

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIAN PAJES Y OPONDA AND MIGUEL PAGHUNASAN Y URBANO, ACCUSED-APPELLANTS.

G.R. No. 184179. April 12, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

This is before this Court by way of an ordinary Appeal[1] from the Decision[2] dated 14 April 2008 of the Court of Appeals in CA-G.R. CR-HC No. 00555. In the said decision, the appellate court affirmed the conviction of appellants Miguel Paghunasan (Paghunasan) and Julian Pajes (Pajes), for the crime of Kidnapping for Ransom under Article 267 of the Revised Penal Code,[3] and meted upon them the penalty of reclusion perpetua. The dispositive portion of the assailed decision reads:

WHEREFORE, in view of the foregoing, the appealed Decision is AFFIRMED with MODIFICATION in that accused-appellants Julian Pajes ("Mario"/Pajes) and Miguel Paghunasan ("Yoyoy"/"Yoy"/"Iyoy"/Paghunasan) are hereby sentenced to suffer the penalty of reclusion perpetua. They are also jointly and solidarily ORDERED to pay P130,000.00 to Amelita Yang Cesar as indemnity for the amount taken from her office, and moral damages in the amount of Php50,000.00.[4]

In view of the gravity of the penalty imposed and in order to minimize, if not eradicate, the possibility of error, this Court saw it fit to revisit the records of this case and re-examine the facts as found by the trial court and the Court of Appeals. Our review brings us to the following facts:

Private complainant Amelita Yang Cesar (Mrs. Cesar) is the manager of the NC Farms in Pulung Cacutud, Angeles City.[5] Around 4:30 in the afternoon of 31 January 2002, Mrs. Cesar was at her office preparing the payroll of her employees when a man posing as a buyer of chicken, rang the doorbell of the farm.[6] Unsuspecting of any danger, Mrs. Cesar instructed one of her workers to sell a chicken to the buyer standing outside of the farm's main gate.[7]

As soon as the chicken was handed, the buyer pushed the gate and, immediately, five (5) armed men forced their way inside the farm's premises.[8] The poseur-buyer, who goes by the alias "Yoyoy,"[9] turned out to be part of a group of malefactors set to rob NC Farms and to kidnap Mrs. Cesar.

Mrs. Cesar was able to witness the violent entry of the malefactors from the two-way mirror of her office and quickly rushed to lock its door.[10] But before Mrs. Cesar could do so, Yoyoy was able to kick the door and the group of armed men barged into the office of Mrs. Cesar.[11] Once inside, the leader of the group, a man named Serio Panday, pointed a gun at the right temple of Mrs. Cesar and forced her to surrender the farm's payroll money.[12] All in all, Serio Panday was able to extort roughly One Hundred Thirty Thousand Pesos (P130,000.00) in cash from Mrs. Cesar.[13]

Meanwhile, the other malefactors stormed the kitchen, where Erlinda Santos (Erlinda), a cook of Mrs. Cesar, was

staying.[14] The sight of armed men left Erlinda stunned with fear.[15] One of the intruders told Erlinda, "Hold-up ito, tumahimik ka para walang mangyari sa iyo." [16] The intruders then scoured the place and proceeded upstairs in search of other occupants.[17]

After ransacking the office and before making their escape, Serio Panday directed his cohorts to bring Mrs. Cesar along with them.[18] Against her will, Mrs. Cesar was made to board her own delivery van which the group decided to use as their getaway vehicle.[19] She was placed at the back of the van where three armed men, including Yoyoy, guarded her.[20] Two other members of the group occupied the front passenger seats, while another one drove the van.[21]

After driving for a while, the group stopped along the base of a mountain in Capas, Tarlac, to pick up a certain Ponggay Ventura who would guide the group to a nipa hut - a safehouse at the top of the mountain.[22] The group also picked up a certain "Mario" to drive the van to their destination, replacing the group's former driver.[23]

