

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GREGORIO CORPUZ Y ESPIRITU, APPELLANT.

G.R. No. 168101. February 13, 2006

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PER CURIAM:

We have before Us yet one more account of how a young girl, deprived of the attentions of a mother gone to work in foreign shores, is attacked and betrayed by the one other person she should have been able to depend on for solace, protection and love.

This is an appeal from the decision of the Regional Trial Court (RTC) dated 19 July 1999, Branch 08, Aparri, Cagayan, in Criminal Case No. 08-974 finding the herein appellant, Gregorio Corpuz y Espiritu, guilty beyond reasonable doubt of raping his 13-year-old daughter, Juvilie Corpuz y Antonio, sentencing him to die by lethal injection, and ordering him to pay the victim P100,000.00 in moral damages and P100,000.00 in exemplary damages.

The records of this case were originally transmitted to us on automatic review. However, conformably with our Decision in *People of the Philippines v. Efren Mateo y Garcia*[1] modifying Sections 3 and 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 of the Revised Rules on Criminal Procedure and any other rule insofar as they provide for direct appeals from the RTC to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment, we referred the case and its records to the Court of Appeals[2] for appropriate action and disposition.

On 08 April 2005, the Court of Appeals rendered a Decision,[3] the dispositive portion of which reads:

WHEREFORE, the Judgment dated 19 July 1999 of the Regional Trial Court, Second Judicial Region, Branch 08, Aparri, Cagayan, in Criminal Case No. 08-974, finding accused-appellant Gregorio Corpuz guilty beyond reasonable doubt of qualified rape and sentencing him to suffer the DEATH penalty is hereby AFFIRMED with MODIFICATION in the sense that he is ordered to pay the victim, Juvilie Corpuz, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages.

The antecedent facts are as follows:

At the time of the incident, Juvilie, then 13, and her two sisters, Grace, aged 12, and Cheryl, aged 9, were living with their father, herein appellant Gregorio Corpuz y Espiritu, in a two-bedroom bungalow in Palagao, Gattaran, Cagayan. The girls' mother had been working as a domestic helper in Hongkong since May 1995.

Juvilie and her sister Grace used to sleep in one room, while the youngest sister Cheryl slept with their father Gregorio in the other room. For two successive nights sometime prior to the night in question, Juvilie felt somebody fondling her breast and caressing her private parts, even inserting a forefinger inside her. On the second night, she caught her father doing it. She confronted him, but he denied it, explaining that his presence in the room was allegedly to put arsenic rat poison.

On the night of 16 November 1996, Juvilie was awakened by a fist blow to her stomach. When she reported the

matter to her father, he claimed he had also been hit in his stomach, and advised her and Grace to sleep in the other room with him and Cheryl, which they did the following night. Juvilie laid down on one side of the mat while Gregorio laid on the other. Her sisters laid between them, with Grace beside Juvilie and Cheryl beside Gregorio.

At around 11:00 in the evening of 17 November 1996, Juvilie was awakened by pain she felt in her private parts. She felt and saw the shape of a man on top of her with his penis inside her. Her panties had been removed, and her skirt raised. She pushed and hit the man, and shouted “Okinnam bastos a laklakayan uleg, baboy” (Vulva of your mother, dirty old man, snake, pig)! The man moved hurriedly to the other side of the mat and said “Pakawanennac anakko, tag-taginep ko lang daydiay” (Forgive me my daughter, I was only dreaming).

Her two sisters, awakened by the shout, ran out of the room in fear. Juvilie was left inside the room crying. Her father prevented her from leaving the room, saying “padasen iti rumuar ta adda mapasama kenca” (try to go outside and something will happen to you). He also threatened her with harm if she told anyone what had happened.

Juvilie’s shout had also been heard by her uncles, Rogelio and Walter Antonio, brothers of her mother, whose houses were only about ten meters away from Juvilie’s. They immediately went to Juvilie’s house, but hearing nothing further to arouse their suspicions, they went back to their own homes.

In the afternoon of the following day, Juvilie slipped out of her house while Gregorio was cooking and told Rogelio what her father had done to her. Rogelio reported the matter to their barangay captain, who advised him to inform the police. Since Gregorio was almost constantly with Juvilie, it was only on 27 November 1996 that she was able to report the rape to the police, where she executed a sworn statement.

