

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO DELA CRUZ Y TOLENTINO, ACCUSED-APPELLANT.

G.R. No. 267163, October 29, 2024

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

This Appeal[1] assails the Decision[2] dated October 28, 2022 of the Court of Appeals in CA-G.R. CR HC No. 14824, affirming with modification the conviction of accused-appellant Eduardo Dela Cruz y Tolentino (Dela Cruz) for rape in Criminal Case No. 3492-2015.

Dela Cruz was charged under the following Information, viz.:

That on or about February 25, 2015 at around 6:30 o'clock in the evening [in] the Municipality of xxxxxxxxxxxx, Province of xxxxxxxxxxxx, Philippines and within the jurisdiction of this Honorable Court, accused, did then and there willfully, unlawfully[,] and feloniously by means of force and intimidation had carnal knowledge [of AAA267163], a [s]pecial [c]hild, minor, 16 years old, against her will and which ac[t] is greatly prejudicial to her normal growth and development as a minor.

CONTRARY TO LAW.[3]

The case was raffled to the Branch xxxxxxxxxxxx, Regional Trial Court, xxxxxxxxxxxx.[4] Upon arraignment, Dela Cruz pleaded not guilty to the charge.[5]

During trial, AAA267163[6] and Dela Cruz testified for the prosecution[7] and the defense, respectively.[8]

Version of the Prosecution

AAA267163 testified that she was born on September 10, 1998[9] and was more or less 16 years old when Dela Cruz had carnal knowledge of her on February 25, 2015. Around 6:00 p.m. of that day, Dela Cruz called her to go inside a Born Again church located in Barangay xxxxxxxxxxxx, xxxxxxxxxxxx, xxxxxxxxxxxx. There, he touched her breast and vagina, and then inserted his finger into her private organ. He next removed her shorts and underwear while telling her to keep quiet. He laid her on a chair where he kissed her vagina and inserted his penis therein.[10]

In her Sinumpaang Salaysay[11] dated February 26, 2015, AAA267163 narrated in detail what Dela Cruz did to her: "higa niya ako, kiss niya pisngi ko, kiss nya dede ko, kiss niya pepe ko, pasok nya titi niya sa pepe ko." [12]

The Medical Certificate[13] dated February 26, 2015 issued by Dr. Myra Paril-Gana (Dr. Paril-Gana) bore her findings that AAA267163's hymen was intact, and there were no bleeding, abrasions, and erythema at the time of examination.[14] The existence of the medical certificate was admitted by the defense.[15]

During the trial, the court noted that based alone on the physical appearance of AAA267163, it was easily discernible that her actual age is different from her mental age, hence, she should be treated as a child witness. The defense did not object.[16]

Version of the Defense

Dela Cruz denied the charge.[17] He testified that he was cutting coconut husks when he saw AAA267163 roaming around until she entered the barangay hall. She looked mentally challenged because her body was shaking while roaming around. She pulled down her shorts. He went near her to pull her shorts up. Her mother arrived shortly and accused him of raping AAA267163. Her mother also called the police and had him detained at the Pura Police Station.[18]

On cross-examination, Dela Cruz admitted that he knew AAA267163 who used to call him "Uncle Edward," and he was also aware that she was mentally challenged.[19]

Ruling of the Trial Court

By Decision[20] dated March 3, 2020, the trial court rendered a verdict of conviction for statutory rape under Article 266-A paragraph 1(d) of the Revised Penal Code, thus:

WHEREFORE, in view of the foregoing, this Court finds the accused EDUARDO DELA CRUZ [y] Tolentino "GUILTY" beyond reasonable doubt of the crime of Rape under Article 266-A paragraph 1(d). Accordingly, he is hereby sentenced to suffer the penalty of reclusion perpetua.

Likewise, accused is ordered to pay the victim the amounts of [PHP] 30,000.00 as civil indemnity, [PHP] 30,000.00 as moral damages and [PHP] 30,000.00 as exemplary damages.

SO ORDERED.[21] (Emphasis in the original)

The trial court ruled that all the elements of statutory rape were present in this case.[22] While the medical certificate indicated that AAA267163's hymen remained intact, it did not negate the commission of the crime.[23] In any case, the denial of Dela Cruz is an inherently weak defense that cannot prevail over the positive, candid, and categorical testimony of AAA267163. More so, since the offended party is a young and immature girl.[24]

Dela Cruz's motion for reconsideration was denied per Order[25] dated August 4, 2020.

Ruling of the Court of Appeals

Under its Decision[26] dated October 28, 2022, the Court of Appeals affirmed in the main, but modified the awards of civil indemnity, moral damages, and exemplary damages to PHP 75,000.00 each, and imposed 6% interest per annum on all damages awarded from finality of the decision until full payment.[27]

The Present Appeal

Dela Cruz now seeks affirmative relief from the Court and prays anew for his acquittal. In lieu of supplemental briefs, both Dela Cruz[28] and the Office of the Solicitor General[29] manifested that they are adopting their respective briefs filed before the Court of Appeals.

Ruling

We modify.

Rape under Article 266-A(1) of the Revised Penal Code

Article 266-A(1) of the Revised Penal Code defines and penalizes rape, as follows:

Article 266-A. Rape: When and How Committed. – Rape is committed:

1)

By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Rape by sexual intercourse requires the following elements: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.[30]

Here, AAA267163 unequivocally averred that Dela Cruz had carnal knowledge of her. She testified that she was inside a Born Again church when Dela Cruz touched her breast and vagina, and inserted his finger into her vagina. He then removed her shorts and underwear, laid her on a chair, kissed her vagina, and eventually inserted his penis into her vagina ("higa niya ako, kiss niya pisngi ko, kiss nya dede ko, kiss niya pepe ko, pasok nya titi niya sa pepe ko.").[31]

Both the trial court and the Court of Appeals found the sole testimony of AAA267163 to be credible, natural, convincing, and consistent. Though the medical certificate indicated that her hymen remained intact, and there were no indicated bleeding, abrasions, or erythema at the time of examination, the Court has consistently ruled that a medical certificate is merely corroborative in character and its absence does not disprove the occurrence of rape. It is enough that the evidence on hand convinces the court that conviction is proper, as in the present case.[32]

In any event, where the clashing values of the victim's positive testimony and accused-appellant's plain denial are in issue, the factual findings of the trial court thereon carry great weight and respect especially when sustained by the Court of Appeals as in this case. This is because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the manner by which witnesses testified, acted, and behaved in court.[33] Against the bare denial of Dela Cruz, therefore, the positive testimony of the victim deserves greater weight and credit.

