

ARGIE AVETRIA Y RECTO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 273393, August 13, 2025

Ponente: GAERLAN, J.

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GAERLAN, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Revised Rules of Court assailing the Decision[2] dated August 23, 2023 and the Resolution[3] dated March 19, 2024 rendered by the Court of Appeals (CA) in CA-G.R. CR No. 47045. In the assailed rulings, the CA affirmed the Decision[4] of Branch xx, Regional Trial Court (RTC) of xxxxxxxxxxxx, Quezon, finding petitioner Argie Avetria y Recto (Avetria) guilty beyond reasonable doubt of violating Section 10(a) of Republic Act No. 7610.[5]

The Antecedents

The case at bar arises from an Information[6] dated July 18, 2013 against Avetria, the accusatory portion of which reads:

That on or about March 9, 2013 at 5:00 o clock in the afternoon in xxxxxxxxxxxx, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously commit child abuse on [AAA273393] a 7-year-old male child by then and there pointing a gun on the said [AAA273393] while uttering invectives which acts caused intense fear on the said [AAA273393] which are detrimental to the normal development and welfare of said child.

CONTRARY TO LAW.[7]

Avetria was released on bail pending trial on October 1, 2014. Upon arraignment, he entered a plea of "Not Guilty" to the offense charged. Thereafter, trial on the merits ensued.[8]

According to the prosecution, on the afternoon of March 9, 2013, then 7-year-old AAA273393 and his mother, BBB273393, were at their residence in xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, Quezon, when Avetria barged into their home demanding to see AAA273393's father, CCC273393, who was not present at the time. This led to a heated exchange between BBB273393 and Avetria, during which Avetria exclaimed, "Tarantado ang asawa mo!," to which BBB273393 retorted, "Kung tarantado ang asawa ko, mas tarantado ka!," Avetria then pointed a firearm at both BBB273393 and AAA273393, threatening to kill them.[9] Unable to locate CCC273393, Avetria proceeded to search inside the house. When his efforts proved futile, he again pointed his firearm at AAA273393 and BBB273393 as he made his way out of the residence.[10]

AAA273393 testified that he felt afraid when Avetria pointed a gun at him and his mother. After the incident, he began experiencing difficulty in sleeping, and his mother could no longer communicate with him. They reported the incident to the Women and Children Protection Desk at the municipal police station.[11]

To establish AAA273393's minority at the time of the incident, the prosecution presented a copy of his Certificate of Live Birth, which showed that he was born on xxxxxxxxxxxx, making him 7 years old at the time.[12]

The prosecution also presented Dr. Maria Lourdes R. Ramos-Laydia (Dr. Laydia), who examined AAA273393. She explained that AAA273393's experience could instill in him a pervasive fear of similar incidents, and could have a lasting negative impact on his moral development. She noted that the incident may or may not have long term effects on AAA273393, but nevertheless pointed out that it was not healthy for him to experience such violence. This could result in a generalized fear as he grows older.[13]

Avetria interposed the defense of denial. In his Judicial Affidavit, he asserted that at the date and time of the incident, he proceeded to the residence of AAA273393 to speak with the latter's father, CCC273393, regarding his livestock, which he suspected had been poisoned by CCC273393. However, since CCC273393 was not home at the time, Avetria was only able to speak to CCC273393's wife, BBB273393. Avetria maintained that he promptly left the premises, and denied being in possession of a firearm.[14]

The Ruling of the RTC

After due proceedings, the RTC rendered a Decision[15] dated February 22, 2022, finding Avetria guilty beyond reasonable doubt of child abuse under Section 10(a) of Republic Act No. 7610, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, the Court finds the accused ARGIE AVETRIA, GUILTY beyond reasonable doubt of the crime of Violation of Section 10 of [Republic Act No.] 7610 and hereby sentences him to suffer the indeterminate penalty of five (5) years, four (4) months and twenty-one (21) days of prision correccional as minimum, to six (6) years, eight (8) months and one (1) day of prision mayor as maximum. The Court also ordered him to pay the amount of [PHP] 50,000.00 as civil indemnity, [PHP] 50,000.00 as moral damages, and [PHP] 50,000.00 as exemplary damages plus interest of six (6) percent per annum until fully paid. The Plaridel Surety and Insurance Company is hereby released from its further undertaking.

