PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PO1 FROILAN L. TRESTIZA, P/S INSP. LORIEMAN L. MANRIQUE, AND RODIE J. PINEDA @ "BUBOY," ACCUSED. PO1 FROILAN L. TRESTIZA, ACCU...

G.R. No. 193833. November 16, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

G.R. No. 193833 is an appeal[1] from the Decision[2] promulgated on 30 June 2009 as well as the Resolution[3] promulgated on 11 June 2010 by the Court of Appeals (appellate court) in CA-G.R. CR.-HC. No. 03119. The appellate court affirmed the 24 July 2007 Joint Decision[4] of Branch 143 of the Regional Trial Court of Makati City (trial court) in Criminal Case Nos. 02-3393 for Kidnapping (for Ransom), 03-766 for Robbery, and 04-1311 also for Robbery.

The trial court found appellant PO1 Froilan L. Trestiza (Trestiza) guilty beyond reasonable doubt as principal by direct participation of the crime of Kidnapping for Ransom under Article 267 of the Revised Penal Code, as amended by Section 8 of Republic Act No. 7659 (RA 7659), and sentenced him to suffer the penalty of reclusion perpetua and to pay damages to Irma Navarro (Navarro) and Lawrence Yu (Yu). P/Insp. Lorieman L. Manrique (Manrique) and Rodie Pineda y Jimenez (Pineda) were likewise found guilty of the same crime by the trial court, and adjudged the same sentence as Trestiza. The trial court acquitted Trestiza, Manrique and Pineda in Criminal Case Nos. 03-766 and 04-1311.

The Facts

The following charges were brought against Trestiza, Manrique and Pineda on 20 November 2002:

> Criminal Case No. 02-3393 for Kidnapping
>
> That on or about the 7[th] day of November 2002, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, PO1 Froilan Trestiza y Lacson and P/S Insp. Loriemar L. Manrique, both active members of the Philippine National Police, and Rodie Pineda y Jimenez, a private individual[,] all of them armed with firearms, conspiring, confederating and mutually helping one another with one PO2 [Reynel] Jose, a member of the Philippine National Police, did then and there willfully, unlawfully and feloniously kidnap Lawrence Yu y Lim and Maria Irma Navarro, or otherwise deprive them of their liberty by then and there kidnap without legal grounds for the purpose of extorting money for their safety and immediate release as in fact said accused demanded the amount of P1,000,000.00 as ransom money from them.
>
> CONTRARY TO LAW.[5]
>
> Criminal Case No. 02-3394 for Illegal Possession of Firearm and Ammunitions

> That on or about the 16[th] day of November 2002, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) Pistol Glock 21 bearing SN 035481 with thirteen (13) rounds of live ammunitions and without the corresponding license or permit thereof, which he carried outside of his residence.
>
> CONTRARY TO LAW.[6]

On 15 April 2004, Trestiza was acquitted of the crime charged in Criminal Case No. 02-3394.7 The Affidavit of Arrest stated that the serial number of the firearm seized was 035481, while the firearm itself had a serial number of BRG-768. The trial court rejected the explanation that the difference between the serial numbers was a mere typographical error.

An order[8] of the trial court dated 16 April 2004 in Criminal Case Nos. 02-3393, 02-3394, 03-766 and 04-1311 recounted the circumstances involved in the filing of the charges against Trestiza, Manrique and Pineda.

> Criminal Case No. 02-3393 for Kidnapping against accused PO1 Froilan Trestiza y Lacson (PO1 Trestiza), PS/Insp. Loriemar L. Manrique (PS/Insp. Manrique) and Rodie Pineda y Jimenez (Pineda) and Criminal Case No. 02-3394 for Illegal Possession of Firearms and Ammunitions against accused PO1 Trestiza alone were filed before this Court on 20 November 2002. Surprisingly, however, SPO2 [Reynel] Jose was not included as an accused in the Kidnapping case although in the original Information, Prosecutor Andres N. Marcos mentions him as someone who mutually helped all the other accused in the willful, unlawful, felonious kidnapping of private complainants Lawrence Yu y Lim (Yu) and Ma. Irma Navarro (Navarro). A Motion for Reinvestigation dated 21 November 2002 was then filed by "all" three accused while a separate Motion for Reinvestigation and/or Preliminary Investigation dated 22 November was filed by accused PS/Insp. Manrique.
>
> Then Acting Presiding Judge Salvador S. Abad Santos issued the Order dated 26 November 2002 granting the Motions filed by all accused. In the said Order, he directed the Public Prosecutor to conduct a Preliminary Investigation of the cases filed and to furnish the Court with his Report within sixty (60) days from said date.
>
> On 21 February 2003, Public Prosecutor Andres N. Marcos filed a Motion to Withdraw Information of Kidnapping with Ransom and to Admit Information for Robbery with attached Resolution dated 03 January 2008. He pointed out therein that after he conducted a preliminary investigation, he found no probable cause exists to warrant the indictment of the accused for the crime of Kidnapping with Ransom. He added that they should be charged instead for the crimes of Robbery and Grave Threats. The Court set the hearing of this Motion to 06 March 2003.
>
> On 03 March 2003, private complainants appearing through Private Prosecutor Teresita G. Oledan filed an "Urgent Motion to Hold Withdrawal of Information for Kidnapping Charge with Entry of Appearance as Private Prosecutor." They alleged in said Motion that they were not furnished clear and certified true copies of the Resolution dated 03 January 2003 to enable them to file their Opposition/Comment to the Motion to Withdraw.
>
> On 05 March 2003, the Branch Clerk of Court of RTC Makati Branch 135 sent a letter dated 26 February 2003 addressed to the Branch Clerk of this Court ostensibly transmitting the Release Order of PO1 Trestiza dated 22 February 2003 together with other pertinent documents in connection with Criminal Case No. 02-3394, which was duly approved by the Hon. Francisco B. Ibay, Presiding Judge of said Court.
>
> The Order of Release dated 22 February 2003 signed by Judge Ibay directed the Jail Warden of Makati Police Station, Makati City to discharge from his custody the person of said accused as the latter was able to file the corresponding bail bond in the amount of two hundred thousand pesos (PHP200,000.00) thru the Plaridel Surety and Insurance Company provided "there exists no order in any other case to the effect that he shall remain confined under your custody." He set the arraignment of the accused on 14 March 2003 at 8:30 o'clock

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in the morning.

Before the scheduled hearing of the Motion to Withdraw at 2:00 o'clock in the afternoon of 06 March 2003, the Private Prosecutor filed her Opposition thereto at 1:30 o'clock in the afternoon of said date. She alleged therein that while the Motion to Withdraw filed by Public Prosecutor Marcos prays for the withdrawal of the Information for Kidnapping with Ransom and the substitution thereof with an Information for Robbery, the latter Information was filed immediately with the Criminal Cases Unit of the Office of the Clerk of Court on the same date that the Motion to Withdraw was filed with this Court on 21 February 2003. Subsequently, said "Information for Robbery" was raffled to RTC Branch 57 on 03 March 2003 yet there was a scheduled hearing of the Motion to Withdraw on 06 March 2003. She added that the complainants were in a quandary why the alleged "substituted" Information for Robbery was raffled to another Court and docketed as Criminal Case No. 03-766, when this Court has already acquired jurisdiction over the original cases filed. The same case was thereafter consolidated with this Court on 26 March 2003 as per Order dated 24 March 2003 rendered by the Honorable Reinato G. Quilala, Presiding Judge thereat. Accused PS/Insp. Manrique, PO1 Trestiza, and Pineda posted bail in this case, which was duly approved by Judge Ibay, while accused SPO2 Jose's bail was approved by Judge Napoleon E. Inoturan, Presiding Judge of RTC Branch 133.

At the hearing to the Motion to Withdraw, then Acting Presiding Judge Abad Santos gave counsel for the accused time within which to file his comment/objection to the Urgent Motion to Hold Withdrawal of Information for Kidnapping filed by the private complainants, furnishing the Private Prosecutor a copy thereof, who was given the same number of days to file her Reply, if necessary. The Court likewise ordered the "re-commitment" of all three (3) accused, who were then present at that hearing, to the custody of the Makati City Jail despite the fact that they have already posted bail, considering that the Motion to Withdraw was still pending resolution.

Counsel for the accused filed his Comment to the Opposition dated 10 March 2003 alleging that the same did not bear the conformity of the Public Prosecutor who has direct control and supervision over the Private Prosecutor as provided for under the Rules of Criminal Procedure. Said Comment, to his mind, is thus a mere scrap of paper which did not deserve any consideration by the Court.