Prior to reaching the nipa hut, however, the cellular phone of Mrs. Cesar rang.[24] The phone of Mrs. Cesar was then in the possession of one of the kidnappers by the name of "Brad," who answered[25] and demanded from the caller, who happened to be Mrs. Cesar's brother-in-law, Fifty Million Pesos (P50,000,000.00) in exchange for the release of Mrs. Cesar.[26]

Upon reaching the top of the mountain at about 6:00 in the evening, Mrs. Cesar was led by her abductors inside the nipa hut.[27] From the inside looking out, Mrs. Cesar saw, and met, for the first time Mario who introduced himself as the driver of the group.[28] Shortly afterwards, Mario was ordered by Serio Panday to dispose of the delivery van by driving it all the way down from the mountain to the town proper of Capas, Tarlac.[29] Mario would later on return to the mountain around 9:00 that evening, after leaving the van somewhere in Barangay Dolores, Capas, Tarlac.[30]

Aside from Mario, Mrs. Cesar also saw two new faces outside the nipa hut--one of which was of a man, while another was of a woman with long hair.[31] Mrs. Cesar also noticed a red pick-up truck parked about five hundred (500) meters away from the nipa hut.[32]

Later that night, Yoyoy told Mrs. Cesar to call her husband, Christopher Cesar (Mr. Cesar).[33] Upon making contact, Yoyoy reiterated Brad's earlier demand of Fifty Million Pesos (P50,000,000.00) for the release of Mrs. Cesar.[34] When Mr. Cesar refused to pay because the amount asked was too much for his means, Yoyoy became irritated and hung up.[35] Mrs. Cesar spent the rest of the night inside the nipa hut guarded by appellant Yoyoy.[36]

The next morning, Yoyoy resumed negotiations with Mr. Cesar.[37] Following a consultation with his fellow kidnappers, Yoyoy finally conceded to a ransom of Eight Hundred Thousand Pesos (P800,000.00) proposed by Mr. Cesar.[38] Yoyoy then informed Mr. Cesar that the pay-off would be at the Capas cemetery at 7:00 that evening.[39]

Mario accompanied Mrs. Cesar to the Capas cemetery for the agreed pay-off.[40] The other kidnappers, including Yoyoy, arrived earlier and were already scattered throughout the cemetery.[41] Later, Mr. Cesar arrived with his driver, and they were approached by Yoyoy who had alighted from a motorcycle.[42] Upon securing from Mr. Cesar the ransom money, Yoyoy signaled Mario to release Mrs. Cesar.[43] Yoyoy then rode off on a motorcycle, while Mario left the cemetery alone.[44]

What followed was a hot pursuit operation supervised by the National Anti-Kidnapping Task Force (NAKTAF).[45] Unknown to the kidnappers, Mr. Cesar coordinated with the NAKTAF prior to the pay-off.[46] In fact, the driver who was with Mr. Cesar at the Capas cemetery is actually PO3 Ceferino Gatchalian, an

undercover agent of the NAKTAF.[47]

The hot pursuit operations led to the apprehensions of herein appellants Pajes[48] and Paghunasan.[49] Also arrested were one Rustico Pamintuan and one Luz Gonzales, who were the owners of the red pick-up truck parked outside of the nipa hut where Mrs. Cesar was detained.[50]

On 17 May 2002, both of the appellants, along with Rustico Pamintuan, Luz Gonzales as well as the other persons[51] alleged to be involved in the abduction of Mrs. Cesar, were charged of Kidnapping for Ransom penalized under Article 267[52] of the Revised Penal Code.[53] The accusatory portion of the Information[54] reads:

That on or about 4:30 o'clock in the afternoon of January 31, 2002 in the Municipality of Capas, Province of Tarlac and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully kidnapped and detain Amelita Yang Cesar in a Nipa Hut at Barangay Aranguren, Capas, Tarlac who was released on February 01, 2002 in exchange of ransom in the amount of P800,000.00.

Considering that the other accused remain at large, only the appellants, Rustico Pamintuan and Luz Gonzales were arraigned and were able to enter a plea of not guilty. For them, trial thereafter ensued.