Dela Cruz is guilty of rape under Article 266-A paragraph 1(a) of the Revised Penal Code

We now reckon with the allegation in the Information that AAA267163 is a "special child." The trial court concluded that AAA267163 was a child based on her appearance and demeanor during the trial. It particularly noted that on the witness stand, she murmured "hindi na ba ako babalik, uuwi na ba ako?" According to the trial court, such action is "attributed to a child of tender age." Further, the trial court took into consideration that the defense did not object to the treatment of AAA267163 as a child witness.[34] Consequently, both the trial court and the Court of Appeals were convinced that Dela Cruz should be held liable for statutory rape under Article 266-A paragraph 1(d) of the Revised Penal Code.

We note that while the trial court did observe that based on the appearance and demeanor of AAA267163 during the trial, she was a child, it failed to identify or at least calculate her mental age. Also, the records did not bear any clinical identification of her mental age either. Verily, therefore, there is nothing to support the conclusion that the

16-year-old AAA267163 had a mental age of a child below 12 years old at the time she was raped to sustain a conviction for statutory rape.

In *People v. XXX*,^[35] the mental disability of the victim was not disputed. However, the victim's level of disability has not been equated to a specific "mental age." The medical certificate merely stated that the victim is suffering from "moderate retardation." In ruling that there was no statutory rape, the Court ordained that the mental age of the victim must first be identified, viz.:

Evidence must be adduced to aid the court in determining not only the existence of the illness and its level of severity but as well of its manifestations and the corresponding mental age of the subject.

The determination of mental retardation, particularly, the degrees thereof, is deeply rooted in medical psychology; as such, courts are largely dependent upon psychometric evaluation. It is true that such mental condition can be proved by evidence other than medical and clinical evidence, such as the testimony of witnesses and the observation of the trial court. This may be sufficient when the issue is the ability of a subject to testify in court or to stand trial, the only consideration being the ability to comprehend the questions propounded and to respond to the same intelligibly.

However, when the determination of mental disability constitutes as an element of the crime of rape, or when the victim's mental age is necessary in characterizing whether carnal knowledge can be considered as statutory rape, or when mental disability relates to the capacity of the accused to commit the crime; the same must be medically defined and specified, over which the court must rely upon the findings and evaluation of experts in the field, social workers, or persons close to the subject sufficiently averring circumstances to depict the mental development and status. In the same way, the Court cannot merely rely upon the comparative classification of mental age vis-à-vis the level of mental retardation of a person provided for in *Dalandas* as past cases show us that mental aging is variable. And ultimately, the conviction of an accused of rape based on the mental retardation of the victim must be anchored on proof beyond reasonable doubt and not on mere inferences.

Courts cannot hastily resort to deductive reasoning with respect to the proper designation of the crime. The rule must be that in order to be properly appreciated, mental retardation, particularly when disputed, whether of the victim or of the accused, must be sufficiently characterized by adducing evidence stating the intelligence quotient, manifestations of the illness, and mental age.

The nature of a crime including its mode of commission must be sufficiently alleged as to allow the accused to adequately prepare for his or her defense. This requirement is vital in all criminal prosecutions as it is deeply rooted on one's constitutional rights to due process and presumption of innocence. While, admittedly, the penalty provided for by law is the same in any of the circumstances under Article 266-A(1) of the RPC, this fact alone does not diminish the substance of the requirement nor of the importance of the rule's observance.

Whereas, a victim's chronological age is factual and evidentiary in nature, which must be established by evidence during trial. Comparatively, the same also holds true even more with the determination of the mental age of a person suffering from mental retardation as it is primarily a scientific and a medical issue. As such it must be properly characterized and substantiated by medical evaluation or by adequate proof external manifestations of the person allegedly suffering from mental retardation.^[36] (Citations omitted)

But this identification need not be based alone on the existence of a clinical or medical finding on record. In fact, the Court emphasized in *People v. Bermas*^[37] that the lack of medical or clinical evidence does not preclude the presentation of other evidence to prove the victim's mental disability. Medical finding is necessary only for borderline cases when there is difficulty in ascertaining the mental capacity of the victim.^[38] In cases where the cognitive disability is readily apparent, the trial court can resort to other pieces of evidence. Consequently, *People v. Dumanon*^[39] pronounced that the trial court itself can determine whether a person is suffering from mental disability. *People v. Dalandas*^[40] also recognized that the mental disability of persons and the degrees thereof

may be manifested by their overt acts, appearance, attitude, and behavior.

To repeat, the trial court here made its own observation that AAA267163 was a child based on her appearance and demeanor, but failed to identify her mental age to support a conviction for statutory rape. This is significant considering that under the law then prevailing, statutory rape involved child victims who are below 12 years of age. Hence, in cases of statutory rape involving victims with cognitive deficiency, their mental age corresponding to that of a child below 12 years of age should be established.

As shown here, the mental age of AAA267163 was not proved, thus, Dela Cruz should be adjudged guilty not of statutory rape but of rape under Article 266-A paragraph 1(a) of the Revised Penal Code. To recall, Dela Cruz succeeded in having carnal knowledge of AAA267163 by using force or intimidation in the form of moral ascendancy.[41] AAA267163 called him "Uncle Edward." Too, the big discrepancy between their ages, i.e. 40 years old vis-à-vis 16 years old, is indicative of coercion. Further, as a full-grown adult, Dela Cruz took advantage of AAA267163, who was not only a minor but was even afflicted with cognitive disability. He even testified that he knew of her mental state "[b]ecause she is roaming around and she is doing like this (the witness is shaking his body)."[42] He further observed that "[i]t's like [AAA267163] doesn't have [a] mind. She is mentally disordered[.]"[43]

Penalty, civil indemnity, and damages

Dela Cruz should suffer the penalty of reclusion perpetua in accordance with Article 266-B, in relation to Article 266-A of the Revised Penal Code, viz.:

Article 266-A. Rape: When and How Committed. – Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation[.]