On 13 March 2003, the Court was furnished by the private complainants a copy of their "Motion for Reconsideration of the Resolution dated January 03, 2003 but Released on February 20, 2003" which they filed with the Office of the City Prosecutor of Makati City.

x x x

On 29 May 2003, accused PO1 Trestiza and PS/Insp. Manrique filed an Urgent Motion to Resolve Motion for Withdrawal of Original Information claiming that said Original Informations have subsequently been amended by the Public Prosecutor's Office and just "needs the court/judge[‘s] approval of the Motion to Withdraw Complaint and for Admission of the Amended Information." Moreover, they averred that the City Prosecutor's Office has approved the findings of the reinvestigating Assistant City Prosecutor on the downgrading of the original complaint. Both accused prayed that said motion be heard on 28 May 2003.

On 9 June 2003, the Private Prosecutor filed an Ex-Parte Opposition to Accused's Motion for Withdrawal of Original Information with Motion for Issuance of the Warrant of Arrest against accused SPO2 Jose. She alleged therein that "it is true that one of the accused's right is the right to speedy trial. However, where, as in this case, the stench of "something fishy" already was evident when suddenly the robbery case as amended by Prosecutor Marcos and more recently "affirmed" by Prosecutor Sibucao, there should be further in-depth investigation as the circumstances on how the three accused were able to post bail without the knowledge and approval of this Honorable Court, which had already acquired jurisdiction over the case. In fact, a Petition for Review from the Resolution of Prosecutor Sibucao denying the Private Complainants' Motion for Reconsideration of the 03 January 2003 Resolution of Prosecutor Marcos duly approved by the City Prosecutor has been seasonably filed." She further alleged that, the Urgent Motion allegedly filed by accused PO1

Trestiza and PS/Insp. Manrique does not include accused SPO2 Jose, also a member of the Police Force. However, the records show that the latter also "post bail" for the Robbery case and was in fact "outside" the Chamber of this Honorable Court when the hearing was being conducted. "However, when she went out to look for him, SPO2 Jose was able to do a 'Houdini' and disappeared from view." Private Prosecutor Oledan prayed for the deferment of the proceedings herein until the final resolution of the Petition for Review.

Referring back to the Urgent Motion to Resolve by accused PO1 Trestiza and PS/Insp. Manrique, considering that the latter prayed for it to be heard on 28 May 2003, but filed said Motion the following day only, the same was then set for hearing on 10 June 2003. On the same date, the Private Prosecutor furnished the Court a copy of their Petition for Review which they filed with the Department of Justice. In the meantime, the Branch Clerk of this Court issued a Certification to the effect that Acting Presiding Judge Abad Santos was on official leave until 15 July 2003 and that there is an Urgent Motion to be resolved. Pairing Judge Manuel D. Victorio, acting on the Urgent Motion, issued the Order of even date directing the City Prosecution Office to submit to the Court the complete records of its Preliminary Investigation within five (5) days from notice, thereafter the same shall be considered for resolution.

On 23 June 2003, accused PO1 Trestiza filed an Ex-Parte Motion for Early Resolution of the Pending Motion to Resolve, reiterating the grounds stated in his previous Motion.

Before the issue could be resolved by the Pairing Judge, however, the Honorable Estela Perlas Bernabe, took over this Court as Assisting Presiding Judge, after the Honorable Salvador S. Abad Santos requested the Supreme Court to be relieved of his assignment herein. Judge Bernabe issued the Order dated 27 June 2003 holding in abeyance the Resolution of the Prosecution's Motion to Withdraw Information for a period of sixty (60) days from the filing of the Petition for Review by private complainants with the Reviewing Office. On 08 July 2003, she denied the Motion to Dismiss Criminal Case No. 02-3394 for Illegal Possession of Firearms filed against accused PO1 Trestiza on the grounds that the allegations raised by said accused are defenses proper for determination in a full-blown trial and set the pre-trial of the same to 24 July 2003. Trial on the merits for this particular Criminal Case ensued until the Prosecution rested its case and said accused filed his Demurrer to Evidence on 05 March 2004.

In the meantime, without any word yet as to the outcome of the Petition for Review filed with the DOJ relative to Criminal Case No. 02-3393, Judge Bernabe issued the Order dated 28 August 2003, directing the City Prosecution Office to conduct a re-assessment and re-evaluation of the evidence presented and to submit its report and recommendation within a period of thirty (30) days from receipt of said Order. The Resolution of the subject Motion was again held in abeyance.

On 02 March 2004, the Prosecution filed a "Motion to Resolve (Motion to Withdraw Information of Kidnapping) with attached Order dated 19 February 2004. It alleged therein that it conducted a thorough re-assessment and re-evaluation of the evidence obtaining in this case in compliance with the Order of this Court dated 28 August 2003 and maintains that the correct and appropriate charges to be filed against accused should be for ROBBERY and GRAVE THREATS but for two (2) counts each, and NOT for KIDNAPPING as initially filed. Thus, it prayed for this Court to be allowed to withdraw the present Information for Kidnapping "considering that the appropriate charges of two (2) counts of Robbery and two (2) counts of Grave Threats in lieu of the charge of KIDNAPPING have already been filed with the proper Courts."

To justify the Prosecution's withdrawal of the Information for KIDNAPPING, Public Prosecutor Edgardo G. Hirang states, in the Order attached to the said Motion, that, to wit:

"A careful re-evaluation of the pieces of evidence adduced by both parties shows that the offense of Kidnapping shall not prosper against all the accused. As correctly stated in the Resolution issued on February 20, 2003, one of the essential elements for the crime of Kidnapping for Ransom defined and penalized under [Article] 267 of the Revised Penal Code, as amended, is that [the] offender must be a private individual which does not obtain in the case at bar as respondents Trestiza, Manrique, and Jose are public officers being police

> officers who at the time the complainants were allegedly divested of their cash money and personal belongings by herein respondents, were conducting a police operation to enforce the provision of the Dangerous Drug Law (R.A. 9165).
>
> All accused were in the place of the incident to conduct such operation is shown not only by the existence of coordination between them and the police authorities but also by the declaration of the complainants that they were able to verify the plate number of the vehicle of the accused from the Makati Police Station.
>
> Hence, they should be charged with the offense of Robbery under Article 294, paragraph 5 of the Revised Penal Code and Grave Threats as recommended by this Office in its Resolution issued on February 20, 2003. Considering that there are two (2) complainants, the respondents should be charged with two (2) counts of Robbery and Grave Threats."

The Prosecution filed on the same date a Motion to Amend Information and to Admit Attached Amended Information in Criminal Case No. 02-766 alleging that the Criminal Information therein for Robbery should only be limited to private complainant Yu's complaint and not to Navarro's. Counsel for the accused, Atty. Jose Ma. Q. Austria, filed an Urgent Motion to calendar the hearing of the Motion to Amend Information and to Admit Amended Information which the Court granted in its Order dated 25 March 2004.

In the meantime, Criminal Case No. 04-1311 for Robbery which was filed on the strength of the Complaint of Navarro was consolidated with similar cases pending before this Court, upon the Order dated 12 March 2004 by the Honorable Ma. Cristina J. Cornejo, Presiding Judge of RTC Branch 147.

After study, the Court resolves to:

1. DENY the Motion to Withdraw Information for Kidnapping under Criminal Case No. 02-3393;

2. To [sic] GRANT the Motion to Amend Information for Robbery; [and]

3. To [sic] Hold in Abeyance the Issuance of the Warrant of Arrest against SPO2 Jose in Criminal Case No. 02-3393 until after the Information relative thereto shall have been duly amended by the Prosecution.

In its Motion to Withdraw Information for Kidnapping, the Public Prosecutor argues in essence that the crime of Kidnapping could not be possibly committed by the accused as they, except for one, are police officers, who at the time the complainants were divested of cash and other personal belongings were conducting a police operation to enforce the provisions of the Dangerous Drugs Law. This to the mind of the movant runs counter to the provisions of Art. 267 of the Revised Penal Code which provides that any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:

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

2. If it shall have committed simulating public authority;

3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made;

4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The Court finds this unmeritorious. Even a public officer can commit the said crime within the context of the aforesaid legal provision. This is settled in our jurisprudence in the case of People vs. ALIPIO SANTIANO, JOSE SANDIGAN, et al. (GR No. 123979[,] December 3, 1998) which provides in part:

> "The fact alone that appellant Pillneta is an organic member of the NARCOM and appellant Sandigan a

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> member of the PNP would not exempt them from the criminal liability of kidnapping. It is quite clear that in abducting and taking away the victim, appellants did so neither in furtherance of official functions nor in the pursuit of authority vested in them. It is not, in fine, in relation to their office, but in purely private capacity that they have acted in concert with their co-appellant Santiano and Chanco."