During the trial, Mrs. Cesar positively identified appellant Paghunasan as the very same "Yoyoy" who acted as a poseur- buyer at NC Farms; who kicked the door of her office to enable his armed companions to enter; who negotiated with Mr. Cesar for her release in exchange for a ransom of Eight Hundred Thousand Pesos (P800,000.00); and who was among those responsible for her abduction and subsequent detention in the nipa hut at the top of the mountain.

Erlinda, Mr. Cesar and PO3 Ceferino Gatchalian corroborated the identification made by Mrs. Cesar. Erlinda pointed to appellant Paghunasan as one of the armed men who entered the office kitchen of NC Farms. Mr. Cesar and PO3 Gatchalian, on the other hand, testified that it was appellant Paghunasan who approached them in the Capas cemetery, and who received the ransom money for the release of Mrs. Cesar.

Likewise positively identified in the course of the trial was appellant Pajes. Mrs. Cesar testified that appellant Pajes is the same "Mario" who acted as the driver for her kidnappers, who was among those who guarded her in the nipa hut, and who accompanied her to the Capas cemetery for the pay-off.

After the prosecution rested its case, accused Rustico Pamintuan and Luz Gonzales filed a motion to dismiss by way of a demurrer to the evidence. In an Order[55] dated 28 October 2003, the Regional Trial Court of Capas, Tarlac, Branch 66, granted the demurrer to the evidence, effectively resulting into the acquittal of Rustico Pamintuan and Luz Gonzales.

The appellants, on the other hand, would have a different fate. In the Decision[56] dated 16 September 2004 of the trial court, the appellants were found guilty beyond reasonable doubt of Kidnapping for Ransom and were meted the ultimate penalty of death. The decretal portion of the ruling reads:

WHEREFORE, finding Miguel Paghunasan y Urbano @ Yoyoy and Julian Pajes y Oponda, guilty beyond reasonable doubt, the Court hereby imposes the penalty of DEATH upon them. The accused are hereby jointly and solidarily ordered to pay the amount of P800,000.00 to the victim as indemnity of the ransom paid. The accused are jointly and solidarily ordered to pay P130,000.00 to Amelita Yang Cesar as indemnity of the amount taken from her office. The accused are ordered to pay moral damages of P50,000.00.

On automatic intermediate review,[57] the Court of Appeals affirmed the conviction of the appellants. The appellate court, however, reduced the penalty to reclusion perpetua in light of Republic Act No. 9346, which

prohibits the imposition of the death penalty.

Hence the instant appeal.

Appellant Miguel Paghunasan

Appellant Paghunasan proffers the defense of alibi. The plain version of Paghunasan was that he was not at the locus criminis at the time the alleged crime was committed. Rather, Paghunasan maintains that he was merely at his home in Caloocan City the whole day of 31 January 2002.[58]

To strengthen his alibi, Paghunasan points to what he perceives as flaws in his open-court identification by the private complainant Mrs. Cesar, her husband Mr. Cesar, PO3 Ceferino Gatchalian and Erlinda. Paghunasan explains:

1.)

Mrs. Cesar's identification is not worthy of belief for it is contrary to common experience that a kidnap victim like herself, was not blindfolded by her kidnappers so as to allow her to see where she was being taken.[59]

Moreover, Mrs. Cesar categorically stated in her Sinumpaang Salaysay [60] that she did not know the names of her captors. She was only able to identify Paghunasan after the latter was already arrested and presented to her via a police line-up conducted by the NAKTAF.[61]

2.)

The identification by Mr. Cesar and PO3 Gatchalian is likewise highly doubtful considering that their respective testimonies contradict each other. Mr. Cesar testified that Paghunasan was alone at the time he received the ransom money, but PO3 Gatchalian testified that two other persons accompanied Paghunasan.[62]

3.)

Erlinda's identification is also suspect. During the time that she executed her own Sinumpaang Salaysay,[63] Erlinda was shown a picture of appellant Paghunasan by NAKTAF agents, but was then unable to identify Paghunasan as one of the kidnappers.[64]

The Court is not impressed.

