought Cuaresma home at around 8:00 a.m. When appellant reached his house nobody was there and so appellant slept on the papag. When appellant woke up, he saw AAA inside the house. He asked AAA to leave, but she refused. Appellant went back to sleep because he trusted AAA and was confident that nothing would get lost in the house.

Appellant was awakened when BBB called AAA. He then realized that AAA was lying on his left arm. Appellant went down the house and told AAA to leave. AAA went out through the window because she was probably afraid of her aunt. Appellant told BBB that AAA was not there, but BBB did not believe him since she saw the slippers of AAA. Appellant claimed that it was not true that he had sexual intercourse with AAA for four times on October 23, 1999 because he was too tired and sleepy.[20]

On April 30, 2002, the RTC rendered a decision finding appellant guilty of the crime of rape, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, this Court finds accused Nestor Veluz GUILTY beyond reasonable doubt of the crime of Rape defined under Article 266-A, par. 1(d) and punished under Article 266-B (10) and hereby sentences him to suffer the penalty of Death; and to pay victim AAA the amount of Seventy Five Thousand Pesos (Php75,000.00) by way of civil indemnity; and to pay the costs.

SO ORDERED.[21]

Appellant appealed to the CA.

The CA affirmed the RTC decision with modification as to damages, the dispositive portion of which reads as follows:

x x x x

This Court finds accused-appellant Nestor Veluz GUILTY beyond reasonable doubt of the crime of Rape defined under Article 266-A, par. 1(d) and punished under Article 266-B (10). Said accused-appellant is hereby ordered to suffer the penalty of DEATH and to pay private complainant AAA the amount of Seventy Five Thousand Pesos (Php75,000.00) as actual damages, Fifty Thousand Pesos (Php50,000.00) as moral damages, Thirty Thousand Pesos (Php30,000.00) as exemplary damages and the costs.

x x x x

SO ORDERED.[22]

Hence, herein appeal with the following assignment of errors:

First Assignment of Error

THE TRIAL COURT ERRED IN FINDING THAT RAPE HAD BEEN PROVEN BEYOND REASONABLE DOUBT AS:

THE FACT OF CARNAL KNOWLEDGE BY THE ACCUSED-APPELLANT OF THE PRIVATE COMPLAINANT WAS NOT ESTABLISHED BY THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PRIVATE COMPLAINANT AND PROSECUTION WITNESSES CORAZON

RIVERA AND BBB.

THE PHYSICAL EVIDENCE DO NOT SUPPORT THE TRIAL COURT'S FINDING, AND DISPROVE THE TESTIMONIES OF PRIVATE COMPLAINANT, CORAZON RIVERA AND BBB, THAT ACCUSED-APPELLANT RAPED THE PRIVATE COMPLAINANT ON OCTOBER 23, 1999.

Second Assignment of Error

THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY AS THE QUALIFYING CIRCUMSTANCE OF MENTAL DISABILITY WAS NOT PROVEN IN ACCORDANCE WITH STANDARDS SET FORTH BY CONTROLLING CASE LAW.

Third Assignment of Error

THE TRIAL COURT ERRED IN AWARDING CIVIL INDEMNITY TO PRIVATE COMPLAINANT AS A CONSEQUENCE OF HER ALLEGED RAPE BY ACCUSED-APPELLANT.[23]

The appeal is not meritorious.

This Court has ruled that in the review of rape cases, the Court is guided by the following precepts: (a) an accusation of rape can be made with facility, but it is more difficult for the accused, though innocent, to disprove it; (b) the complainant's testimony must be scrutinized with extreme caution since, by the very nature of the crime, only two persons are normally involved; and (c) if the complainant's testimony is convincingly credible, the accused may be convicted of the crime.[24]

Appellant claims that the testimony of AAA is incredible and inconsistent. However, it is settled that when credibility is in issue, the Supreme Court generally defers to the findings of the trial court considering that it was in a better position to decide the question, having heard the witnesses themselves and observed their deportment during trial.[25] In the instant case, the Court finds nothing on record to justify a departure from the findings of the trial court. The testimony of AAA leaves no doubt that appellant had in fact raped her, to wit:

x x x x

Q.