Juvilie was examined by Dr. Nida Rosales, the Municipal Health Officer of Gattaran, Cagayan. Dr. Rosales observed one completely healed and two incompletely healed lacerations in Juvilie’s hymen. The doctor also noted that Juvilie’s vagina admitted one finger with ease. When asked for the possible cause of the lacerations, she replied that a hard object, such as an erect penis, could have caused the said lacerations.[4]

On 20 March 1997, on the basis of a complaint filed by Juvilie Corpuz y Antonio, an Information[5] was filed before the RTC, Branch 08, Aparri, Cagayan, docketed as Criminal Case No. 08-974, charging the herein appellant with the crime of qualified rape, thus:

That on or about November 17, 1996, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father (parent) of the offended party, with lewd design, and by the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Juvilie Corpuz y Antonio, a woman under eighteen (18) years of age, all against her will and consent.

On 21 May 1997, the accused-appellant, with the assistance of counsel de oficio, pleaded “Not Guilty” to the crime charged.[6] Trial thereafter proceeded.

The prosecution presented four witnesses: Rogelio and Walter Antonio, Dr. Rosales, and the private complainant herself.

The defense presented the lone testimony of Gregorio. On the stand, he claimed that he loved his children very much. He alleged that on the night of 17 November 1996, he pushed Juvilie’s leg hard against the wall, which was why she woke up and shouted. Thereafter, the case was submitted for decision.

On 25 June 1999, the trial court issued an order[7] stating:

The Presiding Judge was in the process of preparing a decision when he noticed that there is variance between the offense charged and that proved.

In order to avoid the miscarriage of justice, the Trial Prosecutor is hereby directed to amend the Information to conform with the evidence, specifically, that the rape was committed while the woman is unconscious instead of by the use of force and intimidation. He is directed to do so within ten (10) days.

Thus, on 13 July 1999, the prosecutor filed the following Amended Information:[8]

That on or about November 17, 1996, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father (parent) of the offended party, with lewd design, and while the offended party was asleep and unconscious, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Juvilie Corpuz y Antonio, a woman under eighteen (18) years of age, all against her will and consent.

On 05 August 1999, the trial court promulgated the decision finding the accused-appellant guilty beyond reasonable doubt of the crime of rape.[9] In giving credence to the evidence adduced by the prosecution, it explained thus:

It has been truly said that rape is so easy to charge and so difficult to defend. The logic is not quite difficult to apprehend. It is usually committed when nobody is present to witness the same. However, Filipino culture attaches an indelible stigma to the reputation of one who has been raped. An accusation for rape is thus not made with indifference, but with much deliberation, usually only after consultation with relatives and the family council.

“Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

“1. By using force or intimidation;

“2. When the woman is deprived of reason or otherwise unconscious; and

“3. When the woman is under twelve years of age or is demented.

x x x x

“The death penalty shall be imposed if the crime of rape is committed with any of the following attendant circumstances:

“1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, sanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim x x x.

The elements are carnal knowledge thru force or intimidation, when the woman is deprived of reason or unconscious, or when the woman is under 12 or demented.

We are satisfied that there was carnal knowledge by accused of private complainant while the latter was asleep on 17 November 1996. This is corroborated by finding of prosecution witness Dr. Nida Nolasco-Rosales, Municipal Health Officer of Gattaran Town, Gattaran, Cagayan who conducted a physical examination of the complainant Juvilie Corpuz on 28 November 1996. Her findings viz:

“Incomplete healed laceration at 2:00 [o'clock] position

“Complete healed laceration at 6:00 [o'clock] position

“Incomplete healed laceration at 9:00 [o'clock] position

“Genitalia admits one finger with ease”

On the witness box, on questioning by the Court, she testified that on 17 November 1996 witness-complainant did not yet have a boyfriend. The testimony of her maternal uncles Rogelio and Walter Antonio partly corroborates

complainant's testimony. Both uncles testified hearing complainant cry on the evening of 17 November 1996 when the rape happened.