Even an eminent jurist, Justice Florenz B. Regalado elucidates on this point clearly:

> "This article provides that the crimes of kidnapping and serious illegal detention are committed by private individuals obviously because if the offender is a public officer the crime is arbitrary detention under Art. 124, but passing sub silentio on the matter of kidnapping. It should be understood however, that the public officer who unlawfully detains another and is punishable by Art. 124 is one who has the duty to apprehend a person with a correlative power to detain him. If he is only an employee with clerical or postal functions, although the Code considers him as a public officer, his detention of the victim is illegal detention under this article since he is acting in a private, and not an official, capacity. If a policeman kidnaps the victim, except when legally authorized as part of police operations, he cannot also be said to be acting in an official capacity, hence he is to be treated as a private individual liable under this article. (underscoring ours)
>
> From the purpose and the formulation of R.A. 18 and R.A. 1084, it can be deduced that the legislative intendment was to put all forms of kidnapping under Art. 267 when Congress amended it together with Art. 270. There appears to have been some oversight, however, in the related articles and these will be discussed at the proper juncture." (Florenz B. Regalado, Pages 488 and 489, Criminal Law Conspectus, First Edition, March 2000)

As to whether or not the accused were indeed engaged in the performance of a legitimate police operation at the time the private complainants were allegedly deprived of their liberty and personal belongings is a matter which at this stage can only be considered as a defense that calls for further factual support in the course of judicial proceedings. Was there a Mission Order? Are there documents to show that police-to-police coordinations were indeed made? Are there corroborations to these claims whether documentary or testimonial? The need for further evidence supportive of this claim gains significance in the light of the emphatic assertions to the contrary by the private complainants and their witnesses.

As there appears to be probable cause for the inclusion of accused SPO2 Jose in Criminal Case No. 02-3393 for Kidnapping considering that the latter was specifically mentioned in the body of the Information as someone who conspired, confederated and mutually helped the other accused in this case, the Court resolves to await for the Prosecution to amend the same before issuing a Warrant of Arrest against said accused.

Lastly, the Court finds the sought amendment of the Information for Robbery to be well-taken.

WHEREFORE, premises considered, the Court resolves to:

1. DENY the Motion to Withdraw Information for Kidnapping [under Criminal Case No. 02-3393];

2. GRANT the Motion to Amend Information for Robbery;

3. Hold in abeyance the Issuance of the Warrant of Arrest against accused SPO2 Jose in Criminal Case No. 02-3393 until after the Information relative thereto shall have been duly amended by the Prosecution.

Set these cases for arraignment on 27 April 2004 at 8:30 o'clock in the morning. The Amended Information for Robbery duly attached in the Motion is hereby ADMITTED.

SO ORDERED.

Atty. Jose Ma. Q. Austria (Atty. Austria) withdrew as counsel for Manrique and Pineda. Atty. Austria also manifested that he would file an Omnibus Motion relative to the 16 April 2004 Order of the trial court. The arraignment was reset to 25 May 2004,[9] which was further reset to 28 June 2004,[10] 19 July 2004,[11] 23 August 2004,[12] and finally on 31 August 2004.[13]

Atty. Austria filed his Omnibus Motion for Trestiza: motion for reconsideration of the 16 April 2004 Order, motion to quash the informations, and motion to allow Trestiza to post bail.14 Complainants opposed the Omnibus Motion.[15] The corresponding reply[16] and rejoinder[17] were also filed. In its 19 August 2004 Order,[18] the trial court denied the Omnibus Motion. It ruled that the trial court has the authority to deny a Motion to Withdraw Information relative to a criminal case filed before it. Moreover, the quashal of the informations against the accused goes into the determination of the nature of the arrest, which, in turn, goes into the merits of the case. Finally, the charge of kidnapping is a non-bailable offense.

When the case was called for arraignment, Trestiza, Manrique and Pineda all pleaded not guilty to the following charges:

> Criminal Case No. 02-3393:
>
> That on or about the 7[th] day of November 2002, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, PO1 Froilan Trestiza y Lacson and P/S Insp. Loriemar L. Manrique, both active members of the Philippine National Police, and Rodie Pineda y Jimenez, a private individual[,] all of them armed with firearms, conspiring, confederating and mutually helping one another with one PO2 Reynel Jose, a member of the Philippine National Police, did then and there willfully, unlawfully and feloniously kidnap Lawrence Yu y Lim and Maria Irma Navarro, or otherwise deprive them of their liberty by then and there kidnap without legal grounds for the purpose of extorting money for their safety and immediate release as in fact said accused demanded the amount of P1,000,000.00 as ransom money from them.
>
> CONTRARY TO LAW.
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> Criminal Case No. 03-766:
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> That on or about the 7[th] day of November 2002, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, PO1 Froilan Trestiza y Lacson and P/S Insp. Loriemar L. Manrique, PO2 Reynel Jose, all active members of the Philippine National Police, and Rodie Pineda y Jimenez, a private individual[,] all of them armed with firearms, conspiring, confederating and mutually helping one another with intent to gain by means of force and violence or intimidation, did then and there willfully, unlawfully and feloniously rob and divest Lawrence Yu y Lim and Maria Irma Navarro of the following items to wit:
>
> a. One (1) piece of necklace (gold) with pendant amounting to P50,000.00;
> b. Two (2) pieces bracelet (gold) worth more or less P70,000.00;
> c. One (1) Rolex watch worth P270,000.00;
> d. One (1) men’s ring worth P15,000.00;
> e. Two (2) cellphone[s] described as Nokia 9210 & 3310;
> f. One (1) Philip Chariole [sic] watch worth P150,000.00;
> g. One (1) Philip Chariole [sic] bracelet worth P75,000.00;
> h. One (1) solo diamond studded [sic] (3K) worth P500,000.00;
> i. One (1) women’s ring gold worth P12,000.00;
> j. One (1) necklace gold [sic] worth P20,000.00;

k. One (1) [sic] cellphone[s] described as Nokia 7650 & 8855; and,
l. Cash money amounting to more or less P300,000.00

to the damage and prejudice of the said complainants.

CONTRARY TO LAW."

Criminal Case No. 04-1311:

That on or about the 7th day of November 2002, in the City of Makati, Metro Manila, Philippines a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping and aiding one another, with intent of gain and by means of force and violence or intimidation, did then and there willfully, unlawfully and feloniously rob and divest Irma Maria A. Navarro of the following items to wit:

a. One (1) Chariol (sic) watch
b. One (1) Gold ring
c. One (1) Chariol (sic) bracelet
d. One (1) pair diamond earring (sic)
e. One (1) gold necklace
f. One (1) cellphone 7650 Nokia
g. One (1) cellphone 8855 Nokia
h. Cash money amounting to P120,000.00

to the damage and prejudice of the complainant.

CONTRARY TO LAW.[19]

The trial court set the case for pre-trial conference on 14 September 2004,[20] which was reset to 20 September 2004.[21] The parties stipulated on the following:

1. That on November 7, 2002, the three (3) accused, Trestiza, Manrique and Pineda were using an Adventure van with plate no. XAU-298;

2. That Loriemar Manrique was the team leader of the group comprising [sic] of Rodie Pineda and Reynel Jose on November 7, 2002;

3. That the incident started at the Hotel Intercon located in Makati City;

4. That Loriemar Manrique is a member of the PNP Drug Enforcement Agency;

5. That accused Froilan Trestiza was the driver of the Adventure van bearing plate no. XAU-298 on November 17, 2002;

6. That after the operation was conducted, there was never any occasion that the accused Froilan Trestiza communicated with any of the complainants;

7. None of the items allegedly lost by the complainants were recovered from accused Froilan Trestiza.[22]

The trial court summarized the testimonies during trial as follows:

The prosecution sought to establish its case by presenting the following witnesses: Ma. Irma A. Navarro, Lawrence Yu y Lim, PO2 Rodolfo Santiago, PO3 Rosauro P. Almonte, John Paul Joseph P. Suguitan, Angelo Gonzales, PO3 Edward C. Ramos, Schneider R. Vivas, PSInsp. Salvador V. Caro, and Chief Insp. Roseller Fabian.

The Prosecution's main evidence relies heavily upon the accounts of Irma and Lawrence who testified

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respectively as follows:

On November 7, 2002 at about one o'clock in the morning, Irma and her boyfriend Lawrence, both twenty-two (22) years old at the time of the incident, were at the "Where Else Disco" in Makati attending a party. They stayed thereat for around thirty (30) minutes only. Irma however, went out ahead of Lawrence. When she was about to proceed to where Lawrence's Honda ESI car was parked, she noticed that the said car was blocked by another vehicle which was a Mitsubishi Adventure van. Three (3) armed men later on emerged from the said van. As she was about to open the door of the Honda ESI, somebody hit her in [sic] the nape. When she turned her back, she saw the three (3) men in the company of Rodie Pineda alias "Buboy" ("Pineda"). She knew Pineda because the latter was her sister Cynthia's "kumpare," Pineda being the godfather of Cynthia's child. Furthermore, she saw Pineda in their residence the night of November 6, 2002 as he visited his [sic] sister. She asked Pineda what was happening but the latter replied "pasensya na, mare, trabaho lang" ("Bear with me, mare, this is just a job").