It is a well-settled principle in law that the defense of alibi is one of the weakest defenses available to an accused in a criminal case.[65] As it may easily be concocted, alibis are invariably viewed with suspicion, and, as a general rule, crumbles in light of positive identification of the offender by truthful witnesses.[66]

Conversely however, this Court has, in more than one occasion, held that the defense of alibi may acquire commensurate strength where the witnesses have made no positive and proper identification of the offender.[67] This is because the inherent weakness of alibi as a defense does not operate to relieve the prosecution of its responsibility to establish the identity of the offender by the same quantum of evidence required for proving the crime itself.[68] By assailing the credibility of his open-court identification, appellant Paghunasan seems to believe that the latter doctrine may be applied in this case.

The Court does not agree. A simple scrutiny of the contentions raised by appellant Paghunasan will reveal that they are specious at best, and not sufficient to destroy the credibility of his positive identification. We substantiate:

First, there is nothing contrary to common human experience about the fact that Mrs. Cesar was not blindfolded by her kidnappers. Certainly, it would be at the height of absurdity, short of an outright injustice, to discredit the

testimony of a kidnap victim just because her kidnappers forgot, or decided not to blindfold her.

On the other hand, we are reminded of the following facts: (a) the kidnappers placed Mrs. Cesar at the back of a delivery van--which is virtually an enclosed structure except for two small windows at the front,[69] and (b) while thereat, three armed men guarded Mrs. Cesar.[70] Given the foregoing circumstances, we find it not hard to believe that the kidnappers deemed it no longer necessary to blindfold Mrs. Cesar.

Second, there is nothing irregular about the fact that Mrs. Cesar was not able to give the name of her kidnappers at the time she executed her Sinumpaang Salaysay. On the contrary, it is quite normal for a kidnap victim to be ignorant of the names of her abductors. Frequent use by kidnappers of aliases, like the ones in the case at bar, makes it extremely difficult for a kidnap victim to know their real names.

Be that as it may, knowledge of a person's name is not necessary for proper identification.[71] Mrs. Cesar may not know the names of her abductors, but she was nevertheless familiar with their physical features and was, thus, able to describe them quite extensively in her Sinumpaang Salaysay. Hence, it is perfectly logical that Mrs. Cesar was only able to identify appellant Paghunasan upon seeing him in person during the police line-up.

Third, there is actually no conflict between the testimonies of Mr. Cesar and PO3 Ceferino Gatchalian. In contending that there is such conflict, appellant Paghunasan cited the following portion of the testimonies of Mr. Cesar and PO3 Ceferino Gatchalian, viz:[72]

Direct Examination of Christopher Cesar:

Fiscal Llobrera:

Q:

Upon arriving at the cemetery at 8:00, what else happened?

A:

I[t] was dark at the cemetery and so we turned on the headlights of the vehicle, sir.

Q:

And then what happened?

A:

After that, a motorcycle arrived wherein a man was on board and he alighted, sir.

Q:

And after the person alighted from the motorcycle, what else happened?

A:

He approached us and asked us if we brought the money, sir.[73] (Underscoring supplied)

Direct Examination of PO3 Ceferino Gatchalian:

Fiscal Llobrera:

Q:

And then after giving instruction or order to the other team by your Superintendent Magno (sic), what else happened?

A:

I and Mr. Cezar proceeded to the Dona Agripina Memorial Park and we parked at the side of the cemetery, sir.

x x x x

Q:

And what happened after that, after parking your vehicle?

A:

We saw a motorcycle 125 boarded with three (3) persons and one of the persons using a cellphone approached us.

Q:

Was he able to approach you?

A:

Yes, sir; they (sic) approached Mr. Cesar.

Q:

How many of them approached Mr. Cesar?

A:

Only one, sir.[74] (Underscoring supplied)

As can be gleaned from the above, Mr. Cesar never testified that Paghunasan was alone at the Capas cemetery during the pay-off. All that Mr. Cesar stated was that a man, whom he later identified as appellant Paghunasan, alighted from a motorcycle and approached him and PO3 Ceferino Gatchalian. Mr. Cesar was silent as to the number of persons boarding the motorcycle from which Paghunasan alighted. Verily, the statements of Mr. Cesar cannot be said to contradict the testimony of PO3 Ceferino Gatchalian who merely clarified that Paghunasan alighted from a motorcycle boarded by two other persons.