SO ORDERED.[16]

In so ruling, the RTC held that AAA273393's positive identification of Avetria, along with his testimony that Avetria pointed a gun at him and his mother, constituted an act that debased, degraded, or demeaned his intrinsic worth and dignity as a human being. The trial court further held that Avetria's alibi and denial could not prevail over the clear and credible testimony of the child victim, AAA273393.[17]

Avetria sought reconsideration of the foregoing Decision, but the same was denied by the RTC.[18]

The Ruling of the CA

On appeal, the CA affirmed Avetria's conviction with modification.[19] The dispositive portion of the Decision dated August 23, 2023 states:

WHEREFORE, the appeal is DENIED. The 22 February 2022 Decision of the Regional Trial Court, Fourth Judicial Region, Branch xx, xxxxxxxxxxxx, Quezon, in Criminal Case No. 12547-G, is AFFIRMED with MODIFICATION in that accused-appellant Argie Avetria y Recto is ordered to pay private complainant [PHP] 20,000.00 as moral damages, [PHP] 20,000.00 as exemplary damages, [PHP] 20,000.00 as temperate damages, and [PHP] 15,000.00 as fine. The said monetary awards shall earn interest at the rate of six percent (6%) per annum from the date of finality of this decision until fully paid. The rest of the RTC Decision stands.

SO ORDERED.[20] (Emphasis in the original)

The CA held that Avetria's act of pointing a gun at AAA273393 amounted to child abuse. The prosecution was able to duly establish AAA273393's minority at the time of the incident, as evidenced by his Certificate of Live Birth, and proved that Avetria's threats instilled fear and anxiety in him. The CA further observed that the traumatic experience AAA273393 endured would have a detrimental impact on his social, moral, and emotional development as a child.[21]

Moreover, the CA ruled that contrary to Avetria's contention, the specific intent to debase, degrade, or demean the intrinsic worth and dignity of the child is not an essential element in all violations of Section 10(a) of Republic Act No. 7610. Citing *Malcampo-Reollo v. People*,^[22] the CA clarified that such specific intent becomes relevant only when: (1) it is expressly required by a particular provision of Republic Act No. 7610, such as in cases involving lascivious conduct; or (2) the Information explicitly alleges that the act was committed in a manner that debased, degraded, or demeaned the child's intrinsic worth and dignity as a human being.^[23] Consequently, the CA affirmed the RTC's findings, with modification concerning the corresponding penalty.

Aggrieved, Avetria moved for reconsideration of the Decision, which was denied by the appellate court for lack of merit in its Resolution^[24] dated March 19, 2024.

Hence, the instant Petition.

The Ruling of the Court

While the Court affirms the finding of criminal liability, We hold that the conviction under Republic Act No. 7610 is improper. Avetria should instead be held liable for grave threats under Article 282(2) of the Revised Penal Code, for which the appropriate penalty must be imposed.

Republic Act No. 7610 or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act," is a legislation designed to implement the State's policy of providing special protection to children from "all forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development."^[25]

In accordance with the foregoing, the law delineates specific prohibited acts, which encompass, among others, child prostitution and child trafficking. Furthermore, Section 10 of Republic Act No. 7610 enumerates the acts which are deemed as other forms of abuse. Section 10(a) provides:

SECTION 10. Other Acts of Neglect, Abuse, or Exploitation and Other Conditions Prejudicial to the Child's Development . –

(a) Any person who shall commit any other acts of child abuse, cruelty, or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

With respect to the act of child abuse, the definition of which is provided in Section 3(b) of the same law:

(b)

"Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1)

Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

(2)

Any act by deeds or words which debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being;

(3)

Unreasonable deprivation of his basic needs for survival, such as food and shelter; or

(4)

Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

The aforementioned enumeration covers various acts perpetrated against children. In *San Juan v. People*,^[26] the Court elucidated this distinction, emphasizing that Section 3(b)(1) pertains to the act and the general criminal intent to inflict physical or psychological abuse. Conversely, Section 3(b)(2) necessitates, in addition to general criminal intent, a specific intent to debase, degrade, or demean the child's intrinsic worth as a human being.