She was told that the three (3) whose identities she later on learned as Capt. Lorieman Manrique, PO2 Reynel Jose and PO1 Froilan Trestiza, were policemen. She asked why she was being accosted but she was handcuffed by Manrique. She was ushered inside the Honda ESI. Pineda asked her where Lawrence was but she was left inside the car with Jose while Pineda, Trestiza and Manrique on the other hand went away apparently to look for Lawrence. Pineda and Manrique later on went back inside the Honda ESI. They drove later with Jose behind the wheels [sic] while Pineda occupied the passenger seat. They followed the Mitsubishi Adventure van which was then driven by Trestiza. Unknown to Irma, Lawrence was already inside the van at the time. They just drove and drove around ("umiikot"), passing through small alleys as they avoided major routes. She was asked later by Pineda to remove her jewelry. She was able to remove only her earrings as she was in handcuffs. Pineda himself removed her Philip Chariolle [sic] watch and bracelet. Her necklace and ring followed. All these were later on turned over by Pineda to Manrique. Her bag where her wallet containing the amount of P120,000.00 was likewise taken.

Her two (2) cellphones, a 7650 and an 8855, were likewise taken by Pineda. They stopped several times at the side streets and the accused would talk to each other. Pineda would stay with her inside the vehicle while Jose would go out and talk to the occupants of the Mitsubishi Adventure. Later on, she and Lawrence were brought together inside the Mitsubishi Adventure van. It was there that they were told that they will not be released if they will not be able to produce one million pesos. These were all uttered by Jose and Manrique. It was somewhere in Blumentritt, San Juan where all the accused stopped for the last time. She was crying all the while.

She later on felt the call of nature, prompting her to ask permission if she could possibly relieve herself. She was accompanied by Pineda to a nearby Shell gas station in San Juan. When they returned to where they stopped, she was asked as to whom she could possibly call so that the money that the accused were asking will be produced. The accused later on asked Lawrence to make a call using his cellphone with speaker phone. Lawrence was able to get in touch with his friends John Paul Suguitan and Angelo Gonzales. The latter was told that Lawrence figured in an accident and that he needs money badly. Lawrence and his friends agreed that the money the two will produce will be brought to the Caltex gas station along Ortigas corner Wilson Street in Greenhills. They proceeded to the said place later where they waited for the friends of Lawrence. She was told later by Manrique that she better pray that the transaction pushes through. Manrique further warned her against reporting the incident to anyone lest her whole family will be held liable. She was even shown by the accused the picture of her child. She was cursed by Jose. Trestiza on the other hand told her that Lawrence's transaction should better push through.

The two, John Paul Suguitan and Angelo Gonzales, later on arrived at the gas station. Lawrence took from them what appears to be a package and handed the same to Pineda. Manrique thereafter called Pineda asking "positive na ba?" to which Pineda replied "yes." The amount raised by the friends of Lawrence was one hundred eighty thousand pesos (Php 180,000.00). They (Irma and Lawrence) were later brought to the Star

Mall along Edsa. Their captors warned them not to report the matter to the authorities otherwise they will face dire consequences. The items taken from Irma like the cash money, jewelry and cellphone were placed by the men inside the console box of the Mitsubishi Adventure. When they reached Star Mall, the men talked to them for thirty minutes. Again, they were warned about the consequences of their reporting the incident to the police. Irma was told that the men knew her address, the members of her family and that they have the picture of her child. She was likewise warned not to report the matter to her father, Rod Navarro, who was an actor and a policeman, otherwise her daughter with Lawrence will be the one [to] bear the consequences ("anak ko ang mananagot"). They were released after thirty (30) minutes. Lawrence had to plead for their gasoline from the accused and he was given Php 100.00.

Irma decided not to tell her mother about the incident as she was very afraid. Lawrence however made a report to the Makati police station in the evening of 7 November 2002 where he was shown a "coordination sheet" pertaining to the plate number of the Mitsubishi Adventure. Buboy Pineda in the meanwhile kept on calling them (Irma and Lawrence) demanding for their "balance" of one million pesos (Php 1,000,000.00). Irma's mother however soon learned of the incident because of a newspaper item. Her father likewise learned of the incident and lost no time in contacting authorities from the CIDG. They (Irma and Lawrence) were later investigated by the CIDG people to whom they gave their sworn statements on November 14, 2002. As Buboy Pineda continued to call them for the alleged balance, an entrapment operation was planned on that date. Boodles of money were dusted with ultra-violet powder. On the same date, Buboy Pineda called Lawrence for purposes of meeting him that night in order to get the remaining money. The entrapment operation which was conducted along the New World Hotel, and participated in by PO2 Almonte, was successful as Buboy Pineda was arrested. Recovered from the possession of Pineda were a gold necklace without a pendant; a Nokia cellphone model 7650; a Toyota corolla car with plate number PNG 214 color red and one (1) ignition key. The necessary acknowledgment receipt was duly signed by the said accused. A pawnshop ticket was likewise recovered from his possession.

Lawrence on the other hand narrated that during that fateful day of 7 November 2002 at around 1:30 o'clock in the morning, as he was stepping out from the Where Else Disco, he was suddenly "sandwhiched" [sic] by two (2) persons, Manrique and Trestiza. Pineda whom he likewise knew, held a gun and pointed the same to him. He was later on "lifted" through his belt and loaded to a yellow Mitsubishi Adventure. He was made to occupy the passenger seat at the back while Trestiza drove the said vehicle. Manrique occupied the seat beside Trestiza. He asked the accused who they were and he was told that they were policemen. At the time, Trestiza was wearing an outfit which was "hip hop" while Manrique was wearing a polo which was "button down." He was cursed and told to shut up. He was asked to bow down his head as they drove along. He remembers that the accused dug into his pockets and his valuables consisting of cellphones, a 9210 and a 3310 models [sic] respectively, including his wallet, cigarettes, watch bracelet, ring, necklace and a pair of earrings, were taken from him. He later on saw his Honda ESI car. He noticed that the Mitsubishi Adventure they riding was following the said Honda ESI. Manrique later asked him how much money did he have. When replied that his money was inside his car, Manrique allegedly retorted "imposible." They later on stopped in Mandaluyong near an open canal. He was asked again by Manrique about his money. At that point, another man whose name he later on learned was SPO2 Reynel Jose, boarded also the Mitsubishi Adventure. Jose asked him about his money. When he replied that his money was inside his car, Jose got mad and boxed him on his face. They later on resumed driving around. When they stopped again, Jose asked him whether he has thought of the money. When he again replied that the money was inside his car, he was boxed repeatedly by Jose. Manrique and Trestiza were seated in the front seats but did not do anything.

They resumed driving again. Jose asked him again about the money. When he gave the same response, Jose put a plastic material over his head which made him unable to breath [sic]. Jose strangled him, prompting him to shout later "okay na, okay na. Sige na, sige na magbibigay na ako" ("Okay, okay. I will give."). Jose stopped strangling him and immediately removed the plastic material over his head. Jose remarked that had he cooperated earlier, he would not have been hurt. Trestiza and Manrique told him that he should not have kept

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the matter long. Later on, the four (4) men had a brief huddle. He was later on approached by them saying "okay na ha, isang milyon na" ("Okey ha, it's one million). He could not recall however who in particular made the remark. He was later on instructed by Manrique to call certain persons with the information that he figured in [an] accident. He was made to use his 9210 model phone as the same had a "speaker" thus enabling the accused to listen to the conversation. He tried to get in touch with his siblings but failed. He was able to contact later on his friends John Paul Suguitan and Angelo Gonzales who were then in Libis. He told his friends that he needed money very badly as he had an accident. He instructed his friends to proceed to the area given by Manrique which was at the Caltex gas station along Ortigas corner Wilson Street in Greenhills.

Later on, Irma and Lawrence were allowed to be together inside the Mitsubishi Adventure. It was at that point where they were told to produce the amount of One Million pesos (Php 1,000,000.00) that night so they will be released. These very words were uttered by Jose and Manrique. Irma later on asked permission to answer the call of nature and she was accompanied by Pineda to the Shell gas station in San Juan where she relieved herself. Upon arriving at the said gas station, Lawrence was directed to drive his Honda ESI car. He was in the company of Pineda while Irma on the other hand was with Manrique, Trestiza and Jose inside the Mitsubishi Adventure. While Irma was inside the Mitsubishi Adventure, she was told that if the person contacted by Lawrence will not show up, they will not be released and if Lawrence will escape, she will be finished off. Manrique thereafter told Irma to better pray that the transaction will push through. She was warned that if she reports the incident, her family will be harmed. The said accused had her child's picture at the time. Jose was cursing her. Trestiza on the other hand was seated at the driver side of the Mitsubishi Adventure van and remarked that Lawrence's transaction should push through so that they will be released.

Not long after, Lawrence alighted from his car and stood beside the vehicle. His friends' vehicle later on arrived. Lawrence approached the vehicle that has just arrived and took something. Pineda remained seated in Lawrence's car while smoking. The door of the said car was open at the time. Lawrence thereafter walked back to where Pineda was and handed to him a package. It was already around 4: or 4:30 in the morning. Lawrence's friends thereafter went away, prompting Pineda to call Manrique. Manrique allegedly asked "positive na ba?" to which Pineda replied "yes."