Significantly, Mr. Cesar and PO3 Ceferino Gatchalian uniformly attested to the more material fact that it was only appellant Paghunasan who alighted from the motorcycle and who approached them to receive the ransom money. To the mind of this Court, this is enough to make their identification of appellant Paghunasan worthy of belief. Indeed, perfect symmetry between the testimonies of the witnesses, while desirable, is not absolutely required for them to be deemed credible. To be deserving of belief, it is enough that the testimonies of the witnesses concur on material points.[75]

Fourth, the failure of Erlinda to identify appellant Paghunasan from the pictures shown to her during the time she executed her Sinumpaang Salaysay is not fatal to the integrity of her subsequent open court identification. In response to this issue, we hereby quote with approval a portion of the decision of the Court of Appeals, to wit:

Not even Erlinda [Santos'] failure to identify the accused-appellants when confronted by their pictures would render the prosecution's case weak. She was able to explain the apparent difference between the picture shown her and the physical features of Paghunasan in person. But she was categorical in identifying Paghunasan as one of the persons who entered the kitchen on 31 January 2002. We do not doubt her ability to remember with precision considering that she herself testified that a gun was poked at her, that her knees were trembling out of fear, and that she just stayed in the kitchen, put her face down on the table as her employer shouted for help.[76] (Emphasis supplied).

His positive identification intact, appellant Paghunasan is left with only his alibi to fend off the serious accusations against him. Without any other evidence proving that it was physically impossible for him to be at the locus criminis on 31 January 2002, appellant Paghunasan's alibi must necessarily fail.

Appellant Julian Pajes

Appellant Pajes raises a different defense. Appellant Pajes admits that he drove the delivery van boarded by the kidnappers to their nipa hut upon request of Serio Panday, but claims that he did not know, at least at the inception, that the van was the group's getaway vehicle, let alone, that it was carrying a kidnap victim.[77] According to Pajes, he only came to have an idea that something was wrong when after arriving at the mountaintop, a lady was made to alight the delivery van and was led into the nipa hut by the cohorts of Serio Panday.[78]

Succinctly put, appellant Pajes denies involvement in any criminal conspiracy to kidnap Mrs. Cesar.[79] Pajes maintains that he was merely "at the wrong place at the wrong time," for which he deserves a milder penalty, if not total absolution from any penal liability.

The Court finds no merit in this contention.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[80] When a crime is committed under a conspiracy, the liability of all conspirators becomes collective regardless of the extent of their actual participation in the crime.[81] In other words, the act of one becomes the act of all.[82]

In determining the existence of conspiracy, direct proof of a previous agreement to commit a crime is not necessary.[83] After all, conspiracy may be inferred from the mode and manner by which the offense is perpetrated or from the very acts of the accused themselves.[84] To support a finding of conspiracy, what is merely required is an unmistakable showing that the collective acts of the accused before, during and after the commission of a felony were all aimed at the same object, one performing one part and the other performing another for the attainment of the same objective; and that their acts, though apparently independent, were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments.[85]

In the case at bar, the facility and efficiency by which the abduction of Mrs. Cesar was effected was an undeniable proof of the existence of a pre-conceived plan under which the kidnappers were acting. From their entry to the NC Farms by the ingenious use of pretension, to the groups' systematic scouring of Mrs. Cesar's office, and up to their cinematic escape--the acts of the kidnappers were knitted seamlessly together in a web of a single criminal design.

This Court finds it impossible to accept the contention of appellant Pajes that he merely drove the delivery van at the suggestion of Serio Panday, without any knowledge of what was inside the said vehicle.[86] As correctly observed by the Court of Appeals, it is hard to believe why appellant Pajes would readily agree to drive a delivery van in going up a mountain, if, in the first place, he has no idea of what he was supposed to be transporting.[87]

Moreover, the subsequent acts of appellant Pajes contradict his claim of innocence. It may not be amiss to point out that the participation of appellant Pajes was not merely limited to transporting the kidnappers to their nipa hut.