When you were already inside their house, did you see Nesty inside their house?

A.

No answer sir.

Q.

Was Nesty in the sala?

A.

Yes sir.

Q.

What did Nesty do when you were there?

A.

Iniyot po niya ako sir.

x x x x

Q.

Where did he had [sic] sexual intercourse with you?

A.

In the upper part of their house sir.

Q.

Before he had sexual intercourse with you, what did he do to you?

A.

No answer

Q.

When you went to the house of Nesty what were you wearing then? Is it pants with t-shirt, shorts with t-shirt or skirt with t-shirt?

A.

I was wearing a short sir.

Q.

What is your upper garment?

A.

He removed my clothes sir. (Inalis po niya ang damit ko).

Q.

You said that he removed your clothes, you mean to say that he removed your shorts and your upper dress?

A.

Yes, sir.

Q.

When he removed your dress what did he do?

A.

Iniyot po ako.

Q.

You said that Nesty had sexual intercourse with you? Does Nesty has a clothes or naked?

A.

Yes sir, he has clothes. (Mayroon po)

Q.

When Nesty had sexual intercourse with you, have you seen his penis.

A.

Yes sir.

Q.

Now, were you able to see the penis of Nesty if he has a [sic] clothes?

A.

He removed his shorts sir. (Hinubad po niya ang short niya)

Q.

After removing his shorts, what did he do?

A.

No answer.

Q.

Does [sic] he standing when he removed his shorts?

A.

He is standing sir.

x x x x

Q.

You said that Nesty had sexual intercourse with you, how many times?

A.

Four times sir.

Q.

Can you show it thru your fingers?

A.

(The witness showed her four fingers)

Q.

When Nesty was removing his shorts, do you still have clothes on?

A.

I have sir.

Q.

So, do you mean to tell us that he only removed your clothes after he had removed his shorts?

A.

None sir. (Wala po)

Q.

What do you mean by the word none?

A.

No answer.

Q.

You said that Nesty had sexual intercourse with you and you saw his penis, what did he do with his penis?

A.

He placed his penis in my vagina sir. (Inilagay po niya sa aking Oki)

Q.

What did you feel when he placed his penis in your vagina?

A.

Painful sir. (Masakit po sir)

Q.

After placing his penis in your vagina, what did you do?

A.

No answer sir.

Q.

When he placed his penis in your vagina were you lying down or standing?

A.

Lying, sir.

Q.

Were you facing downward or upward?

A.

Downward sir.

x x x x

Q.

When the penis is inside your vagina, where was Nesty? Was he beside you or on top of you?

A.

He is on top of me sir.

Q.

While he was on top with you what he is doing? Is is [sic] moving?

A.

Yes sir.

Q.

How was he moving? Moving sideward or up and down?

A.

(The witness demonstrated her answer by swaying her hands)

Q.

Did he stay long on top of you?

A.

Yes sir.[26] (Emphasis supplied)

As a rule, testimonies of child victims of rape are given full weight and credit, for youth and immaturity are badges of truth.[27] Generally, when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. And so long as her testimony meets the test of credibility and unless the same is controverted by competent physical and testimonial evidence, the accused may be convicted on the basis thereof.[28]

In his Brief, appellant contends that the testimony of AAA are general statements and constitute the standard and stereotypical narration of rape.[29] The Court does not agree. Studies show that children, particularly very young children, make "perfect victims" of rape. Certainly, children have more problems in providing accounts of events because they do not understand everything they experience. Moreover, children have a very limited vocabulary.[30] Although AAA was 13 years old, she had the mental capacity of a 4-5-year old child. The lower courts, and this Court as well, could therefore not expect AAA to narrate and describe the exact details of how she was raped the way a 13-year old child could do.