The amount raised by the friends of Lawrence was one hundred eighty thousand pesos (Php 180,000.00). They (Irma and Lawrence) were later brought to the Star Mall along Edsa. Their captors warned them not to report the matter to the authorities otherwise they will face dire consequences. The items taken from Irma like the cash money, jewelry and cellphone were placed by the men inside the console box of the Mitsubishi Adventure. When they reached Star Mall, the men talked to them for thirty minutes. Again, they were warned about the consequences of their reporting the incident to the police. Irma was told that the men knew her address, the members of her family and that they have the picture of her child. She was likewise warned not to report the matter to her father, Rod Navarro, who was an actor and a policeman, otherwise her daughter with Lawrence will be the one [to] bear the consequences ("anak ko ang mananagot"). They were released along Edsa after thirty (30) minutes. Lawrence had to plead for their gasoline from the accused and he was given Php 100.00.

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Early in the morning of the following day at the CIDG, Lorieman Manrique went to the said office looking for his co-accused Froilan Trestiza. He (Manrique) was arrested thereat when the private complainants who happened to be there as they were giving additional statements identified him (Manrique) through a one-way mirror. Trestiza was likewise arrested later as he was identified by his co-accused Rodie Pineda. During the arrest, Trestiza was found to be in possession of an unlicensed firearm for which the corresponding charge was filed. He (Trestiza) was likewise the subject of the complaint sheet filed by Irma and Lawrence and was likewise identified by his co-accused Pineda as one of the cohorts in the kidnapping of the former.

The Defense on the other hand presented the following version:

Private complainants Irma Navarro and Lawrence Yu were known to accused Rodie 'Buboy' Pineda, a freelance dance instructor prior to his incarceration, and a godfather to the child of Irma's sister, since 1997. The two (Irma and Lawrence) are known to Pineda as suppliers of prohibited drugs, particularly 'Ecstasy,' 'blue anchors,' and 'yeng-yen.' The two, Irma and Lawrence have been distributing these drugs to various customers who [sic] frequented bars and disco pubs. Pineda has been transacting with the two, particularly Lawrence, for a profit. Realizing later that his involvement with the group of Lawrence has become deeper and deeper, Pineda thought of causing the arrest of the latter. He (Pineda) soon decided to report the matter to the police authorities and contacted forthwith his long-time acquaintance, now his co-accused Froilan Trestiza on November 6, 2002 at 10:30 in the evening. At that time, Trestiza was a policeman under the Special Action Unit, Group Director's Office of the National Capital Region. Pineda and Trestiza, who have known each other for the past ten years, used to be dancers at the Equinox Disco along Pasay Road. Upon learning the information from Pineda, Trestiza contacted his classmate PO2 Rolando de Guzman of the Philippine Drugs Enforcement Agency (PDEA) who in turn referred Trestiza to Captain Lorieman Manrique who was then the Deputy Chief of the Special Enforcement Unit of the PDEA, Metro Manila Regional Office. Manrique was called later by Trestiza through cellphone and they agreed to meet the same night, at around midnight, at the parking lot of the Intercontinental Hotel in Makati. Manrique prepared a Pre-Operation sheet for a possible narcotics operation. He likewise gave [the] plate number of the vehicle he was then driving which was a Mitsubishi Adventure van with plate number HAU-298.

During their ensuing meeting, Manrique was with PO2 Reynel Jose. Pineda and Manrique talked to each other. Manrique later on briefed Pineda and Jose. Trestiza was about three to five meters away from the three (3). After the briefing, Manrique asked Trestiza to drive the Mitsubishi Adventure. Manrique told Trestiza that the buy-bust operation has been pre-coordinated with the Makati police. Manrique later joined Trestiza inside the Mitsubishi Adventure while Jose and Pineda were outside as though waiting for someone. Irma and Lawrence later on arrived and they talked to Pineda and Jose. Pineda introduced Jose to Irma and Lawrence as 'the buyer.' Jose was only wearing a t-shirt at the time and it seemed Lawrence and Irma doubted him. Jose told the two that he has the money with him and he would like to buy drugs. Irma however whispered something to Lawrence prompting the latter to vascillate [sic]. From where they are seated inside the Mitsubishi Adventure, Trestiza and Manrique could see what were [sic] going on among Irma, Lawrence, Jose and Pineda. Later on, Jose approached Trestiza and Manrique and told them that the 'pre-arranged signal' is when he (Jose) scratched his head. According further to Jose, his scratching of his head will mean a signal to Trestiza to drive towards them the vehicle. As Jose later on scratched his head, Trestiza drove the vehicle towards the group as instructed. Manrique thereafter alighted and effected the arrest of Irma and Lawrence. Irma went hysterical and was loaded into the Honda ESI while Lawrence was made to board the Mitsubishi Adventure. It was at that point when two (2) mobile cars arrived with policemen on board. A commotion immediately ensued between

> the police men aboard the mobile cars and Manrique's men. Firearms were drawn and poked against each of the men ('nagkatutukan ng baril'). Jose, however, later on showed what appeared to be a document to the men aboard the mobile car. One of the men later on made a call through his radio and then left afterwards.
>
> Manrique later on instructed Trestiza to drive towards Edsa on their way to Camp Crame. Along the way, Manrique conducted a tactical interrogation against Lawrence and Irma about their drug-related activities. Upon reaching SM Megamall, however, Manrique told Trestiza to pull over. Manrique talked to Lawrence, Irma, Jose and Pineda. Trestiza remained inside the van. Trestiza, however, overheard that Lawrence was at that point was talking about his supplier of 'ecstasy.' Thereafter, Manrique briefed anew Pineda and Jose in the presence of Irma and Lawrence. It was understood among them that Lawrence will wait for his alleged supplier whose name was allegedly 'Jojo' at the Caltex gas station along Wilson Street in Greenhills. Lawrence told Manrique that this Jojo was really a big-time supplier of ecstasy and cocaine. Upon arriving at the gas station, the group waited for Lawrence's supplier for an hour but nobody appeared. Manrique became impatient and went to where Lawrence was. Manrique later told his men that Lawrence might have alerted his supplier. He (Manrique) then decided to bring the two (Irma and Lawrence) to Camp Crame. Trestiza, however, pointed out to Manrique that nothing was taken from the possession of the two. Manrique conferred anew with Jose. Jose remarked that the items could have been thrown away. It was later on decided that Irma and Lawrence will just be released. The two were indeed released near the [Manuela] Complex along Edsa.
>
> Trestiza was later on arrested by the CIDG operatives in the early morning of November 16, 2002 at the parking lot of the Club 5 Disco. A gun was poked at him and he was shoved inside a vehicle. He was boxed and placed on handcuffs. He was not shown any warrant of arrest. He told the arresting officers that he is also a policeman. He was brought later to Camp Crame. While at Camp Crame, he was shown to his co-accused Pineda and the latter was asked "di ba sya yung nag-drive noong may operation laban kina Irma Navarro?" ("Is he not the one who drove during the operation against Irma Navarro?"). He (Trestiza) asked the authorities what were the grounds for detaining him but his queries were not answered. His watch, wallet and cellphone were taken. Later on the same day, Irma arrived in Camp Crame. The authorities thereat talked to Irma, afterwhich, a policeman told her "eto yung itinuturo ni Buboy na nag-drive." ("This is the one pointed to by Buboy as the one who drove"). Several days later, all the accused were presented to the press by the office of General Matillano. The Philippine Daily Inquirer covered the story and later on came out with an article entitled "We Were Framed."
>
> The defense likewise presented PO2 Rolando de Guzman who corroborated the claim of Trestiza that he was called by the latter concerning the information given by Pineda. No further evidence was presented.[23]

The Trial Court's Ruling

In its Joint Decision[24] dated 24 July 2007, the trial court found Trestiza, Manrique, and Pineda guilty beyond reasonable doubt as principals by direct participation of the crime of Kidnapping for Ransom.