Other than being the driver of the kidnappers, appellant Pajes also admitted of being the one tasked of disposing the delivery van by driving it all the way down the mountain to the town proper of Capas, Tarlac.[88] Pajes added that after parking the van somewhere in Barangay Dolores, Tarlac, he returned to the nipa hut, where he was again tasked at looking after Mrs. Cesar.[89] Finally, he was the one who accompanied Mrs. Cesar to the Capas

cemetery during the night of the agreed pay-off.[90]

The aggregate participation of appellant Pajes shows that he was part of the criminal conspiracy to kidnap Mrs. Cesar. Indeed, if appellant Pajes was as innocent as he claims to be, he could have easily avoided going back to the nipa hut upon his descent from the mountains to the town proper of Capas, Tarlac. But instead, he did just the opposite. Pajes returned to the nipa hut and fulfilled the criminal purpose of the kidnappers. While he was not among those who actually raided NC Farms, his subsequent contribution to the victim's continuing detention more than speaks of his concurrence and involvement to the kidnappers' criminal design.

Finding no reversible error on the part of the Court of Appeals in affirming the appellants' conviction, this Court is constrained to let the hammer fall where it must. We only need to be explicit that the appellants are denied of the benefit of any parole, in view of Section 3 of Republic Act No. 9346. [91]

WHEREFORE, the decision of the Court of Appeals dated 14 April 2008 in CA-G.R. CR-HC No. 00555 is hereby AFFIRMED with the MODIFICATION that the appellants are denied the benefit of parole.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Mendoza[*], JJ., concur.

[*] Per Special Order No. 832, Associate Justice Jose Catral Mendoza is hereby designated as Additional Member of the Second Division in place of Associate Justice Roberto A. Abad, who is on Official Leave from April 6-8, 2010.

[1] Via a notice of appeal, pursuant to Section 3(c) of Rule 122 of the Rules of Court.

[2] Penned by Associate Justice Romeo F. Barza with Associate Justices Mario L. Guariña III and Japar B. Dimaampao concurring. Rollo, pp. 2-29.

[3] Act No. 3185, as amended.

[4] Rollo, pp. 27-28.

[5] TSN, 3 October 2002, p. 5.

[6] Id. at 7. See also TSN, 14 November 2002, p. 6.

[7] TSN, 14 November 2002, p. 7.

[8] Id. at 10.

[9] Also referred to as "Yoy" or "Iyoy" in some parts of the records.

[10] TSN, 14 November 2002, p. 12.

[11] Id.

[12] TSN, 3 October 2002, pp. 8-10.

[13] Id. at 10-11.

[14] TSN, 2 December 2002, pp. 4-9.

[15] Id. at 15.

[16] Id. at 11. See also Exhibit "B," Folder of Exhibits.

[17] Id. at 9-18.

[18] TSN, 3 October 2002, p. 12.

[19] Id. at 12-13.

[20] Id. at 13-14. The other two men guarding Mrs. Cesar at the back of the delivery van was a man known only as alias "Boy," and another man sporting a hair dyed with different colors but whose name or alias Mrs. Cesar could no longer remember.

[21] Id. at 14-15.

[22] Id. at 16-17.

[23] TSN, 6 November 2003, pp. 6-7.

[24] TSN, 3 October 2002, pp. 16-17.

[25] Id. at 16.

[26] Id. at 17.

[27] Id.

[28] Id. at 34.

[29] Id. at 19. See also TSN, 6 November 2003, pp. 9-10.

[30] TSN, 6 November 2003, p. 10.

[31] TSN, 3 October 2002, pp. 18-19.

[32] Id. at 17.

[33] Id. at 22.

[34] Id. at 23.

[35] Id. at 23-24.

[36] Id. at 27.

[37] Id. at 30-31.