Article 266-B. Penalty. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua[.]

As for civil indemnity and damages, we emphasized in *People v. Jugueta*[44] that since civil indemnity is not a penalty or a fine, it can be increased by the Court, when appropriate. Also, criminal liability is a "State concern" while civil liability is awarded to the private offended party for the violation of their rights, viz.:

First, civil indemnity *ex delicto* is the indemnity authorized in our criminal law for the offended party, in the amount authorized by the prevailing judicial policy and apart from other proven actual damages, which itself is equivalent to actual or compensatory damages in civil law. This award stems from Article 100 of the [Revised Penal Code] which states, "Every person criminally liable for a felony is also civilly liable."

It is to be noted that civil indemnity is, technically, not a penalty or a fine; hence, it can be increased by the Court when appropriate....

In our jurisdiction, civil indemnity is awarded to the offended party as a kind of monetary restitution or compensation to the victim for the damage or infraction that was done to the latter by the accused, which in a sense only covers the civil aspect. Precisely, it is civil indemnity. Thus, in a crime where a person dies, in addition to the penalty of imprisonment imposed to the offender, the accused is also ordered to pay the victim a sum of money as restitution. Also, it is apparent from Article 2206 that the law only imposes a minimum amount for awards of civil indemnity, which is [PHP] 3,000.00. The law did not provide for a ceiling. Thus,

although the minimum amount for the award cannot be changed, increasing the amount awarded as civil indemnity can be validly modified and increased when the present circumstance warrants it.

....

The term aggravating circumstances used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.[45]

Indeed, upholding the rights of the accused does not mean that the State will turn a blind eye to the vile manner of the commission of the crime and compromise the vindication of the rights of the victim. Thus, the Court deems it proper to increase the award of civil indemnity and damages from PHP 75,000.00 to PHP 100,000.00 each in the present case. For although the Information did not allege that Dela Cruz knew of the cognitive deficiency of AAA267163 when he committed the crime, it was proved that he (40 years old) knew of the cognitive disability of AAA267163 (16 years old), took advantage of it, and abused his moral ascendancy over her, thus, making the crime of rape more reprehensible. This speaks of a graver moral depravity of the accused where a higher punishment in the form of civil indemnity and damages must, at the very least, be meted out.

ACCORDINGLY, the Appeal is DENIED. The Decision dated October 28, 2022 of the Court of Appeals in CA-G.R. CR HC No. 14824 is AFFIRMED with MODIFICATION.

Accused-appellant Eduardo Dela Cruz y Tolentino is found GUILTY of rape under Article 266-A paragraph 1(a) of the Revised Penal Code. He is sentenced to reclusion perpetua and ORDERED to PAY AAA267163 the following:

- (a) PHP 100,000.00 as civil indemnity;
- (b) PHP 100,000.00 as moral damages; and
- (c) PHP 100,000.00 as exemplary damages.

These amounts shall earn 6% interest per annum from finality of this Decision until fully paid.

Finally, the Department of Social Welfare and Development is DIRECTED to refer AAA267163 to the appropriate rape crisis center for necessary assistance to be extended to her and her family pursuant to Republic Act No. 8505 or the Rape Victim Assistance and Protection Act of 1998.

SO ORDERED.

Gesmundo, C.J., Leonen, S.J., Inting, Zalameda, M. Lopez, Rosario, J. Lopez, Dimaampao, Marquez, and Kho, Jr., JJ., concur.

Caguioa, J., see separate concurring opinion.

Hernando,[*] J., on official business but left his concurring vote.

Gaerlan,**] J., on official leave.

Singh, J., see separate concurring opinion.

[*] On official business but left his concurring vote.

**] On official leave.

[1] Rollo, pp. 3-5.

[2] Id. at 9-20. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Alfonso C. Ruiz II of the Fifth Division, Court of Appeals, Manila.

[3] Id. at 22.

[4] Id. at 9.

[5] Id. at 10.

[6] In line with Amended Administrative Circular No. 83-2015, as mandated by Article 266-A of the Revised Penal Code, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

[7] CA rollo, pp. 13-14.

[8] Id. at 14.

[9] Id. at 16.

[10] Rollo, p. 10.

[11] RTC records, p. 5.

[12] CA rollo, p. 17.

[13] RTC records, p. 8.

[14] Id.

[15] CA rollo, p. 13.

[16] Id. at 65.

[17] Rollo, p. 17.

[18] CA rollo, p. 108.

[19] Id.

[20] Rollo, pp. 22-30. Penned by Presiding Judge Lily C. De Vera-Vallo of Branch xxxxxxxxxxxx, Regional Trial Court, xxxxxxxxxxxx.

[21] Id. at 30.

[22] Id. at 26.

[23] Id. at 27.

- [24] Id. at 28.
- [25] RTC records, p. 134.
- [26] Rollo, pp. 9-20.
- [27] Id. at 19-20.
- [28] Id. at 35-37.
- [29] Id. at 31-33.
- [30] See *People v. Ejercito*, 834 Phil. 837, 853 (2018) [Per J. Perlas-Bernabe, Second Division].
- [31] CA rollo, p. 17.
- [32] *People v. Anemos*, G.R. No. 246524, May 14, 2021 [Notice, First Division].
- [33] *People v. Agalot*, 826 Phil. 541, 550 (2018) [Per J. Martires, Third Division].
- [34] CA rollo, p. 65.
- [35] G.R. No. 220145, August 30, 2023 [Per J. Gaerlan, Third Division].
- [36] Id. at 11-13. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [37] 854 Phil. 556 (2019) [Per J. Caguioa, Second Division].
- [38] Id. at 569.
- [39] 401 Phil. 658, 669-670 (2000) [Per C.J. Davide, Jr., First Division].
- [40] 442 Phil. 688, 696 (2002) [Per J. Callejo, Sr., En Banc].
- [41] *Dela Cruz v. People*, 903 Phil. 801, 817 (2021) [Per J. Lopez, Third Division].
- [42] TSN dated October 7, 2019, p. 3.
- [43] Id. at 6.
- [44] 783 Phil. 806, 826 (2016) [Per J. Peralta, En Banc].
- [45] Id. at 826-831.