The trial court concentrated its ruling on the credibility of the witnesses. It found the testimonies of the prosecution credible, with their versions of the incident dovetailing with each other even on minor details. On the other hand, the defense's testimonies taxed the credulity of the trial court. The trial court raised numerous questions about the defense's story line:

> x x x But this leads the court to wonder: if indeed Pineda was so bothered by his involvement with the group of Lawrence, why did he spill the beans against Irma and Lawrence only? Did he not state that it was a "group" that he was transacting with? Who were the other members of this group? What were their activities that were so dark and clandestine so as to make him suddenly shudder and opt for a change of life? These were not answered by Pineda's testimony.
>
> Also, while Manrique presented what appears to be a Pre-Operation Coordination Report, thus creating at first

> glance the impression that theirs was a legitimate police operation, this still does not detract from nor diminish the credibility of the complainants' claim that they were subsequently abducted and money was demanded in exchange for their release. For even if the court is to indulge the claim of the defense that the complainants were indeed drug-pushers and undeserving of this court's sympathy, the nagging doubt about the existence of a prepared police operation as what Manrique and his co-accused refer to, persists. For one, the said Pre-Operation/Coordination Sheet appears to be unreliable. Aside from the fact that the same was not duly authenticated, the failure of the defense, particularly accused Manrique, to summon the signatories therein who may attest to the existence and authenticity of such document was not at all explained. Second, all the accused narrated about their almost-fatal encounter with another group of policemen while they were allegedly in the act of conducting the supposed buy-bust operation against the complainants. This event, to the view of this court, only invites the suspicion that the Pre-Operation/Coordination Sheet was dubious if not actually non-existent.
>
> The accused likewise claimed that they released the two later along Edsa as nothing was found on them. The manner of the release, however, raises several questions: why were the complainants who were earlier suspected of being drug-pushers not brought to the police precinct? Did not Lawrence volunteer the name of his alleged supplier earlier during the tactical interrogation? Why were they unloaded just like that along Edsa at that ungodly hour? Was there an incident report on the matter considering that Manrique was mindful enough earlier to first secure a Pre-Operation/Coordination sheet?[25]

The dispositive portion of the trial court's Decision states:

> WHEREFORE, premises considered, judgment is hereby rendered in Criminal Case No. 02-3393 finding the accused PO1 FROILAN TRESTIZA Y LACSON, P/INSP LORIEMAN L. MANRIQUE and RODIE PINEDA Y JIMENEZ GUILTY beyond reasonable doubt as principals by direct participation of the crime of KIDNAPPING for RANSOM, and they are hereby sentenced to suffer the penalty of RECLUSION PERPETUA. In addition thereto, they are ordered to pay, jointly and severally, the private complainants the sums of PHP 300,000.00 as actual damages, and PHP 300,000.00 as exemplary damages. All the accused are ACQUITTED in Criminal Cases Nos. 03-766 and 04-1311 both for Robbery respectively.
>
> Send the records of this case to the archives in so far as accused PO2 Reynel Jose, who continues to be at large, is concerned. Let, however, a Warrant of Arrest be issued against him.
>
> SO ORDERED.[26]

On the same date as the promulgation of its decision, the trial court issued an Order of Commitment27 of Trestiza, Manrique, and Pineda to the Director of the Bureau of Corrections.

On 27 July 2007, Trestiza, Manrique, and Pineda filed a Motion for New Trial and for Inhibition. Two witnesses, Camille Anne Ortiz y Alfonso (Ortiz) and Paulo Antonio De Leon y Espiritu (De Leon), allegedly intimate friends of Navarro and Yu, will testify as to the circumstances which took place in the early morning of 7 November 2002. Their testimonies, if admitted, will allegedly result in the acquittal of Trestiza, Manrique, and Pineda. These witnesses are not known to the accused, and they could not have been produced during trial. Moreover, the accused are of the belief that trial court judge Zenaida T. Galapate-Laguilles acted with bias against them. She allegedly made an off-the-record remark and stated that the prosecution failed to establish what they sought to prove, but then later on questioned the existence of the defense's Pre-Operation/Coordination Sheet in her decision. Judge Galapate-Laguilles also failed to resolve the Petition for Bail, and failed to point out discrepancies in the testimonies of the defense's witnesses, particularly those regarding the arrests of Trestiza, Manrique, and Pineda.

The prosecution opposed the Motion for New Trial and Inhibition.[28] De Leon shared a cell with Manrique since July 2003, while the trial was ongoing, and hence De Leon's supposed testimony should not be considered

"newly discovered" evidence. On the other hand, Ortiz's narration of events in her affidavit is full of inconsistencies. The prosecution likewise questioned the credibility of the witnesses who allegedly heard Judge Galapate-Laguilles' off-the-record remark. One was Trestiza's relative, while the other was a security escort who was supposed to stay outside the courtroom. Finally, the motion itself was filed late. The supplement to the motion, to which the affidavits of the additional witnesses were attached, was filed two days after the finality of the trial court's decision. Copies of the decision were furnished to both prosecution and defense on 24 July 2007, which was also the date of promulgation. The Motion for New Trial and Inhibition was dated 27 July 2007, while the Supplement to the Motion which included the witnesses' affidavits was dated 10 August 2007.

The trial court held hearings on the twin motions. On 3 October 2007, the trial court issued an Order[29] denying the Motion for New Trial and for Inhibition. The evidence presented was merely corroborative, and the prosecution was able to prove its case despite the judge's alleged off-the-record equivocal remark.

On 19 October 2007, Trestiza, Manrique, and Pineda filed a notice of appeal.[30] The Order denying the Motion for New Trial and for Inhibition was received on 18 October 2007, while the Motion for New Trial and for Inhibition was filed on 27 July 2007 or three days after the promulgation of the Decision on 24 July 2004. The trial court gave due course to the notice of appeal.[31] In their brief filed with the appellate court, Trestiza, Manrique, and Pineda assigned the following errors:

> The trial court erred in convicting accused Trestiza despite the fact that he was not part of the alleged conspiracy in that it was not stipulated during the pre-trial that he was just the driver and was not part of the team. Besides, he did not perform any act in furtherance of the alleged conspiracy.
>
> The trial court erred in giving credence to the testimonies of private complainants Lawrence Yu and Irma Navarro as their demeanor in the witness stand show hesitation indicative of guilt of fabrication and their testimonies lack spontaneity and were not straightforward.
>
> The trial court erred in giving credence to the testimonies of prosecution witnesses John Paul Suguitan and Angelo Gonzales as they alleged facts and circumstance that are contrary to human nature and experience.
>
> The trial court erred in convicting the accused despite the fact that the complainants were arrested in a legitimate operation as evidenced by the Pre-Operation/Coordination Sheet which was authenticated by accused-appellant Manrique.[32]

The Appellate Court's Ruling

On 30 June 2008, the appellate court dismissed the appeal and affirmed the trial court's decision.

> In its recitation of facts, the appellate court quoted from the People's Brief for the prosecution and from the trial court for the defense. The appellate court ruled that Trestiza's contention that he was just the driver of the van and never communicated with the witnesses deserves scant consideration. Yu identified Trestiza as one of the two men who sandwiched him as he left Where Else Disco, and insisted that Yu cooperate with Jose when Jose asked Yu for cash. Trestiza's acts thus show that he acted in concert with his co-accused in the commission of the crime. The appellate court relied on the trial court's assessment of the reliability of the prosecution's witnesses, and gave credence to their testimonies. The appellate court declared that all the elements of kidnapping for ransom are present and thus affirmed the trial court's decision:
>
> In any event, it was established that all the elements constituting the crime of kidnapping for ransom in the case at bar are present. The elements of kidnapping for ransom under Article 267 of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) 7659 are as follows: (a) intent on the part of the accused to deprive the victim of his liberty; (b) actual deprivation of the victim of his liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim (People vs. Raul Cenahonon, 527 SCRA 542). Here, Navarro

> and Yu testified how they were abducted at gun point from the parking lot in Makati and confined inside the car and van respectively; that they were both handcuffed, hence, deprived of their liberty and that appellants made a demand for them to deliver a certain amount in exchange for their release.
>
> In fine, the Court rules and so holds that appellants' guilt for the offense of kidnapping for ransom has been proven beyond moral certainty of doubt.
>
> WHEREFORE, the decision appealed from is hereby AFFIRMED and this appeal is hereby DISMISSED.
>
> SO ORDERED.[33]

Trestiza alone filed a Motion for Reconsideration[34] of the appellate court's decision. In his Motion, Trestiza claimed that he alone, through counsel, filed an appeal brief. Trestiza further claimed that the stipulations made during pre-trial established Trestiza's limited involvement, that is, he was merely a driver of the vehicle when the alleged crime took place, he never communicated with the complainants, and none of the items allegedly taken from the complainants were recovered from Trestiza's possession. The trial court did not mention nor discuss these stipulations in its decision. Even the trial court's finding of facts shows Trestiza's participation was merely that of an invited driver in a legitimate Philippine Drug Enforcement Agency (PDEA) drug bust operation. Moreover, the testimonies of witnesses of both prosecution and defense establish that Trestiza was a member of the Philippine National Police (PNP) when he allegedly committed the crime. Under the circumstances, Trestiza claimed he should be held liable only for Arbitrary Detention. Finally, Trestiza's identification was not only improper for being suggested, but his warrantless arrest should also be held invalid.

The Office of the Solicitor General (OSG) filed a comment opposing Trestiza's Motion for Reconsideration. The stipulations do not discount that Trestiza conspired with his co-appellants Manrique and Pineda in committing the crime charged. The apprehension and detention of Navarro and Yu were clearly effected for the purpose of ransom; hence, the proper crime really is Kidnapping with Ransom. Trestiza filed a Reply to the Comment[35] on 20 October 2009.

The appellate court denied Trestiza's Motion for Reconsideration in a Resolution dated 11 November 2009.[36] An examination of the appellants' brief showed that the brief was filed for Trestiza, Manrique and Pineda. The appellate court found no compelling reason to warrant consideration of its decision.