Accused himself when testifying admitted that on that evening, complainant cried when he pushed her legs hard, which hit the wall. His reason for pushing – that complainant's legs touched his in their sleep is incredible considering that the former and the latter were at extreme ends of the mat with Cheryl and Grace between them. While accused testified that complainant moves in her sleep, that is not a sufficient explanation why he had to push her legs hard causing her to cry. Further, accused did not deny that complainant uttered the words "ukinam, bastos a laklakayan, uleg, baboy" during the incident when she discovered it was her father who was on top of her. On that occasion he said "Pakawanennac anakko, tag-taginep ko lang daydiay" (meaning "forgive me my daughter, I was only dreaming"). Accused did not explain this.

Sleep is akin to "unconscious (ness)". It falls within its ambit.

Complainant is accused's daughter. She was barely 13 years old on 17 November 1996. Accused did not deny that complainant (his daughter) was aged 13.[10]

In his brief, the appellant assigns the following errors:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT DESPITE THE PRIVATE COMPLAINANT'S HIGHLY DOUBTFUL POSITIVE IDENTIFICATION OF HER ALLEGED ABUSER.

II.

THE COURT A QUO ERRED IN ORDERING THE AMENDMENT OF THE INFORMATION TO CONFORM TO THE EVIDENCE ADDUCED BY THE PROSECUTION

In assailing Juvenile's credibility, the appellant claims that since the rape of Juvenile took place inside the bedroom with the lights switched off, and Juvenile was initially asleep when she was violated, it was extremely unlikely that she was able to identify her assailant.

The Court of Appeals correctly disposed of the appellant's arguments.

The pernicious consequences to both accused and offended party require that utmost care be taken in the review of a decision involving conviction of rape.[11] In such cases, we are guided by three principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[12]

In rape cases, the accused may be convicted solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[13]

If her testimony meets the test of credibility, such is sufficient to convict the accused. The credibility of the victim is almost always the single most important issue to hurdle. In this regard, the trial judge is in the best position to assess the credibility of the complainant, having personally heard her and observed her deportment and manner of testifying during the trial. Absent any showing that the trial judge overlooked, misunderstood, or misapplied some

facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, the trial judge's assessment of credibility deserves the appellate court's highest respect.[14]

Here, the Court of Appeals agreed in the trial judge's assessment of Juvilie's credibility, and observed that she was direct, unequivocal, convincing and consistent in answering the questions propounded to her. We concur.

Juvilie testified as follows:

Q - Now, while you were there inside the room of your father on November 17, 1996, at around 11:00 o'clock was there anything unusual that took place?

A - There was, Your Honor.

Q - What was the incident?

A - My father raised my dress and removed my panty, and went on top of me.

Q - What kind of dress [were] you wearing?

A - Skirt, Your Honor.

Q - What about the other?

A - T-shirt, Your Honor.

Q - And you said your father removed your panty?

A - Yes, Your Honor.

Q - Did you already know that your panty was remove[d] and your shirt was raised, do you know who removed them?

A - Not yet, Your Honor.

Q - And after that, what did you do when your t-shirt was raised and your panty was removed?

A - I pushed him, and boxed him for several times and grabbed him, Your Honor.

Q - Did you already know that was your father?

A - Not yet, Your Honor.

Q - Was the light close[d]?

A - Yes, Your Honor.

Q - What about your two sisters, what were they doing?

A - They were still sleeping, Your Honor.

x x x x

Fiscal Cortes:

Q - Aside from removing panty, what else did your father do?

A - I felt his penis (sic) penetrated, sir.

Court:

Q - Were you asleep when your t-shirt was raised and your panty was removed?

A - Yes, Your Honor.

Q - And were you still asleep when you felt something inside your genital?

A - Yes, Your Honor.

Q - And then what did you do after that?

A - I felt pain and I pushed him sir, for several times and I even shouted the words “Ukinam bastos a laklakayan uleg, baboy.”

Q - When you felt pain, you pushed the one on top of you, you boxed him, you grabbed him, why do you know already who it was?

A - Yes, Your Honor.

Q - That was when you shouted?

A - Yes, Your Honor.

Q - Were you already awake when somebody raised your skirt?

A - Not yet, Your Honor.

Q - When somebody removed your panty you [were] awake?