G.R. No. 267163 – PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. EDUARDO DELA CRUZ Y TOLENTINO, ACCUSED-APPELLANT.[*]

CONCURRING OPINION
CAGUIOA, J.:

Accused-appellant Eduardo Dela Cruz y Tolentino's (accused-appellant) conviction for rape should be affirmed.

I concur with the ponencia in convicting accused-appellant of rape notwithstanding his admission during the trial that he "knew of the cognitive deficiency of [his victim, AAA] when he committed the crime,"[1] which, had the said circumstance been alleged in the Information, would have qualified the crime under Article 266-B paragraph 10[2] of the Revised Penal Code. The Court simply affirms the policy of strict compliance with the well-established rule that qualified aggravating circumstances cannot be appreciated against the accused unless

they are first alleged in the Information.

This principle proceeds from the accused's fundamental right to due process[3] and to be informed of the charge against him.[4] As narrated in the ponencia, the Information reads:

That on or about February 25, 2015 at around 6:30 o'clock in the evening [in] Brgy. xxxxxxxxxxxx, Municipality of xxxxxxxxxxxx, Province of xxxxxxxxxxxx, Philippines and within the jurisdiction of this Honorable Court, [accused--appellant], did then and there willfully, unlawfully[,] and feloniously by means of force and intimidation had carnal knowledge [of AAA], a [s]pecial [c]hild, minor, 16 years old, against her will and which ac[t] is greatly prejudicial to her normal growth and development as a minor.

CONTRARY TO LAW.[5]

As the ponencia adds: "On cross, [accused-appellant explained] that he knew AAA who used to call him Uncle Edward... [H]e was also aware that [AAA] was mentally challenged." [6]

Does accused-appellant's admission that he knew of AAA's mental disability constitute a waiver of his right to be informed of the nature and cause of the accusation against him? In other words, even if the ultimate facts and circumstances alleged in the Information are constitutive of only simple rape, can accused-appellant still be convicted of qualified rape because he waived his right to be informed of the aggravating circumstance that qualified the crime charged in his Information?

In answering the questions, some members of the Court cite *People v. Solar*[7] (*Solar*) where the Court stated that "defects in an Information with regard to its form may be waived by the accused,"[8] their argument being that accused-appellant may be deemed to have waived the requirement for the prosecution to allege such qualifying aggravating circumstance in the Information because of his admission as to AAA's mental disability.

This argument, however, is erroneous because *Solar* is not applicable.

First, the absence of a qualifying aggravating circumstance in the Information against accused-appellant, i.e., his knowledge of AAA's mental disability, is not a mere formal defect. The Court in *Villarba v. Court of Appeals*[9] squarely held that, "[f]actual allegations that constitute the offense are substantial matters." [10] Indeed, a qualifying aggravating circumstance changes the nature of the crime altogether from rape to qualified rape. In *Leviste v. Alameda*, [11] for example, the Court declared that an amendment of an Information to include a qualifying aggravating circumstance to change the crime charged from homicide to murder is a substantial amendment, to wit:

The question to be resolved is whether the amendment of the Information from homicide to murder is considered a substantial amendment, which would make it not just a right but a duty of the prosecution to ask for a preliminary investigation.

The Court answers in the affirmative.

A substantial amendment consists of the recital of facts constituting the offense charged and determinative of the jurisdiction of the court. All other matters are merely of form. The following have been held to be mere formal amendments: (1) new allegations which relate only to the range of the penalty that the court might impose in the event of conviction; (2) an amendment which does not charge another offense different or distinct from that charged in the original one; (3) additional allegations which do not alter the prosecution's theory of the case so as to cause surprise to the accused and affect the form of defense he [or she] has or will assume; (4) an amendment which does not adversely affect any substantial right of the accused; and (5) an amendment that merely adds specifications to eliminate vagueness in the information and not to introduce new and material facts, and merely states with additional precision something which is already contained in the original information and which adds nothing essential for conviction for the crime charged.

The test as to whether a defendant is prejudiced by the amendment is whether a defense under the information as it originally stood would be available after the amendment is made, and whether any evidence defendant might have would be equally applicable to the information in the one form as in the other. An amendment to an information which does not change the nature of the crime alleged therein does not affect the essence of the offense or cause surprise or deprive the accused of an opportunity to meet the new averment had each been held to be one of form and not of substance.[12] (Emphasis supplied, citation omitted)

Second, assuming *arguendo* that the failure to allege the accused's knowledge of a victim's mental disability was a formal defect in accused-appellant's Information, Solar still does not apply. In Solar, the issue was whether a broad term, i.e., "treachery," which was alleged in the Information, sufficiently informed the accused of the nature and cause of the charge against him. Stated differently, Solar involved the question of whether a circumstance already alleged in the Information, though couched as a legal conclusion and not in terms of ultimate facts, was sufficiently intelligible to the accused. In contrast to the instant case, the qualifying aggravating circumstance was not alleged at all.

Third, accused-appellant had no obligation or duty to dictate on, much less aid, the prosecution in determining the crime to charge him with. If the prosecution intended, whether deliberately or by oversight, to charge him with simple rape, then that was within the State's prerogative, which is presumed to be regular.

The question before the Court in the instant case highlights anew the tension between prosecutorial expediency and the Bill of Rights. As narrated in the ponencia, accused-appellant admitted that he knew of AAA's mental disability when he committed the offense. One therefore can ask, as did some members of the Court: what would be the harm of convicting him precisely of the offense he admitted committing, but was not charged with?