To expound, *Malcampo-Repollo v. People*,^[27] citing *Lucido v. People*,^[28] characterized violations of Republic Act No. 7610 as *malum prohibitum*, wherein intent is not the defining element in the offense. Else stated, intent is not an indispensable requirement in sustaining all convictions under Section 10(a). A conviction ensues so long as all the elements of the offense are proven beyond reasonable doubt.^[29]

The ruling further clarified that, in certain forms of child abuse, particularly those under Section 3(b)(2), the prosecution must prove the existence of the specific intent to debase, degrade, or demean the child's intrinsic worth and dignity as a human being:

The act of debasing, degrading, or demeaning the child's intrinsic worth and dignity as a human being has been characterized as a specific intent in some forms of child abuse. The specific intent becomes relevant in child abuse when: (1) it is required by a specific provision in Republic Act No. 7610, as for instance, in lascivious conduct; or (2) when the act is described in the information as one that debases, degrades, or demeans the child's intrinsic worth and dignity as a human being.^[30]

As such, the prosecution is required to establish specific intent only when it is expressly alleged in the Information or when the applicable provision of law mandates its proof.^[31] Otherwise, if the act alleged is in itself intrinsically cruel, it may be examined based on Section 3(b)(1) of Republic Act No. 7610. When an act is assessed based on its inherent nature and manner of execution, and it is later determined to be intrinsically cruel, there is no need to establish specific intent.^[32]

A cursory reading of the Information filed against Avetria reveals that the same did not carry the qualifying allegations of "debased, degrade or demeaned the intrinsic worth and dignity of the child." Instead, it specifically states that Avetria "feloniously commit child abuse on AAA273393 a 7-year-old male child by then and there pointing a gun on the said AAA273393 while uttering invectives which acts caused intense fear on the said AAA273393 which are detrimental to the normal development and welfare of said child."^[33]

In this case, the evidence does not support the conclusion that Avetria pointed the firearm at AAA273393 because he was a child, or with the deliberate intent to cause harm to a child as such. On the contrary, the Court finds that petitioner inflicted the threat in the heat of argument and under the impulse of an emotionally charged confrontation with BBB273393, motivated by Avetria's personal grievance against CCC273393 whom he suspected to have poisoned his livestock. The child, AAA273393, while a victim of the threat, was not the object of any specific animus based on his minority. Else stated, the harm threatened was not intrinsically child-specific.

Indeed, the records are bereft of any showing that Avetria's actions were intended to place AAA273393 in an embarrassing, shameful, or degrading situation. Rather, his actions appear to have been committed in the heat of argument. The firearm was pointed not as a calculated attempt to inflict psychological harm towards AAA273393 for being a child, but as an impulsive act tied to Avetria's anger toward BBB273393 and CCC273393.

While certainly reprehensible and criminal, such conduct does not reflect the specific intent to abuse a child specifically because of the latter's minority contemplated under Section 10(a) of Republic Act No. 7610.

In his dissenting opinion in *San Juan v. People*,^[34] Associate Justice Alfredo Benjamin S. Caguioa aptly underscored the key distinction:

In a similar way, I understand Section 10(a) of [Republic Act No.] 7610 as punishing acts not merely because the victim is a child, but because the victim was sought out as a victim precisely because he or she is a child. This is the enduring thread I have observed in the myriad of cases in which the Court refused to convict the accused under Section 10(a) because the acts alleged were perpetrated in the spur of the moment, out of retaliation to a harm caused to the accused's own children, or in the heat of the moment or during an altercation. In other words, I believe that the dividing line between acts punished under the [Revised Penal Code], on the one hand, and those punished under Section 10(a), on the other, is the intention to commit 'child abuse' — which means that, in the first place, the offender committed the acts against the child precisely because the latter is a child.^[35]

This rationale squarely applies. While Avetria's act of pointing a firearm at AAA273393 and BBB273393 constitutes a serious and punishable threat, it does not amount to child abuse within the meaning of Section 10(a) of Republic Act No. 7610. The nature of the threat was not intrinsically directed at the child as a child, but rather was a general act of intimidation that could have been committed against any individual, regardless of age. Nothing in the evidence suggests that AAA273393 was targeted specifically because he was a minor. On the contrary, had the circumstances involved an adult in AAA273393's place, Avetria's actions would likely have been the same.

Having ruled out the applicability of Section 10(a) of Republic Act No. 7610, the Court now considers whether petitioner may be held criminally liable under the Revised Penal Code.