Moreover, the Court does not agree with appellant's argument that the reply of AAA, "Inilagay po niya sa aking oki," cannot be automatically be taken to mean that appellant placed his penis inside her vagina. Appellant contends that "iniligay" (to place) is not the same or synonymous with "ipinasok" (to insert or place inside).[31] In the first place, as already mentioned, children have a very limited vocabulary. Moreover, in cases where penetration was not fully established, the Court had consistently enunciated that rape was nevertheless consummated on the victims testimony that she felt pain.[32] The pain could be nothing but the result of penile penetration, sufficient to constitute rape.[33] In the case at bar, AAA categorically testified that she felt pain.

This Court rejects appellant's contention that AAA was instructed by CCC and BBB on what to say before the Court. It bears stressing that "no young and decent lass will publicly cry rape if such were not the truth." [34] Also, it is unnatural for a parent to use his offspring as an engine of malice, especially if it will subject a daughter to disgrace.[35]

The CA observed that AAA on redirect-examination answered "yes" to the query if her father and aunt told or "taught" her to tell the truth.[36] This Court agrees with the finding of the CA that even though AAA answered in the affirmative when she was asked if her father and BBB instructed her on what to say before the Court, the same cannot be taken literally, considering her mental condition.

Furthermore, AAA's testimony is corroborated by Rivera, to wit:

Q.

Upon reaching his house, the house of Nestor Veluz, what did you do if any?

A.

I tried to look at the window, sir.

Q.

When you looked into the window what did you see if any?

A.

I saw them lying, sir.

Q.

You mention them in your statement to whom are you referring to?

A.

Nestie and AAA, sir.

x x x x

Q.

What did you observed [sic] when you saw him inside the house?

A.

They were naked, sir "NAKAHUBAD."

Court

Q.

Which of the two are [sic] naked?

A.

The man your honor he is moving and his buttocks [sic] was moving.

x x x x

Pros. Casar

Q.

What did you observed [sic] in her physical appearance?

A.

Her blouse was roll [sic] up, sir.

Q.

How about Nestor Veluz where was he when the blouse of AAA was roll [sic] up?

A.

They were lying down facing each other side by side, sir.

Q.

You mention they who are those persons lying?

A.

AAA and Veluz, sir.

x x x x

Q.

In what manner the buttocks [sic] was moving?

A.

It just moving up and down as demonstrated by the witness, sir [sic].

Q.

Are you married?

A.

Yes, sir.

Q.

That motion of the buttocks [sic] of Nestor Veluz moving what was the motion if you know?

x x x x

A.

It is somewhat "PAALON-ALON," sir.

Q.

Being a married woman what can you say about that?

A.

"INIYOT PO NIYA", he was making a sexual intercourse [sic], sir.

Q.

How long that you said Nestor Veluz doing this pumping motion on AAA?

A.

More or less three minutes, sir.[37]

Appellant argues that the description of AAA of her alleged rape is inconsistent with the testimony of Rivera.[38] Appellant cites the testimony of AAA that she was facing downward[39] and the appellant lay on top of her[40] when the intercourse took place. Rivera, on the other hand, testified that he and AAA were lying on their side and facing each other during the sexual intercourse. It must be remembered that a rape victim, most especially in case of a retarded person, cannot be expected to remember or recount in utmost clarity and consistency the details of her harrowing and humiliating experience.[41] In addition, victims of rape are not expected to have an errorless recollection of the incident which was so humiliating, and painful that they might in fact be trying to obliterate it

from their memory.[42] Thus, inaccuracies and inconsistencies are to be expected in the rape victim's testimony.[43]

This Court agrees with the finding of the CA that the testimony of BBB was not incredible simply because she first sought the help of a barangay kagawad instead of immediately helping AAA. As repeatedly stressed, there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[44] Witnessing a crime is an unusual experience that elicits different reactions from the witnesses and for which no clear-cut standard form of behavior can be drawn.[45] The same observation can be applied to the reaction of Rivera who instead of immediately calling for help, opted to watch appellant and AAA for three minutes.