The harm lies in the possible railroading of the rights of other accused, especially considering that the rulings of the Court create binding precedents. The Information filed at the beginning of a criminal case in court sets the rules of the game—not only does it fulfill the right of the accused to be informed of the nature and cause of the accusation against him, it also ensures the accused's procedural due process rights. Containing the proceedings within the four corners of the Information prevents surprises during the trial, and thus affords the accused an opportunity to mount an adequate defense. In other words, before a person is deprived of life, liberty, or property in a criminal case, the Information ensures that there would be a real opportunity to be heard. Moreover, limiting convictions to the confines of the Information further guarantees the protection of the accused's rights as Informations are the basis to determine whether a second charge is proscribed by the right against double jeopardy.

To be sure, strict adherence to abstract principles such as the right to be informed of the nature and cause of the accusation easily lends itself to interpreting the Bill of Rights in a vacuum. But the judicial reality is that the interpretations of the Constitution are the way they are precisely because the Court considers the realities on the ground, meaning, the Court recognizes, as it must, that the State has law enforcement, investigative, and prosecutorial arms of the whole government working at its disposal and against an individual accused. The only protections the individual accused has against the vast machinery of the State are the Bill of Rights. Thus, this "vacuum" is precisely the space that protects ordinary citizens from abuses of the State and its vast machinery.

The Bill of Rights is to protect ordinary citizens against the abuses of the government.[13] "It might be true that in some cases criminals may succeed in evading the hand of justice, but such cases are accidental..."[14] In the Court's insistence to have the strictest interpretation of the rights in the Constitution in order to protect the innocent, some guilty persons may indeed escape liability. This, however, is just but an aspect of the Court's belief that it is "better to let the crime of a guilty person go unpunished than to condemn the innocent." [15]

Similarly, the same temptation affected the right to be protected against unreasonable searches and seizures. Once upon a time, the prevailing opinion was that the exclusionary rule was unnecessary and would only instigate anarchy. In *Moncado v. People*[16] (*Moncado*), criminal prosecution of those who secure illegal search warrants or make unreasonable searches would suffice to protect the constitutional guarantee—and that unlawfully acquired evidence, competent as such, could still be admissible. Justice Pablo, speaking for the Court in that case, argued passionately that illegal evidence still has probative value—why let murderers or traitors go free on a technicality?

Let's focus on the present case. If the documents whose return the appellant requests prove his [or her] guilt of the crime of treason, why does the State have to return them and free him [or her] from the accusation? Is this not condoning and validating crime? Doesn't this constitute judicial approval of the commission of the crimes, the violation of the defendant's domicile committed by the members of the CIC and the treason committed by the appellant? Such a practice would encourage the crime rather than prevent its commission. Moreover, obtaining the documents does not alter their probative value. If there had been a search warrant, the documents would be admissible evidence. There is no constitutional or legal provision that frees the accused from all criminal responsibility because there was no search warrant. Public vindication demands that offenders of the criminal law be punished. To release the guilty party simply because the evidence against him [or her] has not been legally obtained is to judicially punish the crime.[17]

"Public vindication demands that offenders of the criminal law be punished. To release the guilty party simply because the evidence against him [or her] has not been legally obtained is to judicially punish the crime." [18] After all, if all the other "hallmarks of due process" have been satisfied, what harm would result? Justice Pablo closes the ponencia in *Moncado* with the following passage:

The guilty must receive their due punishment, even if the evidence against them was obtained illegally. And those who, in violation of the law and the Constitution, unduly seize such evidence must also be punished. This is how the law reigns, majestic and unscathed.[19]

It may be said that Justice Pablo and the majority then were enforcing expediency and swift justice—not interpreting the right against unreasonable searches and seizures in a vacuum. For many years this interpretation was considered "fair."

Ultimately, however, the Court in *Stonehill v. Diokno*[20] (*Stonehill*) reversed and abandoned *Moncado* and, citing United States jurisprudence, declared in relevant part:

The ignoble shortcut to conviction left open to the State tends to destroy the entire system of constitutional restraints on which the liberties of the people rest. Having once recognized that the right to privacy embodied in the Fourth Amendment is enforceable against the States, and that the right to be secure against rude invasions of privacy by state officers is, therefore constitutional in origin, we can no longer permit that right to remain an empty promise. Because it is enforceable in the same manner and to like effect as other basic rights secured by the Due Process Clause, we can no longer permit it to be revocable at the whim of any police officer who, in the name of law enforceable itself, chooses to suspend its enjoyment. Our decision, founded on reason and truth, gives to the individual no more than that which the Constitution guarantees him [or her], to the police officer no less than that to which honest law enforcement is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice.[21] (Emphasis supplied)

The Court in *Stonehill* further declared that "if the applicant for a search warrant has competent evidence to establish probable cause of the commission of a given crime by the party against whom the warrant is intended, then there is no reason why the applicant should not comply with the requirements of the fundamental law." [22]

The same can be said here. If the prosecutor intends to convict the accused for qualified rape, "then there is no reason why the [prosecutor] should not comply with the requirements of the fundamental law." Indeed, strictly

enforcing the requirement that a qualifying aggravating circumstance should be alleged in the Information before it can be appreciated as part of the accused's right to be informed of the nature and cause of the accusation is to "no longer permit it to be revocable at the whim of any [prosecutor] who, in the name of law enforceable itself, chooses to suspend its enjoinder." [23] It is only through strict enforcement that the accused's constitutional right can be guaranteed.