Article 282 of the Revised Penal Code defines and penalizes the crime of grave threats, thus:

Art. 282. Grave threats – Any person who shall threaten another with the infliction upon the person, honor, or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

1. The penalty next lower in degree than that prescribed by law for the crime he threatened to commit, if the offender shall have made the threat demanding money or imposing any other condition, even though not unlawful, and said offender shall have attained his purpose. If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed.

If the threat be made in writing or through a middleman, the penalty shall be imposed in its maximum period.

2. The penalty of arresto mayor and a fine not exceeding 500 pesos, if the threat shall not have been made subject to a condition.

In *Caluag v. People*^[36] the Court clarified that grave threats under Article 282 of the Revised Penal Code may be committed with or without a condition. Thus, there are two modes of commission: (1) when the threat to harm a person, their honor, property, or family is made subject to a condition; and (2) when the threat is issued unconditionally. The latter form—a naked threat unaccompanied by any condition—remains punishable because the mischief lies in the intimidation and the fear instilled in the victim.^[37]

In this case, Avetria's act of pointing a firearm at AAA273393 and his mother, BBB273393, clearly falls under the second category. There was no demand or condition issued; nonetheless, the act was carried out in a menacing and aggressive manner that induced genuine fear. AAA273393's testimony, along with the psychological report prepared by Dr. Laydia, demonstrates that he feared for his own life and that of his mother.

Moreover, it is well-settled that for threats to be deemed "grave," they must be serious, deliberate, and persistent. The threat must create in the mind of the victim the belief that the offender is resolved to carry out the threatened

harm.[38] In *Reyes v. People*,[39] the Court affirmed a conviction for grave threats where the accused not only uttered threats but did so repeatedly and persistently, through acts calculated to intimidate the victim. The demonstrators' motorcade to the victim's residence, the threatening placards, and the repeated warnings all pointed to a deliberate intention to instill fear and to suggest that the threats would be carried out.

A parallel can be drawn with the present case. After the initial confrontation and threat, Avetria did not immediately leave the premises. Instead, he entered and searched inside the house in a continued effort to locate CCC273393. Failing to find him, Avetria once again pointed his firearm at BBB273393 and AAA273393 as he exited. These actions reveal a pattern of escalating aggression and further underscore the gravity of the situation. Although the confrontation may have begun as an impulsive reaction, Avetria's subsequent conduct showed a persistence of hostile intent that made the threat credible and alarming.

Taking all these into account, the Court finds that while Avetria's actions were undoubtedly reprehensible, they do not rise to the level of child abuse under Section 10(a) of Republic Act No. 7610. The aggression was not directed at AAA273393 because of his minority, nor was there any indication that petitioner's conduct was driven by a specific intent to humiliate, debase, or demean the child as such. Rather, the firearm was brandished in the heat of conflict between two adults, and the child happened to be caught in its crossfire. Thus, the requisite deliberate intent to abuse, maltreat, or psychologically wound the child due to his or her minority is absent.

Avetria is nonetheless criminally liable for grave threats under Article 282 of the Revised Penal Code, as his behavior, although not child-related, was deliberate enough to instill fear and unlawfully threaten harm. The conviction under Republic Act No. 7610 must therefore be set aside.

Accordingly, the Court proceeds to determine the proper penalty to be imposed for the crime of grave threats, guided by the relevant provisions of the Revised Penal Code, as amended by Republic Act No. 10951.[40]

Under paragraph 2 of Article 282, the penalty for grave threats not subject to a condition is *arresto mayor* ranging from one month and one day to six months, and a fine not exceeding PHP 100,000.00, as amended by Republic Act No. 10951. In the present case, Avetria's threat—pointing a gun at AAA273393 while uttering invectives—was not accompanied by any demand or condition. There is no showing that Avetria threatened the child with the commission of a specific crime in exchange for any act or omission, nor was there a condition attached to the threat.

Consequently, the applicable penalty is *arresto mayor* and a fine not exceeding PHP 100,000.00. There being neither aggravating nor mitigating circumstances, the penalty shall be imposed in its medium period in accordance with Article 64(1) of the Revised Penal Code.[41]

The duration of *arresto mayor* in its medium period ranges from two months and one day to four months. Accordingly, the Court imposes upon Avetria the straight penalty of two months and one day of *arresto mayor*. A fine of PHP 50,000.00 is also imposed, taking into account the serious nature of the threat and the mental and emotional harm inflicted upon a young child.