A - Not yet, Your Honor.

Fiscal Cortes:

Q - When your father inserted his penis (sic) to your vagina were you already awake?

A - Yes, sir.

Court:

Q - Can you recall what particular sensation awake you?

A - Yes, sir.

Q - Why?

A - When I felt pain that awakened me.

x x x x

Fiscal Cortes:

x x x x

Q - How did you know that it was your father when according to you the light was off?

A - Because my father uttered the word[s] “pakawanen nak anakko tagtaglinep ko lang daydiay” which means forgive me my daughter I was only dreaming.

Court:

Q - When your father asked you for forgiveness was his pants on?

A - I do not know, Your Honor, because it was still dark at that time.

Q - But he was no longer on top of you?

A - No more, Your Honor.

Court: Continue.

Fiscal Cortes:

Q - Where was your father then when he uttered those words?

A - He was beside of (sic) Cheryl, sir.

Q - When you woke up because of the pain, [were] your two sisters also awoke or were they still sleeping?

A - Yes, sir.

Q - After your father went to the side of your sister Cheryl, what happened next?

A - My two sisters went outside the room because they were frightened, sir.

Court:

Q - How about you?

A - I stayed in the bedroom, Your Honor.

Q - With your father?

A - Yes, Your Honor.

Q - And what happened after that?

A - When my two sisters were already outside the room and I was also inside the room and my father threatened me if I will report I will also die.[15]

The testimony of child-victims are normally given full weight and credit, since 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. Youth and immaturity are generally badges of truth and sincerity. No woman, least of all a child, would concoct a story of defloration, allow an examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her.[16]

Moreover, Juvilie's testimony is corroborated by the medical findings of the examining physician. Where a victim's testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place. A rape victim's account is sufficient to support a conviction for rape if it is straightforward, candid and corroborated by the medical findings of the examining physician,[17] as in the present case.

We come now to the accused-appellant's claim that the prosecution failed to establish the identity of the perpetrator with certitude since the room was dark and it was not shown to have been properly illuminated.

It is highly inconceivable that complainant would not recognize her own father, with whom she had been living for a long time. We have held that it is the most natural reaction for victims of criminal violence to strive to see the appearance of their assailant and observe the manner in which the crime was committed. Most often, the face and body movements of the assailants create a lasting impression which cannot be easily erased from their memory.[18] The impression becomes more profound where the malefactor is the victim's own father.[19] Also, Juvilie categorically testified that it was her father who raped her. It is unthinkable, if not completely

preposterous, that a daughter would concoct a story of rape against her father, taking to mind the reverence and respect for elders that is too deeply ingrained in Filipino children.[20] It is well-settled that a categorical and positive identification of an accused, without any showing of ill-motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial, which are negative and self-serving evidence undeserving of real weight in law unless substantiated by clear and convincing evidence.[21]

Juvilie was also able to identify her abuser through his voice. As efficiently summed up by the Court of Appeals:

On the night of 17 November 1996, Juvilie was awakened by the pain she felt when her abuser inserted his penis inside her vagina. Upon waking and finding a man on top of her, she repeatedly pushed and hit her assailant. She shouted at him, “ukinam bastos a laklakayan uleg, baboy.”

The man laying on top of her hastily moved to the other side of the mat from where Juvilie slept. He then uttered, “pakawanen nak anako tagtaginep ko lang daydiay.” She recognized his voice as that of her father.

Identification of an accused by his voice has been accepted particularly in cases where, such as in this case, the witness has known the malefactor personally for so long and so intimately. In *People v. Calixto*, the Supreme Court has given credence to the blindfolded rape victim’s identification of the accused, a barriomate, by his voice. Also, in an earlier case, the Supreme Court has said:

“x x x [C]omplainant’s identification of the appellant was not based solely on the latter’s physical defect, but by his voice as well, when he warned complainant, ‘Flor, keep quiet.’ Although complainant did not see appellant’s face during the sexual act because the house was dark, nevertheless, no error could have been committed by the complainant in identifying the voice of the accused, inasmuch as complainant were neighbors.”

Pitted against the positive, straightforward and unequivocal testimony of the victim – Juvilie – the mere denial by the accused-appellant that he raped his daughter cannot prevail.