In more recent times, the accused's right to be informed of the nature and cause of the accusation was exhaustively discussed in the case of *Solar*, to quote:

The Court stresses that the starting point of every criminal prosecution is that the accused has the constitutional right to be presumed innocent. Further to this, the courts, in arriving at their decisions, are instructed by no less than the Constitution to bear in mind that no person should be deprived of life or liberty without due process of law. An essential component of the right to due process in criminal proceedings is the right of the accused to be sufficiently informed, in writing, of the cause of the accusation against him [or her]. The rationale behind the requirement of sufficiently informing the accused in writing of the cause of the accusation against him [or her] was explained as early as 1904 in the case of *United States v. Karelsen*:

The object of this written accusation was —

First. To furnish the accused with such a description of the charge against him [or her] as well enable him [or her] to make his [or her] defense; and second, to avail himself [or herself] of his [or her] conviction or acquittal for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. (*United States vs. Cruikshank*, 92 U.S., 542.) In order that this requirement may be satisfied, facts must be stated; not conclusions of law. Every crime is made up of certain acts and intent; these must be set forth in the complaint with reasonable particularity of time, place, names (plaintiff and defendant), and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged. For example, if a malicious intent is a necessary ingredient of the particular offense, then malice must be alleged. In other words, the prosecution will not be permitted to prove, under proper objection, a single material fact unless the same is duly set forth by proper allegation in his [or her] complaint. Proof or evidence of material facts is rendered admissible at the trial by reason of their having been duly alleged in the complaint. (*Rex vs. Aspinwall*, 2 Q.B.D., 56; *Bradlaugh vs. Queen*, 3 Q.B.D., 607.)

....

There is a general opinion that a greater degree of certainty is required in criminal pleading than in civil. This is not the rule. The same rules of certainty apply both to complaints in criminal prosecutions and petitions or demands in civil cases. Under both systems[,] every necessary fact must be alleged with certainty to a common intent. Allegations of "certainty to a common intent" mean that the facts must be set out in ordinary and concise language, in such a form that persons of common understanding may know what is meant. (Emphasis and underscoring supplied)

This right to be informed of the cause of the accusation, in turn, is implemented through Sections 8 and 9, Rule 110, of the Revised Rules of Criminal Procedure, which provide:

SECTION 8. Designation of the Offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SECTION 9. Cause of the Accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common

understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

It is thus fundamental that every element of which the offense is composed must be alleged in the Information. No Information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. The test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law. In this examination, matters aliunde are not considered. To repeat, the purpose of the law in requiring this is to enable the accused to suitably prepare his [or her] defense, as he [or she] is presumed to have no independent knowledge of the facts that constitute the offense.[24] (Emphasis supplied, citations omitted)

In *Solar*, the Court established the rule that any Information that alleges a qualifying or aggravating circumstance with "a broad term to embrace various situations" should "state the ultimate facts relative to such circumstance." The logic of liberality should apply with all the more reason here to accused-appellant where the Information against him altogether failed to state the qualifying circumstance that he knew of the victim's mental disability at the time of the rape.

ACCORDINGLY, considering that no qualifying circumstance was alleged in the Information, accused-appellant Eduardo Dela Cruz y Tolentino should be convicted only of simple rape.

[*] In line with Amended Administrative Circular No. 83-2015 dated September 5, 2017, titled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances," the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

[1] Ponencia, p. 10.

[2] REVISED PENAL CODE, art. 266-B states:

....

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

....

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

[3] CONST., art. III, sec. 1.

[4] CONST., art. III, sec. 14(2).

[5] Ponencia, p. 2.

[6] *Id.* at 3.

[7] 858 Phil. 884 (2019) [Per J. Caguioa, En Banc].

[8] *Id.* at 922.

[9] 874 Phil. 84 (2020) [Per J. Leonen, Third Division].

[10] Id. at 103.

[11] 640 Phil. 620 (2010) [Per J. Carpio-Morales, Third Division].

[12] Id. at 641-642.

[13] People v. Melencion, G.R. No. 248925, September 14, 2020 [Notice, First Division]; Beltran v. Samson, 53 Phil. 570 (1929) [Per J. Romualdez, First Division].

[14] Beltran v. Samson, id. at 579.

[15] Coffin v. United States, 156 U.S. 432, 454 (1895).

[16] 80 Phil. 1 (1948) [Per J. Pablo, Second Division].

[17] Id. Translated from the original Spanish.

[18] Id.

[19] Id.

[20] 126 Phil. 738 (1967) [Per C.J. Concepcion, En Banc].

[21] Id.

[22] Id.

[23] Id.

[24] People v. Solar, supra note 7 at 925-927.

SEPARATE CONCURRING OPINION

SINGH, J.:

I concur that the accused Eduardo Dela Cruz y Tolentino (Dela Cruz) is guilty of Rape under Article 266-A paragraph 1(b) of the Revised Penal Code.[1]

Nevertheless, the peculiar circumstances present in this case invite some discussion on how the law should be interpreted in relation to the intellectual disability of rape victims.

As the facts bear, the victim AAA is a 16-year-old female child, who has also been shown to have an intellectual disability where her mental capacity is less than her physical age.[2] The facts also show that Dela Cruz admitted that he had known of this intellectual disability of AAA when he committed the Rape.[3]

The qualifying circumstance of the offender's knowledge of the mental disability, emotional disorder, and/or physical handicap of the offended party at the time of the commission of the crime, however, could not be appreciated. As pointed out, the Information where Dela Cruz was charged for Rape did not allege that the offender knew of the disability.

As quoted below, the Information referred to AAA as a special child, but did not mention the qualifying circumstance of Dela Cruz's knowledge of such intellectual disability:

That on or about February 25, 2015 at around 6:30 in the evening, in the xxxxxxxxxxxx, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the accused, did then and there willfully,

unlawfully[,] and feloniously by means of force and intimidation had carnal knowledge with [AAA], a Special Child, minor, 16 years old, against her will and which acts is greatly prejudicial to her normal growth and development as a minor.