Trestiza still filed a Notice of Appeal[37] of the appellate court's decision on 10 January 2010. The appellate court initially denied[38] Trestiza's Notice of Appeal due to late filing, but eventually granted[39] Trestiza's Motion for Reconsideration[40] of the 16 February 2010 resolution denying his Notice of Appeal.

Trestiza filed the present supplemental brief[41] before this Court on 15 August 2011. In his brief, Trestiza emphasized that Yu was apprehended by agents of the PNP and PDEA on 30 June 2011 during a raid of an illegal drugs laboratory. Yu was charged with the crime of manufacturing, possessing, and selling illegal drugs under Sections 8, 11, and 12, Article II of Republic Act No. 9165.

The Issues

Trestiza raised the following arguments against the appellate court's decision:

> I. The supervening event involving the apprehension of Lawrence L. Yu as the head of a big-time drug syndicate throws his credibility as a witness beneath the abyss of morass and decay that must be now totally discarded.
>
> II. The facts and circumstances surrounding the above-entitled case is consistent with the innocence of [Trestiza] rendering the evidence presented insufficient and without moral certainty to support a conviction.

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> III. At the very least, the "equipoise rule" finds application in the case at bar, taking into consideration the supervening event that demolished the credibility of the witnesses presented by the prosecution.
>
> IV. The Constitutional presumption of innocence of [Trestiza] has not been overwhelmed by the tainted testimony and total lack of credibility of Lawrence L. Yu and, in light of the supervening event, could not now be overcome by questionable testimonies presented by the prosecution.
>
> V. The conviction of an innocent man is a great injustice that affects the very foundations of humanity.
>
> VI. It was not sufficiently shown that all the accused in the above-entitled case conspired in committing the crime of Kidnapping for Ransom and the same was not proven by proof beyond reasonable doubt.
>
> VII. [Trestiza] has no malicious or evil intent in acquiescing to drive the vehicle used in the buy-bust operation.
>
> VIII. [Trestiza] is innocent of the crime of Kidnapping for Ransom.[42]

The Court's Ruling

At the outset, we declare that the 30 June 2011 arrest of Yu has no bearing on the present case. The two cases are independent of each other and should be treated as such. Yu's innocence or guilt regarding his 30 June 2011 arrest does not affirm or negate the commission of the crime of Kidnapping for Ransom against him.

Warrantless Arrest

These are the circumstances surrounding Trestiza's arrest: Pineda had been contacting Yu to follow up on the balance on the ransom. Pineda was then arrested pursuant to an entrapment operation conducted in the early morning of 16 November 2002 at New World Hotel. During the investigation at Camp Crame, Pineda revealed that Trestiza could be found at Club 5 in Makati. Pineda and Yu accompanied the arresting team to Club 5. Yu pointed out Trestiza to the arresting team while Trestiza was on his way to his black Hummer.[43]

Trestiza questioned the legality of his warrantless arrest in an Omnibus Motion[44] filed before his arraignment. In its Order dated 19 August 2004, the trial court stated that the quashal of the informations on account of Trestiza's illegal arrest is not warranted. The determination of the nature of the arrest goes directly into the merits of the case, and needs a deeper judicial determination. Matters of defense are not grounds for a Motion to Quash. The trial court, however, did not make any ruling related to Trestiza's warrantless arrest in its 24 July 2007 Decision.

Section 5, Rule 113 of the 2000 Rules of Criminal Procedure enumerates the instances when warrantless arrests are lawful.

> Sec. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:
>
> (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
>
> (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.
>
> In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith

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> delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

It is clear that Trestiza's warrantless arrest does not fall under any of the circumstances mentioned in Section 5, Rule 113. However, Trestiza failed to make a valid objection to his warrantless arrest.

Any objection to the procedure followed in the matter of the acquisition by a court of jurisdiction over the person of the accused must be opportunely raised before he enters his plea; otherwise, the objection is deemed waived.[45] Trestiza, being a policeman himself, could have immediately objected to his warrantless arrest. However, he merely asked for the grounds for his arrest. He did not even file charges against the arresting officers. There was also a lengthy amount of time between Trestiza's arrest on 16 November 2002 and the filing of the Omnibus Motion objecting to Trestiza's warrantless arrest on 11 May 2004. Although it may be argued that the objection was raised prior to the entry of Trestiza's plea of not guilty in the kidnapping for ransom charge, it must be noted that the circumstances of the present case make us rule otherwise. Trestiza was charged with two crimes at the time of his arrest: kidnapping with ransom under Criminal Case No. 02-3393 and illegal possession of firearms under Criminal Case No. 02-3394. Trestiza did not question the legality of his warrantless arrest nor the acquisition of jurisdiction of the trial court over his person, and fully participated in the hearing of the illegal possession of firearms case. Thus, Trestiza is deemed to have waived any objection to his warrantless arrest. Under the circumstances, Trestiza's Omnibus Motion in the kidnapping for ransom case is a mere afterthought and cannot be considered as a timely objection.

Assuming arguendo that Trestiza indeed made a timely objection to his warrantless arrest, our jurisprudence is replete with rulings that support the view that Trestiza's conviction is proper despite being illegally arrested without warrant. In People v. Manlulu, the Court ruled:

> [T]he illegality of the warrantless arrest cannot deprive the State of its right to prosecute the guilty when all other facts on record point to their culpability.[46]

Indeed, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error.[47] The fatal flaw of an invalid warrantless arrest becomes moot in view of a credible eyewitness account.[48]

Kidnapping with Ransom

The trial court's findings of facts, its calibration of the collective testimonies of witnesses, its assessment of the probative weight of the evidence of the parties, as well as its conclusions anchored on the said findings, are accorded great weight, and even conclusive effect, unless the trial court ignored, misunderstood or misinterpreted cogent facts and circumstances of substance which, if considered, would alter the outcome of the case. This is because of the unique advantage of the trial court to observe, at close range, the conduct, demeanor and the deportment of the witnesses as they testify.[49] We see no reason to overrule the trial court's finding that Trestiza is guilty of kidnapping with ransom.

Article 267 of the Revised Penal Code provides:

> Art. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:
>
> 1. If the kidnapping or detention shall have lasted more than three days.
>
> 2. If it shall have been committed simulating public authority.
>
> 3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats

> to kill him shall have been made.
>
> 4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.
>
> The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances abovementioned were present in the commission of the offense.
>
> When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.

Before the present case was tried by the trial court, there was a significant amount of time spent in determining whether kidnapping for ransom was the proper crime charged against the accused, especially since Trestiza and Manrique were both police officers. Article 267 of the Revised Penal Code specifically stated that the crime should be committed by a private individual.[50] The trial court settled the matter by citing our ruling in People v. Santiano,[51] thus:

> The fact alone that appellant Pillueta is an organic member of the NARCOM and appellant Sandigan a member of the PNP would not exempt them from the criminal liability of kidnapping. It is quite clear that in abducting and taking away the victim, appellants did so neither in furtherance of official functions nor in the pursuit of authority vested in them. It is not, in fine, in relation to their office, but in purely private capacity that they have acted in concert with their co-appellant Santiano and Chanco.

In the same order, the trial court asked for further evidence which support the defense's claim of holding a legitimate police operation. However, the trial court found as unreliable the Pre-Operation/Coordination Sheet presented by the defense. The sheet was not authenticated, and the signatories were not presented to attest to its existence and authenticity.

The second to the last paragraph of Article 267 prescribes the penalty of death when the extortion of ransom was the purpose of the kidnapping. Yu and Navarro were released only after they were able to give various personal effects as well as cash amounting to P300,000, with the promise to give the balance of P1,000,000 at a later date.

Trestiza insists that his participation is limited to being a driver of the Mitsubishi Adventure van. Yu testified otherwise.

> Direct Examination of Lawrence Lim Yu
>
> Atty. Oledan:
>
> Q: What happened [after you left Wherelse Disco]?
>
> Witness:
>
> A: As soon as I stepped out of the Wherelse Disco, somebody bumped me at my right side. And then later on, I was "sandwiched" by two (2) persons and when I looked up, I noted the presence of one (1) man immediately in front of me holding a gun.
>
> Q: And these men who "sandwiched" you and the third men [sic] who held the gun in front of you, would you be able to identify them?
>
> A: Yes, ma'am.
>
> Q: Are they inside this Courtroom?

A: Yes, ma'am.

Q: Will you please identify them?

A: The three of them, ma'am.

At this juncture, the witness is to pointing to the three (3) men, who are the accused in this case, inside the Courtroom.

COURT: (To the Accused) Again, for the record, please stand up, gentlemen.

At this juncture, the three (3) accused stood up.

COURT: (To Witness) Are you sure these were the three (3) men whom you are referring to?

WITNESS:

A: Yes, ma'am.

COURT: Make it of record that the witness pointed to accused PO1 Froilan Trestiza, PSINP Loriemar Manrique and Rodie Pineda.