Denial is inherently a weak defense. It cannot prevail over positive identifications, unless buttressed by strong evidence of non-culpability. Denials are self-serving negative by strong evidence which cannot prevail over the positive, straightforward and unequivocal testimony of the victim. When the offended parties are young and immature girls from the ages of twelve to sixteen, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by court trial if the matter about which they testified is not true.

The accused-appellant next contends that the trial court’s order to amend the information as to the mode of commission of the rape – from “by force and intimidation” to “while the offended party was asleep or unconscious” – is not sanctioned by the Rules on Criminal Procedure.

However, this issue has already been directly addressed in *People v. Abiera*,[22] and later in *People v. Atienza*,[23] where we upheld the conviction for rape committed under one mode when the information alleged another.

In *Atienza*, therein accused-appellant contended that the trial court erred in finding him guilty of rape under par. (2), Art. 335, i.e., rape of a woman who was deprived of reason, including those with the mental capacity of a child below twelve (12) years old, when the Information charged him with rape committed through force and intimidation as defined in par. (1), Art. 335. *Atienza* cited the earlier case of *Abiera*, wherein we held thus:

The appellant maintains that he cannot be convicted of rape committed under one mode when the information alleged another mode. He cites the case of *People v. Pailano*, where this Court held that to convict the appellant on the finding that he had committed rape while the victim was unconscious or otherwise deprived of reason — and not through force and intimidation, which was the method alleged — would violate his constitutional right

to be informed of the nature and cause of the accusation against him.

That case works against the appellant. In *Pailano*, this Court impliedly recognized that an accused charged with rape through one mode of commission may still be convicted of the crime if the evidence shows another mode of commission provided that the accused did not object to such evidence. The Court said:

It may be argued that although initially deficient, the criminal complaint was deemed corrected when the prosecution introduced evidence on the complainant's mental condition and the defense did not object, thereby waiving the procedural defect. Even so, the charge has not been adequately established.

The prosecution presented evidence to show that Abiera had carnal knowledge of the complainant when by means of force, violence and intimidation, he boxed her in the stomach, causing her to lose consciousness, after which he violated her. When Alma regained consciousness, the outrage had already been committed. Her deshabelle, her bleeding vagina, the near-naked man beside her — all these reasonably indicated that Abiera had deflowered Alma while she was unconscious. The defense did not object to the presentation of evidence to establish all these circumstances.

The *Pailano* case is different from the case at bar because it has been proven that Abiera had carnal knowledge of Alma after rendering her unconscious. *Pailano* was acquitted because it was not established that he used force and intimidation upon the complainant or that the girl was mentally deficient.[24]

In the case at bar, the appellant never raised any objection when the prosecution showed another mode of commission of the crime charged as alleged in the original information. Nor did he interpose any objections after the judge issued his order of 25 June 1999 directing the trial prosecutor to amend the information to conform with the evidence and before he rendered judgment.

Be that as it may, the amendment of the information did not affect the crime committed by the appellant, that is, qualified rape. In cases of incestuous rape, force or intimidation need not even be proven. The overpowering moral influence of the father over the daughter takes the place of violence and offer of resistance required in rape cases committed by an accused unrelated to the victim.[25] Consequently, his conviction is in order.

Having determined that rape was indeed committed by Gregorio against Juvelie, we come now to the question of the appropriate imposable penalty under the circumstances.

The death penalty is imposed if the crime of rape is committed with the attendance of certain circumstances, one of these being when the victim is under eighteen years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity and affinity within the third civil degree, or the common-law spouse of the parent of the victim.

Gregorio's paternity was alleged in the information and duly proven in the course of the trial. He was duly identified as such by Rogelio Antonio,[26] Juvelie's maternal uncle and close neighbor, by Juvelie herself,[27] and admitted by the appellant during direct examination.[28]

Juvelie's minority was also alleged in the information and duly proven during trial, in the course of which her birth certificate was offered in evidence.[29] Appellant himself also expressly and clearly testified as to her age under direct examination.[30]

We have consistently held that the concurrence of the minority of the victim and her relationship to the offender is a special qualifying circumstance which increases the penalty, and must be properly alleged in the information because of the accused's right to be informed of the nature and cause of the accusation against him.[31] Juvelie's minority and her relationship with Gregorio having been duly established by evidence, the death penalty was correctly imposed upon the appellant.