Contrary to law.[4]

The constitutional requirement of informing the accused of the nature of the charge against them is deeply rooted in the due process requirement and the presumption of one's innocence.[5] Its purpose is to ensure that the accused can prepare the best defense to buttress the position of maintaining that innocence.[6]

However, what happens when an accused freely admits, in the course of a trial, to any of the qualifying circumstances of a crime they are being tried for? When all the hallmarks of due process have been preserved and accorded to the accused, such as their right to competent counsel, right against self-incrimination, the ability to cross-examine witnesses, and freedom from coercion or torture, can an admission by the accused of the presence of a qualifying circumstance be fully appreciated by the Court in determining their guilt? At this time, case law proscribes this but it is my measured view that there are grounds to reconsider the rule in the future. This is particularly relevant in cases involving rape victims who suffer from mental disability, as in this case. When a mental disability is so apparent and readily observable then it is not only highly improbable, but it goes against human experience, that an offender sexually abuses the victim oblivious of such apparent mental disability. In effect, the requirement of the law that "the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime"[7] and took advantage of it must be implied from the commission of the rape itself.

Otherwise, to continue to adopt an overly literal interpretation is to do injustice to the most vulnerable of victims: minors who are mentally challenged. It bears stressing that intellectual disability requires a more nuanced consideration by the Court. The difference between visible or apparent versus invisible or latent mental disabilities is important, such that in certain instances, it is impossible to have not known of a disability when the disability is unmistakable or clearly apparent.

In many cases now of rape where qualifying circumstances have nevertheless been proven during trial, lacking Information has consistently failed to specifically allege the necessary circumstance to qualify the crime charged, whether that be of relationship between the offender and the victim, or of knowledge of the offender of the victim's intellectual disability. This is precisely what was pointed out by our colleagues in the Court when they outlined how jurisprudence has rejected a qualifying circumstance, even when conclusively proven, if not alleged in the relevant Information. These instances, I respectfully submit, should give the Court reason for pause.

Undoubtedly, the prosecution of a crime and the determination of what charges can be successfully litigated are executive functions within the exclusive competence of the State's prosecutorial agencies.[8] The prosecution of crimes entails, among other things, case buildup, evaluation of the reasonable chances of success based on evidence, possibility of plea bargaining, and policy considerations by the Executive Department. Thus, the courts cannot supplant their own wisdom for the prosecution's as to the nature and extent of the charge against an accused. In *People v. Montierro*,[9] the Court explained that:

[I]t must be noted with import that the exclusive prerogative of the Executive begins and ends with matters involving purely prosecutorial discretion. Prosecutorial discretion pertains to who to prosecute, what case to prosecute, and how the case would be pursued based on the evidence available to the prosecution. The prosecution has the freedom and authority to determine whether to charge a person, what Information to file against them and how to prosecute the case filed before the courts. There is, however, an obvious limit to prosecutorial prerogatives as the prosecutor obviously has no control over how the court would decide the case. While a prosecutor may look at the evidence and determine the charge and that a person is probably

guilty of the same, a judge may look at the same set of evidence and arrive at a different conclusion.[10] (Emphasis supplied)

Nevertheless, the use of such prosecutorial discretion is not immune to judicial scrutiny. Thus, as in this case, it cannot escape the Court's observation that such failure to allege the qualifying circumstance of knowledge of disability may also be due to oversight. But this oversight should not necessarily be fatal. The facts are illustrative. Here, the RTC made the following observation:

When the victim testified in Court, as her appearance alone indicated that her actual age is different to [sic] her mental age, she was treated as a child-witness and the defense did not object to the same.[11] (Emphasis supplied)

Moreover, in the direct examination and cross examination of Dela Cruz, the apparent intellectual disability of AAA was also admitted by the accused. Quoting from the RTC Decision:

ATTY. CUISON:

Q: So, you do not know whether that child is considered a special child, Mr. Witness?

A: The child is mentally disabled sir.

Q: How can you tell that she is mentally disabled, Mr. Witness?

A: Because, she is roaming around and she is doing like this (the witness is shaking his body).

[...]

PROS. LENON:

Q: And therefore, you know that she is mentally incapacitated?

A: It's like she doesn't have mind. She is mentally disordered, that is why I pulled up her shorts.

Further, this Court observed that the victim, while on the witness--stand, started to murmur...action that is attributed only to a child of tender age.[12] (Emphasis supplied)

Based on the foregoing observations by the RTC, it is obvious that the intellectual disability of the victim was readily apparent. The offender also readily admitted such fact without much prodding. It would not have been difficult therefore to infer, in the course of the investigation of the case, that it was highly improbable that the offender did not know of the victim's intellectual disability. Yet, such an important allegation is missing in the Information that charged the accused in this case, and in many other cases[13] before this.

In as much as the Constitution no less guarantees the rights of an accused in a criminal prosecution, victims have largely been rendered invisible, or, at most, relegated to secondary consideration. It should behoove all actors within the criminal justice system to look out for the welfare of victims of violent crimes, such as rape of minors, especially those who suffer from mental disability. The criminal justice system cannot fail the victims, especially when these survivors choose to put their trust into our institutions and pursue justice. Needless to say, in a foundational public office such as ours, trust is at the heart of its effectiveness – and this trust must be fostered.

Whether the fact that an Information lacks allegations is due to oversight, error or some judicious reason, it is the duty of the investigatory and prosecutorial actors to act with sensitivity towards victims, especially to those of violent crimes, in looking out for their welfare, evaluating their cases, and guiding them through the process. This sensitivity does not negate the principle that criminal cases, which are fundamentally offenses against the State, is prosecuted in the name of the People of the Philippines.[14] On the contrary, the mandate of justice is given life when law enforcement agents and justice actors remain supportive of the plight of victims providing them necessary support or referring them to agencies that would provide this support. The sensitivity to victims would also improve the willingness of victims to participate in different criminal proceedings, and hopefully allow our

law enforcement agencies to prosecute cases to their full extent. Ultimately, the filing of more accurate Informations would be reflective of a more conducive environment for victims of rape and other violent crimes.

Sadly, rape continues to be an abhorrent phenomenon, and the cases involving minors constitute majority of incidents in the Philippines.[15] It cannot be overemphasized that this unacceptable condition must elicit a more emphatic response.