ACCORDINGLY, the Petition is DENIED. The Court MODIFIES the Decision dated August 23, 2023 and the Resolution dated March 19, 2024 of the Court of Appeals in CA-G.R. CR No. 47045. The conviction of petitioner Argie Avetria y Recto for violation of Section 10(a) of Republic Act No. 7610 is hereby REVERSED and SET ASIDE.

In lieu thereof, petitioner Argie Avetria y Recto is found GUILTY beyond reasonable doubt of Grave Threats under Article 282, paragraph 2 of the Revised Penal Code, as amended by Republic Act No. 10951, and is hereby sentenced to suffer the penalty of *arresto mayor* in its medium period, or imprisonment of two months and one

day to four months, and to pay a FINE of PHP 50,000.00. Petitioner Argie Avetria y Recto is further ORDERED to PAY the costs of suit.

SO ORDERED.

Caguioa (Chairperson), Inting, and Dimaampao, JJ., concur.
Singh, [**] J., on leave.

[*] 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.

[**] On leave.

[1] Rollo, pp. 12-27.

[2] Id. at 32-43. Penned by Associate Justice Ruben Reynaldo G. Roxas and concurred in by Associate Justices Edwin D. Sorongon, and Eduardo S. Ramos, Jr. of the Eighth Division of the Court of Appeals, Manila.

[3] Id. at 45-47. Penned by Associate Justice Ruben Reynaldo G. Roxas and concurred in by Associate Justices Edwin D. Sorongon, and Eduardo S. Ramos, Jr. of the Former Eighth Division of the Court of Appeals, Manila.

[4] Id. at 73-76. Penned by Judge Maria Chona E. Pulgar-Navarro.

[5] Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act. Approved on June 17, 1992

[6] Rollo, p. 73.

[7] Id.

[8] Id. at 33.

[9] Id. at 73.

[10] Id. at 33.

[11] Id. at 34.

[12] Id. at 74.

[13] Id., citing TSN, Argie Avetria y Recto, February 6, 2017, pp. 5-6.

[14] Id., citing the judicial Affidavit of Argie Avetria y Recto dated September 21, 2018.

[15] Id. at 73-76.

[16] Id. at 75-76.

[17] Id. at 75.

[18] Id. at 77-78. Resolution dated March 21, 2022, penned by Judge Maria Chona Pulgar-Navarro.

[19] Id. at 32-43.

[20] Id. at 42.

[21] Id. at 38.

[22] 890 Phil. 1159 (2020) [Per J. Leonen, Third Division].

[23] Rollo, p. 39.

[24] Id. at 45-47.

[25] REPUBLIC ACT NO. 7610, sec. 2.

[26] 933 Phil. 889, 907 (2023) [Per J. Lopez, J., En Banc].

[27] 890 Phil. 1159 (2020) [Per J. Leonen, Third Division].

[28] 815 Phil. 646, 664 (2017) [Per J. Leonen, Second Division].

[29] *Malcampo-Repollo v. People*, 890 Phil. 1159, 1177 (2020) [Per J. Leonen, Third Division].

[30] Id. at 1178.

[31] Id. at 1166.

[32] *San Juan v. People*, 933 Phil. 889, 907 (2023) [Per J. Lopez, J., En Banc].

[33] Rollo, pp. 32-33.

[34] *San Juan v. People*, 933 Phil. 889, 907 (2023) [Per J. Lopez, J., En Banc].

[35] Id. at 953. See Concurring Opinion of Associate Justice Alfredo Benjamin S. Caguioa.

[36] 599 Phil. 717, 727 (2009)

[37] *Garma v. People*, 921 Phil. 217, 224 (2022) [Per J. Lazaro-Javier, Third Division].

[38] Id. at 229.

[39] *Reyes v. People*, 137 Phil. 112, 118 (1969) [Per J. Makalintal, En Banc].

[40] AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS "THE REVISED PENAL CODE".

[41] ART. 64. Rules for the application of penalties which contain three periods.—In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of articles 76 and 77, the courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances: (1) When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.

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