WHEREFORE penalty with the , the Decision of the Court of Appeals of 08 April 2005 affirming the Decision dated 19 July 1999 of the Regional Trial Court, Branch 08, Aparri, Cagayan in Criminal Case No. 08-974, finding accused-appellant Gregorio Corpuz guilty beyond reasonable doubt of qualified rape and sentencing him to suffer the DEATHMODIFICATION that he is ordered to pay the victim, Juvilie Corpuz, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages, is hereby AFFIRMED.[32]

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of Republic Act 7659, upon finality of this Decision, let the records of this case be forwarded forthwith to the Office of the President for possible exercise of executive clemency.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario and Garcia, JJ., concur.

Sandoval-Gutierrez and Corona, JJ., on leave.

[1] G.R. Nos. 147678-87, 07 July 2004, 433 SCRA 640.

[2] In our Resolution of 14 September 2004.

[3] Penned by Perlita J. Tria Tirona with Delilah Vidallon-Magtolis and Jose C. Reyes, Jr., concurring.

[4] TSN, 13 August 1998, p. 8.

[5] Records, p. 2.

[6] Id., p. 44.

[7] Id., p. 139.

[8] Id., p. 142.

[9] Id., pp. 152-162.

[10] Id., pp. 156-160.

[11] People v. Malones, G.R. Nos. 124388-90, 11 March 2004, 425 SCRA 318, 329.

[12] People v. Obrique, G.R. No. 146859, 20 January 2004, 420 SCRA 304, 319.

[13] People v. Guambor, G.R. No. 152183, 22 January 2004, 420 SCRA 677, 682.

[14] People v. Malones, supra note 11, p. 330.

[15] TSN, 16 September 1998, pp.23-29.

[16] People v. Guambor, supra note 13, p. 682.

[17] People v. Galido, G.R. Nos. 148689-92, 30 March 2004, 426 SCRA 502, 515-516.

[18] People v. Apawan, G.R. No. 85329, 16 August 1994, 235 SCRA 355, 363.

[19] People v. Razonable, G.R. No. 128085-87, 12 April 2000, 330 SCRA 562, 571.

[20] People v. Tresballes, 373 Phil. 556, 585 (1999); People v. Burce, 336 Phil. 283 (1997).

[21] *People v. Intong*, G.R. Nos. 145034-35, 05 February 2004, 422 SCRA 134, 139.

[22] G.R. No. 93947, 21 May 1993, 222 SCRA 378.

[23] 383 Phil. 707 (2000).

[24] *People v. Abiera*, supra note 22, pp. 381-382.

[25] *People v. Pepito*, G.R. Nos. 147650-52, 16 October 2003, 413 SCRA 558, 567; *People v. Blancaflor*, G.R. No. 130586, 29 January 2004, 421 SCRA 354, 361; *People v. Taneo*, G.R. No. 117683, 16 January 1998, 284 SCRA 251; *People v. Burce*, 336 Phil. 283, 302 (1997); *People v. Caballes*; G.R. Nos. 93437-45, 12 July 1991, 199 SCRA 152, 163; *People v. Lucas*, G.R. No. 80102, 22 January 1990, 181 SCRA 316, 325.

[26] TSN, 10 December 1997, p. 4.

[27] TSN, 16 September 1998, pp. 23-29.

[28] TSN, 12 January 1999, pp. 3-4.

[29] TSN, 16 September 1998, pp. 16-17.

[30] TSN, 12 January 1999, p. 9.

[31] *People v. Manggasin*, 365 Phil. 683, 706 (1999), citing *People v. Ilao*, 357 Phil. 656, 672 (1998); *People v. Ramos*, 357 Phil. 559, 576 (1998); *People v. Garcia*, 346 Phil. 475, 504 (1997).

[32] Two (2) members of this Court maintain their position that R.A. No. 7659, insofar as it prescribes the death penalty is unconstitutional. Nevertheless, they submit to the ruling of the majority that the said law is not unconstitutional and that the death penalty should be imposed in this case.

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