In the converse, it cannot also be claimed that this sensitivity to victims' perspectives will compromise the fairness due to the accused, who is presumed innocent until proven guilty. It only means a marked awareness of the special needs of a victim of a violent crime, and an astuteness to determine how best to elicit their full participation. The courts therefore need to re-study the current position in cases involving victims of rape who have an intellectual disability where their mental age is different from their physical age, such as this case, but where knowledge of such factor is lacking in the information.

As jurisprudence teaches, the determination of a victim's intellectual disability may be based on the totality of evidence and a variety of factors such as by medical or clinical evidence, testimony of witnesses, and even observation by the trial court.[16] This lessens the need for intrusive and retraumatizing examination of victims. As outlined in *People v. Butiong*:[17]

Moreover, as clarified in *People v. Dafandas*, *People v. Cartuano* does not preclude the presentation by the State of proof other than clinical evidence to establish the mental retardation of the victim. For sure, the courts are not entirely dependent on the results of clinical examinations in establishing mental retardation. In *People v. Almacin*, for instance, the Court took into consideration the fact that the victim was illiterate and unschooled in concluding that she was mentally incapable of assenting to or dissenting from the sexual intercourse. Also, in *People v. Dumanon*, the Court concurred in the trial court's observation and conclusion that the victim was a mental retardate based on her physical appearance and on her difficulty to understand and answer the questions during her testimony.[18] (Emphasis supplied, citations omitted)

This is an example of victim-sensitive approach that the Court has taken in the series of rape cases involving an offended party who has an intellectual disability. The Court recognizes that the judicial process must be equally fair to the victim seeking justice as it is to the accused who enjoys the presumption of innocence.

Considering the foregoing, it is important, therefore, to remind law enforcement agencies to exhibit sensitivity to victims as part of our collective desire to ensure that the full force of the law is employed to eradicate the crime of rape.

Finally, and in the same vein, I concur that the victim in this case should be referred to the Department of Social Welfare and Development for the necessary and appropriate support services so that they may find as much healing as they may find given their experience. Republic Act No. 8505,[19] or the Rape Victim Assistance and Protection Act of 1998, outlines some of these services that may be provided to victims of rape and sexual abuse.[20] A disposition similar to the following should be a standard directive in all cases heard by our courts involving victims of rape:

The Department of Social Welfare and Development is DIRECTED to refer the victim to the appropriate rape crisis center for the necessary assistance to be rendered to the victim and her family, in line with Republic Act No. 8505, or the Rape Victim Assistance and Protection Act of 1998.

All told, I am constrained to vote to DENY the Petition for Review on Certiorari with the hope that soon, the view I espouse above will become the norm.

[1] Ponencia, p. 10.

[2] Id. at 2.

[3] Id. at 3.

[4] Rollo, p. 22.

[5] Villarba v. Court of Appeals, 874 Phil. 84, 101 (2020) [Per J. Leonen, Third Division].

[6] Ismael v. People, G.R. Nos. 234435-36, February 6, 2023 [Per J. M. V. Lopez, Second Division] at 15. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[7] REVISED PENAL CODE (1930), art. 266-B, para. 10.

[8] People v. Montierro, G.R. No. 254564; G.R. No. 254974; A.M. No. 21-07-16-SC; and A.M. No. 18-03-16-SC, July 26, 2022 [Per J. Caguioa, En Banc].

[9] Id.

[10] Id.

[11] Rollo, p. 26.

[12] Id.

[13] See People v. Magabo, 402 Phil. 977 (2001) [Per J. Gonzaga-Reyes, Third Division]; People v. Maceda, 405 Phil. 698 (2001) [Per J. Mendoza, En Banc]; People v. Monticalvo, 702 Phil. 643 (2013) [Per J. Perez, Second Division]; also People v. Nicolas, 436 Phil. 462 (2002) [Per J. Quisimbing, En Banc].

[14] Merciales v. Court of Appeals, 429 Phil. 70, 78-79 (2002) [Per J. Ynares-Santiago, En Banc].

[15] See Tina Santos, Unicef lauds PH for raising age of sexual consent to 16, PHIL. DAILY INQUIRER, March 8, 2022, available at <https://newsinfo.inquirer.net/1564777/unicef-lauds-ph-for-raising-age-of-sexual-consent-to-16> (last accessed on June 17, 2024); Christopher Lloyd Caliwan, New statutory rape law boosts fight vs. sexual abuse of minors, PHIL. NEWS AGENCY, March 8, 2022, available at <https://www.pna.gov.ph/articles/1169253> (last accessed on June 17, 2024); Council for the Welfare of Children and UNICEF Philippines, 2016, "National Baseline Study on Violence against Children: Philippines," last accessed on June 17, 2024 at <https://www.unicef.org/philippines/media/491/file>.

[16] People v. Ventura, Sr., 729 Phil. 566, 572-573 (2014) [Per J. Reyes, First Division].

[17] People v. Butiong, 675 Phil. 621 (2011) [Per J. Bersamin, First Division].

[18] Id. at 639-640.

[19] Approved on February 13, 1998.

[20] SEC. 3. Rape Crisis Center. – The Department of Social Welfare and Development (DSWD), the Department of Health (DOH), the Department of the Interior and Local Government (DILG), the Department of Justice (DOJ), and a lead nongovernment organization (NGO) with proven track record or experience in handling sexual abuse cases, shall establish in every province and city a rape crisis center located in a government hospital or health clinic or in any other suitable place for the purpose of:

(a) Providing rape victims with psychological counselling, medical and health services, including their

medico-legal examination;

- (b) Securing free legal assistance or service, when necessary, for rape victims;
- (c) Assisting rape victims in the investigation to hasten the arrest of offenders and the filing of cases in court;
- (d) Ensuring the privacy and safety of rape victims;
- (e) Providing psychological counselling and medical services whenever necessary for the family of rape victims;
- (f) Developing and undertaking a training program for law enforcement officers, public prosecutors, lawyers, medico-legal officers, social workers, and barangay officials on human rights and responsibilities; gender sensitivity and legal management of rape cases; and
- (g) Adopting and implementing programs for the recovery of rape victims.

The DSWD shall be the lead agency in the establishment and operation of the Rape Crisis Center.

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