ATTY. OLEDAN:

Q: (To Witness) Specifically, who among these three (3) "sandwiched" you?

WITNESS:

A: It was PO1 Trestiza and Capt. Manrique.

x x x

Q: What happened after you were brought inside the Mitsubishi vehicle?

A: Later on, Officer Trestiza and Capt. Manrique likewise boarded the Mitsubishi Adventure.

x x x

Q: Who was driving the vehicle?

A: It was Froilan Trestiza, ma'am.

x x x

Q: After [Reynel Jose] said [that had Yu cooperated earlier, he would not have been hurt] and the plastic removed from your head, what did [sic] the two, Trestiza and Manrique, doing?

A: They told me the same thing. They told me that I should not have kept the matter long.

Q: What happened after that?

A: After that, Reynel Jose alighted again and we drove towards an area, which I know now to be within San Juan. Right in front of the Tambunting Pawnshop.

Q: What happened at the Tambunting Pawnshop? Did the vehicle stop there?

A: The two (2) vehicles parked there beside each other.

Q: What happened when you were there at Tambunting Pawnshop?

A: After parking in front of the Tambunting Pawnshop, they boarded Irma and have her sat [sic] beside me.

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Then after which, the door at my left side was opened.

Q: What else happened?

A: They told me not to make any move, that I just keep on sitting there. Afterwards, the men huddled with each other ("nagkumpul-kumpol po sila").

Q: Where did they huddle?

A: They huddled in an area close to me, almost in front of me.

Q: Who among the accused huddled together?

A: The four (4) of them, ma'am.

Q: How long did they huddle?

A: For a while only, ma'am, around (10) ten minutes.

Q: After ten (10) minutes, what happened?

A: After ten (10) minutes, Buboy approached me.

Q: What did he say?

A: He told me that they thought my money would be One Million Pesos (P1,000,000.00).

x x x

Q: So, after that huddle, after you were told by Buboy that "okay na 'yong one million" and that was confirmed by one of the three (3) men who said "isang million na," what happened?

A: I was talking to Buboy at that time and I was telling him, "Why do you have to do this to me? You are the 'kumpare' of the elder sister of Irma."

Q: What did Buboy say to that?

A: Buboy retorted, "Pare, pasensya na, pera pera lang 'yan."

Q: After Buboy said that, what happened?

A: I told him that he need not do that, because if he needs money, I can always lend him.

Q: What did Buboy say?

A: After saying this to Buboy, he told me to just shut up and then he later on handed over to me a cell phone and told me to contact a person, who can give me money.

Q: Who handed you your cell phone?

A: It was Froilan Trestiza, ma'am.

x x x

Q: After that, were you told to go home already?

A: Not yet, ma'am. Before letting us go, they threatened us. They reminded us that they have our IDs, the pictures of our children and the members of our family.

Q: What did you do after that?

A: We just kept on saying yes because we wanted to go home already.

Q: What time was that?

A: It was almost daybreak ("mag-uumaga na"). I have no watch already at that time, ma'am.

Q: So, what did you do after that?

A: After that, Froilan Trestiza handed to me my sim card telling me that they will be calling me in my house concerning my alleged balance.[52]

We agree with the appellate court's assessment that Trestiza's acts were far from just being a mere driver. The series of events that transpired before, during, and after the kidnapping incident more than shows that Trestiza acted in concert with his co-accused in committing the crime. Conspiracy may be implied if it is proved that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent of each other, were, in fact, connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment.[53]

Trestiza's civil liability is joint and several with Manrique and Pineda. They are liable for the P120,000 taken from Navarro and the P180,000 raised by Yu. In line with prevailing jurisprudence,[54] Trestiza is also liable for P75,000 as civil indemnity which is awarded if the crime warrants the imposition of death penalty; P75,000 as moral damages because the victim is assumed to have suffered moral injuries, without need of proof; and P30,000 as exemplary damages.

WHEREFORE, we DENY the petition. The Decision of the Court of Appeals in CA-G.R. H.C. No. 03119 promulgated on 30 June 2009, as well as the Resolution promulgated on 11 June 2010, is AFFIRMED with MODIFICATION. Froilan L. Trestiza is guilty beyond reasonable doubt of Kidnapping in Criminal Case No. 02-3393 and is sentenced to suffer the penalty of reclusion perpetua, as well as the accessory penalties provided by law. In addition to the restitution of P300,000 for the ransom, Trestiza is ordered to pay Lawrence Yu and Irma Navarro P75,000 as civil indemnity, P75,000 as moral damages, and P30,000 as exemplary damages.

Costs against Froilan L. Trestiza.

SO ORDERED.

Brion, Perez, Sereno, and Reyes, JJ., concur.

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[*] Sometimes referred to as "Loriemar" in the records.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure and Rule 122 of the Revised Rules of Criminal Procedure.

[2] Rollo, pp. 2-26. Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Fernanda Lampas Peralta and Apolinario D. Bruselas, Jr., concurring.

[3] Id. at 31-32. Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Fernanda Lampas Peralta and Apolinario D. Bruselas, Jr., concurring.

[4] CA rollo, pp. 58-73. Penned by Judge Zenaida T. Galapate-Laguilles.

[5] Records, pp. 2-3. Signed by 2nd Assistant City Prosecutor Andres N. Marcos, an unnamed Review Prosecutor, and Senior State Prosecutor Leo B. Dacera III.

[6] Id. at 6. Signed by 2nd Assistant City Prosecutor Andres N. Marcos, Assistant City Prosecutor Melquiades I. Mutiangpili, Review Prosecutor Rodolfo C. Lalin, and Senior State Prosecutor Leo B. Dacera III.

[7] Id. at 530-533. Penned by Judge Zenaida T. Galapate-Laguilles.

[8] Id. at 534-545. Penned by Judge Zenaida T. Galapate-Laguilles.

[9] Id. at 550-551.

[10] Id. at 601-602.

[11] Id. at 628.

[12] Id. at 650, 656-657.

[13] Id. at 659.

[14] Id. at 565-584.

[15] Id. at 611-622.

[16] Id. at 637-643.

[17] Id. at 644-647.

[18] Id. at 656-657.

[19] CA rollo, pp. 59-60. Italics in the original.

[20] Records, p. 671.

[21] Id. at 681.

[22] Id. at 688.

[23] CA rollo, pp. 61-69. Italics in the original.

[24] Id. at 58-73.

[25] Id. at 71-72.

[26] Id. at 73.

[27] Records, p. 1093.

[28] Id. at 1123-1131.

[29] Id. at 1157-1161.

[30] CA rollo, p. 75.

[31] Id. at 76.

[32] Id. at 89.

[33] Rollo, pp. 25-26.

[34] CA rollo, pp. 609-633.

[35] Id. at 653-663.

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[36] Id. at 665-667.

[37] Id. at 672-673.

[38] Id. at 676.

[39] Id. at 701-704.

[40] Id. at 687-699.

[41] Rollo, pp. 59-122.

[42] Id. at 66-87.

[43] TSN, 23 November 2004, pp. 5-41 (PO3 Rosauro P. Almonte).

[44] Records, pp. 565-584.

[45] De Asis v. Hon. Romero, 148-B Phil. 710, 716-717 (1971). Citations omitted.

[46] G.R. No. 102140, 22 April 1994, 231 SCRA 701, 710 citing People v. Briones, G.R. No. 90319, 15 October 1991, 202 SCRA 708.

[47] People v. Calimlim, 416 Phil. 403, 420 (2001). See also People v. De Guzman, G.R. Nos. 98321- 24, 30 June 1993, 224 SCRA 93; People v. De Guia, G.R. Nos. 107200-03, 9 November 1993, 227 SCRA 614; People v. Lopez, 315 Phil. 59 (1995); People v. Conde, 408 Phil. 532 (2001).

[48] People v. Manlulu, supra.

[49] People v. Tonog, Jr., G.R. No. 144497, 29 June 2004, 433 SCRA 139, 153-154.

[50] See Luis B. Reyes, 2 The Revised Penal Code: Criminal Law 542 (1998).

The following are the elements of the crime:

1. That the offender is a private individual.
2. That he kidnaps or detains another, or in any other manner deprives the latter of his liberty.
3. That the act of detention or kidnapping must be illegal.
4. That in the commission of the offense, any of the following circumstances is present:

(a) That the kidnapping or detention lasts for more than 3 days;
(b) That it is committed simulating public authority;
(c) That any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or
(d) That the person detained is a minor, female or a public officer.

[51] 359 Phil. 928, 943 (1998).

[52] TSN, 11 July 2005, pp. 13-15, 20-21, 48-51, 53-54, 81-82.

[53] People v. Pagalasan, 452 Phil. 341, 363 (2003) paraphrasing Regina v. Murphy, 172 Eng. Rep. 502 (1837).

[54] People v. Bautista, G.R. No. 188601, 29 June 2010, 622 SCRA 524. Citations omitted.

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