Appellant contends that there was nothing in the testimony of BBB which corroborated AAA's testimony that appellant had carnal knowledge of her.[46] The foregoing is inconsequential, considering that AAA positively identified appellant as her assailant. Likewise, the testimony of Kathleen to the effect that she did not call AAA to go to appellant's house on October 23, 1999 does not demolish the credibility of AAA. What is important is that, based on the prosecution evidence, the testimonies of AAA and Rivera have established the fact of carnal knowledge.

Furthermore, appellant questions the discrepancy between BBB's sworn statement and her testimony in open court as to the fact of her seeing appellant sucking the breast of AAA.[47] Appellant cites Rivera's testimony that when BBB looked into the window after having been fetched by Rivera, appellant and AAA had already left the place where Rivera saw them earlier and had gone down (bumaba na sila).[48] Thus, appellant argues that BBB could not have seen appellant sucking the breast of AAA.

Such argument must fail. Inconsistencies in the narration of the prosecution witnesses on minor details do not affect the weight of their testimonies. Testimonies of the prosecution witnesses cannot be expected to be uniform to the last details.[49] Moreover, the testimonies of witnesses to a crime could not be expected to be error-free all throughout. Different persons have different impressions and recollections of the same incident.[50] Even the most truthful witnesses can make mistakes or innocent lapses that do not necessarily affect their credibility.[51] Thus, findings of trial courts on the credibility of witnesses are entitled to great weight on appeal, and the rule is not changed simply because of some inconsequential inconsistencies that are discovered upon a fault-finding scrutiny of the records.[52]

Likewise, this Court is not persuaded by appellant's contention that there should have been visible signs of intercourse on the vagina of AAA such as discoloration of the inner lips or redness of the labia minora, none of which were found by Dr. Eligio.[53] Appellant argues that Dr. Eligio only found healed lacerations which belie AAA's claim that she was raped two hours prior to the medical examination. In addition, appellant argues that there should have been welts, marks or even bruises on the body of AAA resulting from her lying down on the bamboo floor.[54]

It is well settled that proof of hymenal laceration is not an element of rape, neither is a medico-legal report indispensable in the prosecution of a rape case, it being merely corroborative in nature.[55] More importantly, a freshly broken hymen is not an essential element of rape, and healed lacerations do not negate rape,[56] neither does the absence of spermatozoa negate rape.[57] In addition, absence of external signs of physical injuries does not cancel out the commission of rape, since proof of injuries is not an essential element of the crime.[58] It must be borne in mind that AAA has a mental capacity of a 4-5-year old. Most likely, she did not put up a resistance that could bring about physical injuries. Moreover, prosecution witness Dr. Eligio testified that AAA could have been "used" once or twice before in view of the presence of healed lacerations; and that if the penis is of normal

size, subsequent intercourse would no longer cause lacerations.

Appellant relies heavily on this Court's pronouncement in *People of the Philippines v. Cartuano, Jr.*,^[59] that there must be proper historical and physical examination to determine the existence of mental retardation. However, in *People of the Philippines v. Acero*,^[60] the Court held that said pronouncement did not preclude the presentation by the prosecution of evidence other than clinical evidence to prove the mental retardation of the victim;^[61] and that mental retardation can be proved by evidence other than medical/clinical evidence, such as the testimonies of witnesses and even the observation of the trial court; and that the observation of the trial court, its impression of the demeanor and deportment of the victim and its conclusions anchored thereon are accorded high respect if not conclusive effect on the appellate court.^[62]

In the case at bar, the RTC observed the mental retardation of AAA, as the same was apparently based on her demeanor and deportment during trial.^[63] Even prosecution witness De Guzman, a psychologist from the National Center for Mental Health, assessed that while AAA was then 14 years old, her mental capacity was only that of a 4-5-year old child.

More importantly, appellant knew of the mental disability of AAA, the latter being his longtime neighbor. Appellant even acknowledged the same during his testimony.^[64] Thus, there is more than enough evidence to affirm the finding of the RTC that AAA was suffering from a mental disability when she was raped by appellant.

Thus, the Court finds no error in the CA's affirmance of the RTC decision convicting appellant of the crime of raping AAA.