[38] Id. at 36-38.

[39] Id. at 39.

[40] Id. at 40.

[41] Id. See also TSN, 6 November 2003, p. 18.

[42] TSN, 6 November 2003, p. 19.

[43] Id. at 20.

[44] Id.

[45] TSN, 24 March 2003, p. 12.

[46] Id. at 5.

[47] Id.

[48] Id. at 13.

[49] Id. at 7.

[50] TSN, 30 June 2003, pp. 7-9.

[51] The other accused still at large are Serio Panday, More Panday, Ponggay Ventura, Antonio Caponpon, Joe Caponpon, alias Boy, alias Bay and alias Brad.

[52] Article 267 of the Revised Penal Code provides:

Article 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 above-mentioned were present in the commission of the offense. (Underscoring supplied).

[53] Appellant Miguel Paghunasan, Serio Panday, More Panday, alias Boy, alias Bay, and alias Brad were also charged under two other informations--one charging them of Robbery with Violence and Intimidation Against Persons, and another one charging them, along with appellant Julian Pajes, for violation of Republic Act No. 6359 or the Anti-Carnapping Law. In both charges, appellant Miguel Paghunasan was convicted. Appellant Julian Pajes, however, was acquitted of the carnapping charges. (See CA rollo, pp. 130-144).

[54] Records, pp. 1-2.

[55] Records, pp. 22-24.

[56] Penned by Judge Alipio C. Yumul. CA rollo, pp. 51-65.

[57] Pursuant to Section 3(d) in relation to Section 10 of Rule 122 of the Rules of Court.

[58] TSN, 12 July 2004, p. 3.

[59] CA rollo, p. 44.

[60] Exhibit "A," Folder of Exhibits.

[61] CA rollo, p. 44.

[62] Id. at 45.

- [63] Exhibit "B," Folder of Exhibits.
- [64] CA rollo, p. 45.
- [65] *People v. De la Cruz*, 76 Phil. 601, 604 (1946).
- [66] *People v. Vargas*, 459 Phil. 645, 659-660 (2003).
- [67] *People v. Cruz*, 143 Phil. 146, 153 (1970); *People v. Salas*, 160 Phil. 817, 825 (1975); *People v. Teaño*, 213 Phil. 138, 146 (1984); *People v. Somontao*, 213 Phil. 373, 383 (1984); *People v. Ola*, 236 Phil. 1, 17 (1987).
- [68] *People v. Ola*, *id.*
- [69] Records, p. 25.
- [70] TSN, 3 October 2002, pp. 13-14.
- [71] *People v. Tolentino*, G.R. No. 139351, 23 February 2004, 423 SCRA 448, 463.
- [72] CA rollo, p. 45.
- [73] TSN, 16 December 2002, p. 18.
- [74] TSN, 24 March 2003, pp. 7-9.
- [75] *People v. Pateo*, G.R. No. 156786, 3 June 2004, 430 SCRA 609, 615.
- [76] Rollo, pp. 22-23.
- [77] TSN, 6 November 2003, pp. 6-7.
- [78] *Id.* at 8-9.
- [79] CA rollo, pp. 46-47.
- [80] Article 8(2), Act No. 3185, as amended.
- [81] *People v. Maranion*, G.R. Nos. 90672-73, 18 June 1991, 199 SCRA 421, 433.
- [82] *Id.*
- [83] *People v. Bohol*, G.R. No. 178198, 10 December 2008, 573 SCRA 557, 568.
- [84] *People v. Larrañaga*, G.R. Nos. 138874-75, 3 February 2004, 421 SCRA 530, 582.
- [85] *People v. Bohol*, *supra* note 83 at 568-569.
- [86] TSN, 6 November 2003, pp. 6-7.
- [87] Rollo, p. 25.
- [88] TSN, 6 November 2003, pp. 9-10.
- [89] *Id.* at 13-14.
- [90] *Id.* at 17.
- [91] Section 3 of Republic Act No. 9346 states:

Section 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to

reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4108, otherwise known as the Indeterminate Sentence Law, as amended.

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