

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RAMON INSIERTO, DEFENDANT AND APPELLANT.

G.R. No. 5606. March 02, 1910

Ponente: ARELLANO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5606/>

ARELLANO, C.J.:

The defendant inflicted upon his niece, Marcelina Cainela, a girl of twelve years of age, three wounds, which required a little over a month to cure, without medical attendance, and of which on the day of the trial nothing but the scars appeared. The wounds were: one on the thigh, another near it, and another in the back, and were the result of punishment inflicted with a reaping hook, because she had been unable to answer a question in a lesson that he was giving her.

The Court of First Instance of Cebu, taking into consideration the aggravating circumstance of parentage and in addition that of abuse of a person of tender age, sentenced him to two years and four months of prison correccional, with the corresponding accessory penalties, but credited him with one-half of the time of his detention in prison, and to pay the costs, without subjecting him to pay an indemnity for the reason that no evidence had been adduced as to damages.

Marcelina Cainela declared that she lived with her aunt and uncle, Oliva Insierto and Ramon Insierto, the accused; that the latter was her teacher; that he had been teaching her for a long time and did not beat her when she took lessons, and that he beat her on that occasion only because she had been unable to answer his question.

By his testimony the accused shows that his mental faculties were somewhat unbalanced ever since he suffered from an affection of the head.

The testimony of Oliva Insierto agreed with the statement of her niece, Marcelina Cainela. With respect to the condition of the accused she testified as follows:

"Fiscal. Ramon Insierto, the defendant, has testified that in the month of December, 1908 (when the affair happened), he was insane, Is this true?

"Witness. He suffered from that malady after having been wounded.

"Fiscal. Was he not insane before that?

"Witness. I do not know, but it is true that he was sick.

"Fiscal. What was the nature of his sickness?

"Witness. At first he had pains in the back of the neck and waist."

For the simple reason that when the child Marcelina was asked how many days she had been ill she replied more than one month, the injuries inflicted by the accused have been classified as graves. But upon being asked "Who cured you?" she replied: "We, ourselves;" that is to say, no medical attendance was required. And, further, it has

not been shown whether, as a result, she was unable to attend to her ordinary work.

There is reason to question the classification of the wounds as graves, made by the trial court, in view of the doctrine established by the decision in cassation of the 23d of December, 1876, to wit, that "in classifying injuries where the special circumstances of Nos. 1, 2, and 3 of article 431 of the Penal Code are not involved (416 of the Code of the Philippines), the application of the criminal law depends entirely upon the longer or shorter duration of the medical attendance, or of the inability to work in the fields, all of which must be considered in classifying the injuries;" for this reason the foregoing decision reversed as erroneous the judgment of the lower court classifying a wound that required forty days to heal as a grave injury, notwithstanding the fact that it was evident that the injured party had not needed medical attendance after twelve days and was able to attend to his ordinary work.

But admitting as proper the classification of the wounds as graves, in accordance with No. 4 of article 416 of the Penal Code, the result is that the penalty applicable is that of *arresto mayor* in its maximum degree to *prision correccional* in its minimum degree, to wit, from four months and one day to six months of *arresto*, and from six months and one day to two years and four months of *prision correccional*. Hence, by sentencing the defendant to two years and four months of *prision correccional*, the court below has applied the extreme penalty; it must therefore have taken into account the two aggravating circumstances which have been considered in its judgment; that of the relationship, and of the age of the injured party.

If in the present case it were possible to consider the circumstance of the relationship, the same article 416, by its paragraph 2, raises the penalty for No. 4 to *prision correccional* in its minimum and medium degrees; and this would be the penalty that should be applied, not that imposed by the court below, which is merely the penalty prescribed by paragraph 4 of article 416 in its maximum degree. The fact is that the circumstance of relationship can not be considered, neither as an aggravating circumstance, as stated in the judgment of the court below, nor as a mitigating one as proposed by the Attorney-General in this instance. The relationship which might aggravate or mitigate criminal liability is defined by the first paragraph of article 10 of the Penal Code: "When the injured person is the spouse, or ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender." The girl Marcelina Cainela does not come within any of the above degrees of relationship with respect to the defendant, who is simply her uncle, as she calls him.

As to the other aggravating circumstance considered in the judgment and also in the brief of the Attorney-General in this instance, to wit, the insult or contempt for the respect which the injured person deserved on account of her age, there is likewise reason for doubt. It is true that there is always reason for reproach if an outsider should lay his hands on a boy or a girl; but the same act done in order to punish a boy or a girl can not be censured if, for example, it were done by the father or the mother. Punishment, even though it be administered by laying the hands on a child, is not per se, a crime, as long as it is reasonable and moderate. Excessive punishment is the kind for which the penal law punishes the father or mother. It is so stated in paragraph 4 of the said article 416: "The injuries which a father may cause his child in too severe correction are not included in the preceding paragraph (the second paragraph above cited)." Hence, in the case of the father who corrects his child, the circumstances of relationship or age of the child are not considered as modifying for the reason that they are necessarily involved in such a case of excess of correction, which alone is what constitutes the crime of *lesiones*.

A child who complains of excessive correction received from his father is always a relative and always a minor. The criminal law does not expressly place a teacher in the same position as a father; but on the other hand, when a pupil or a child causes less grave injuries to his teacher or to his father, the law makes the relation of the injured person a reason for increasing the penalty applicable to the offender.

By virtue of the foregoing, and inasmuch as it is proper to consider said circumstance as the only one in the case, as was done in the judgment appealed from, it is our opinion that the penalty imposed by paragraph 4 of article 416 should be applied in the minimum grade of the maximum degree, reducing the same to one year eight months and one day of prision correccional, one-half of the period of detention being credited to the accused.

Thus modified the judgment appealed from is hereby affirmed; provided, however, that the penalty of two years and four months imposed therein shall be changed to one year eight months and one day, with the costs of this instance against the appellant. So ordered.

Torres, Mapa, Johnson, Carson, and Moreland, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.