Under Article 266-B of the Revised Penal Code, the death penalty shall be imposed if the crime of rape is committed "when the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime." The Information in this case alleges the mental disability of AAA and appellant's knowledge of the same at the time of the commission of the crime of rape. Both allegations were duly established beyond reasonable doubt during trial. Hence, the imposition of the death penalty by the trial court was proper.

However, with the effectivity of Republic Act (R.A.) No. 9346 entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines" on June 24, 2006, the imposition of the penalty of death has been prohibited. Thus, the proper penalty to be imposed on appellant as provided in Section 2, paragraph (a) of said law, is reclusion perpetua.^[65] The applicability of R.A. No. 9346 is undeniable in view of the principle in criminal law that *favorabilia sunt amplianda adiosa restringenda*. Penal laws which are favorable to the accused are given retroactive effect.^[66]

In addition, appellant is not eligible for parole pursuant to Section 3 of R.A. No. 9346, which states:

SECTION 3. Persons convicted with reclusion perpetua, or those whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

As regards the award of damages, the CA modified the court a quo's award as follows: P75,000.00 as civil indemnity; P50,000.00 as moral damages; P30,000.00 as exemplary damages; and the costs.

This Court sustains the amount of P75,000.00 as civil indemnity despite the reduction of the penalty imposed on appellant from death to reclusion perpetua. As this Court explained in *People of the Philippines v. Victor*^[67] the said award does not depend upon the imposition of the death penalty; rather, it is awarded based on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense.^[68]

On the other hand, the Court deems it proper to modify the amounts awarded for moral damages and exemplary damages to bring them at par with prevailing jurisprudence. Moral damages are awarded without need of proof for mental, physical and psychological suffering undeniably sustained by a rape victim.[69] Exemplary damages are awarded when the victim of the crime is a young girl so as to set a public example against elders abusing and corrupting the youth.[70] Thus, the amount awarded as moral damages is increased from P50,000.00 to P75,000.00,[71] while the amount awarded as exemplary damages should be reduced from P30,000.00 to P25,000.00.[72]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR HC No. 00073 dated February 9, 2005, finding appellant Nestor Veluz guilty beyond reasonable doubt of qualified rape is **AFFIRMED** with the **MODIFICATION** that the penalty of death meted out to appellant is reduced to reclusion perpetua, without eligibility for parole. In addition, appellant is ordered to pay AAA the amount of P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P25,000.00 as exemplary damages.

No costs.

SO ORDERED

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Brion, JJ., concur.
Leonardo-De Castro, J., on official leave.

[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa, rollo, pp. 3-25.

[2] CA rollo, pp. 21- 24.

[3] The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as, Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as, Rule on Violence Against Women and Their Children effective November 15, 2004. Hence, in *People of the Philippines v. San Antonio, Jr.*, G.R. No. 176633, September 5, 2007, 532 SCRA 411, citing *People of the Philippines v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "xxx" as in "No. xxx Street, xxx District, City of xxx."

[4] CA rollo, p. 8.

[5] Records, p. 28.

[6] TSN, March 5, 2001, pp. 5-6.

[7] TSN, November 13, 2001, pp. 5-9.

[8] No English translation in the transcript; TSN, August 25, 2000, p. 6.

[9] *Id.*

- [10] Id. at 3-8.
- [11] TSN, November 14, 2001, pp. 2-6.
- [12] TSN, January 8, 2002, pp. 2- 5.
- [13] TSN, June 22, 2000, p. 8.
- [14] TSN, June 23, 2000, pp. 3-7.
- [15] Records, p. 10.
- [16] TSN, June 22, 2000, pp. 5-11.
- [17] Records, p. 9.
- [18] TSN, June 22, 2000, pp. 12-16; records, pp. 13-15.
- [19] TSN, January 28, 2002, pp. 3-5.
- [20] TSN, January 29, 2002, pp. 2-18.
- [21] CA rollo, p. 24.
- [22] Rollo, p. 24.
- [23] CA rollo, pp. 84-85.
- [24] *People of the Philippines v. Gonzales*, G.R. No. 141599, June 29, 2004, 433 SCRA 102, 108.
- [25] *People of the Philippines v. Navida*, 400 Phil. 684, 696 (2000).
- [26] TSN, March 5, 2001, pp. 5-9.
- [27] *People of the Philippines v. Tolentino*, 467 Phil. 937, 951 (2004).
- [28] *People of the Philippines v. Banela*, 361 Phil. 61, 70 (1999).
- [29] CA rollo, p. 87.
- [30] *People of the Philippines v. Gaudia*, 467 Phil. 1025, 1039 (2004).
- [31] Rollo, pp. 85-86.
- [32] *People of the Philippines v. Sanchez*, 320 Phil. 60, 72 (1995).
- [33] *People of the Philippines v. Palicte*, G.R. No. 101088, January 27, 1994, 229 SCRA 543, 547-548.
- [34] *People of the Philippines v. Tabanggay*, 390 Phil. 67, 88 (2000).
- [35] *People of the Philippines v. Baring*, 406 Phil. 839, 848 (2001).
- [36] Rollo, p. 18.
- [37] TSN, November 13, 2001, pp. 5-11.
- [38] CA rollo, p. 87.
- [39] TSN, March 5, 2001, p. 8.
- [40] Id. at 9.

- [41] *People of the Philippines v. Bulos*, 412 Phil. 222, 231-232 (2001).
- [42] *People of the Philippines v. Caniezo*, 406 Phil. 761, 771 (2001).
- [43] *People of the Philippines v. Tolentino*, *supra* note 27.
- [44] *People of the Philippines v. Laceste*, 355 Phil. 136, 146 (1998).
- [45] *Id.*
- [46] CA rollo, p. 89.
- [47] *Id.* at 90.
- [48] TSN, November 13, 2001, p. 9.
- [49] *People of the Philippines v. Astorga*, 347 Phil. 701, 711 (1997).
- [50] *People of the Philippines v. Fabro*, 343 Phil. 841, 846 (1997).
- [51] *People of the Philippines v. Calegan*, G.R. No. 93846, June 30, 1994, 233 SCRA 537, 547.
- [52] *People of the Philippines v. Loto*, G.R. Nos. 114523-24, September 5, 1995, 248 SCRA 59, 67.
- [53] CA rollo, p. 97.
- [54] *Id.*
- [55] *People of the Philippines v. Lou*, 464 Phil. 413, 423 (2004).
- [56] *People of the Philippines v. Orilla*, 467 Phil. 253, 274 (2004).
- [57] *People of the Philippines v. Alibuyog*, 469 Phil. 385, 393 (2004).
- [58] *People of the Philippines v. Mabonga*, G.R. No. 134773, June 29, 2004, 433 SCRA 51, 65.
- [59] 325 Phil. 718, 747 (1996).
- [60] *People of the Philippines v. Acero*, 469 Phil. 686 (2004).
- [61] *Id.* at 692-693.
- [62] *Id.* at 693, citing *People of the Philippines v. Dumanon*, 401 Phil. 658, 669-670 (2000).
- [63] Records, p. 226.
- [64] TSN, January 29, 2002, p. 12.
- [65] *People of the Philippines v. Ortoa*, G.R. No. 176266, August 8, 2007, 529 SCRA 536, 555.
- [66] *People of the Philippines v. Canuto*, G.R. No. 166544, July 27, 2007, 528 SCRA 366, 377.
- [67] 354 Phil. 195, 209 (1998).
- [68] *People of the Philippines v. Ortoa*, *supra* note 65, at 555-556.
- [69] *People of the Philippines v. Sandig*, 454 Phil. 801, 813 (2003).
- [70] *People of the Philippines v. Sambrano*, 446 Phil. 145, 161-162 (2003).
- [71] *People of the Philippines v. Pandapatan*, G.R. No. 173050, April 13, 2007, 521 SCRA 304, 326.

[72] Id.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.