



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ROSAL HUBILLA y CARILLO,
Petitioner,

G.R. No. 176102

Present:

-versus-

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
*VILLARAMA, JR., and
PEREZ, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
NOV 26 2014

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RESOLUTION

BERSAMIN, J.:

The Court recognizes the mandate of Republic Act No. 9344 (*Juvenile Justice and Welfare Act of 2006*) to protect the best interest of the child in conflict with the law through measures that will ensure the observance of international standards of child protection,¹ and to apply the principles of restorative justice in all laws, policies and programs applicable to children in conflict with the law.² The mandate notwithstanding, the Court will not hesitate or halt to impose the penalty of imprisonment whenever warranted on a child in conflict with the law.

Antecedents

The Office of the Provincial Prosecutor of Camarines Sur charged the petitioner with homicide under the following information docketed as Criminal Case No. 2000-0275 of the Regional Trial Court (RTC), Branch 20, in Naga City, to wit:

* Vice Associate Justice Estela M. Perlas-Bernabe per Special Order No. 1885 dated November 24, 2014.

¹ Republic Act No. 9344, Section 2 (b).

² Republic Act No. 9344, Section 2 (f).

R.

That on or about the 30th day of March, 2000 at about 7:30 P.M., in Barangay Dalupaon, Pasacao, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, and without any justifiable cause, did then and there willfully, unlawfully and feloniously assault, attack and stab one JAYSON ESPINOLA Y BANTA with a knife, inflicting upon the latter mortal wounds in his body, thus, directly causing his death, per Death Certification hereto attached as annex "A" and made an integral part hereof, to the damage and prejudice of the deceased's heirs in such amount as may be proven in court.

Acts Contrary to Law.³

The CA summarized the facts established by the Prosecution and the Defense as follows:

Alejandro Dequito testified that around seven in the evening or so of March 30, 2000, he, together with his *compadre* Nicasio, was at the gate of Dalupaon Elementary School watching the graduation ceremony of the high school students. While watching, his cousin Jason Espinola, herein victim, arrived. Later, however, appellant approached the victim and stabbed the latter. When asked to demonstrate in open court how the appellant stabbed the victim, this witness demonstrated that with the appellant's left arm around the neck of the victim, appellant stabbed the victim using a bladed weapon.

He aided the victim as the latter was already struggling to his feet and later brought him to the hospital.

Nicasio Ligadia, witness Dequito's companion at the time of the incident, corroborated the testimony of Dequito on all material points.

Marlyn Espinosa, the mother of the deceased, testified that her son was stabbed in front of the [elementary] school and later brought to the Bicol Medical Center. She stated that her son stayed for more than a month in the hospital. Thereafter, her son was discharged. Later, however, when her son went back to the hospital for a check-up, it was discovered that her son's stab wound had a complication. Her son was subjected to another operation, but died the day after.

She, further, stated that the stabbing incident was reported to the police authorities. She, likewise, stated the amounts she incurred for the wake and burial of her son.

Robert Casin, the medico legal expert, testified that the cause of death of the victim, as stated by Dr. Bichara, his co-admitting physician, was organ failure overwhelming infection. He, further, stated that the underlined cause of death was a stab wound.

³ Rollo, p. 21.

The appellant, in his testimony, narrates his statement of facts in this manner:

He testified that around seven in the evening or so of March 30, 2000, he was at the Dalupaon High School campus watching the high school graduation rites. At half past seven, while walking towards the gate of Dalupaon High School on his way home, he was ganged up by a group of four (4) men.

The men attacked and started to box him. After the attack he felt dizzy and fell to the ground. He was not able to see or even recognize who attacked him, so he proceeded home. Shortly after leaving the campus, however, he met somebody whom he thought was one of the four men who ganged up on him. He stabbed the person with the knife he was, then, carrying. When asked why he was in possession of a knife, he stated that he used it in preparing food for his friend, Richard Candelaria, who was graduating that day. He went home after the incident.

While inside his house, barangay officials arrived, took him and brought him to the barangay hall, and later to the Pasacao PNP. On his way to the town proper, he came to know that the person he stabbed was Jason Espinola. He felt sad after hearing it.⁴

Judgment of the RTC

After trial, the RTC rendered its judgment finding the petitioner guilty of homicide as charged, and sentenced him to suffer the indeterminate penalty of imprisonment for four years and one day of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum; and to pay to the heirs of the victim ₱81,890.04 as actual damages for medical and funeral expenses, and ₱50,000.00 as moral damages.⁵

Decision of the CA

On appeal, the Court of Appeals (CA) affirmed the petitioner's conviction but modified the penalty and the civil liability through the decision promulgated on July 19, 2006,⁶ disposing thus:

WHEREFORE, premises considered, the decision of the Regional Trial Court of Naga City, Branch 20, in Criminal Case Number 2000-0275, finding appellant Rosal Hubilla y Carillo, guilty beyond reasonable doubt of Homicide is, hereby, **AFFIRMED with MODIFICATIONS**. Appellants (sic) sentence is reduced to six months and one day to six years of *prision correccional* as minimum, to six years and one day to twelve years of *prision mayor* as maximum.

⁴ Id. at 31- 33.

⁵ Id. at 22-27.

⁶ Id. at 29-44; penned by Associate Justice Jose L. Sabio, Jr. (deceased), concurred in by Associate Justice Rosalinda Asuncion-Vicente (retired) and Associate Justice Sesinando E. Villon.

The civil aspect of the case is **MODIFIED** to read: The award of actual damages in the amount of Php 81,890.04, representing expenses for medical and funeral services, is reduced to Php 16,300.00. A civil indemnity, in the amount of Php 50,000.00, is awarded to the legal heirs of the victim Jason Espinola. We affirm in all other respects.

SO ORDERED.

On motion for reconsideration by the petitioner, the CA promulgated its amended decision on December 7, 2006, decreeing as follows:⁷

WHEREFORE, the instant Motion for Reconsideration is **PARTIALLY GRANTED**. Our decision promulgated on July 16, 2006, which is the subject of the instant motion is, hereby **AMENDED** such that the judgment shall now read as follows:

WHEREFORE, premises considered, the decision of the Regional Trial Court of Naga City, Branch 20, in Criminal Case Number 2000-0275, finding appellant Rosal Hubilla y Carillo, guilty beyond reasonable doubt of Homicide is, hereby, **AFFIRMED with MODIFICATIONS. Appellant is sentenced to an indeterminate penalty of six months and one day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*.**

The civil aspect of the case is **MODIFIED** to read: The award of actual damages in the amount of Php 81,890.04, representing expenses for medical and funeral services, is reduced to Php 16,300.00. A civil indemnity, in the amount of Php 50,000.00, is awarded to the legal heirs of the victim Jason Espinola. We affirm in all other respects.

The case is, hereby, remanded to the Regional Trial Court of Naga, Branch 20, for appropriate action on the application for probation of, herein, appellant.

SO ORDERED.

Issues

The petitioner has come to the Court imputing grave error to the CA for not correctly imposing the penalty, and for not suspending his sentence as a juvenile in conflict with the law pursuant to the mandate of Republic Act No. 9344. In fine, he no longer assails the findings of fact by the lower courts as well as his conviction, and limits his appeal to the following issues, namely: (1) whether or not the CA imposed the correct penalty imposable on him taking into consideration the pertinent provisions of Republic Act No. 9344, the *Revised Penal Code* and Act No. 4103 (*Indeterminate Sentence Law*); (2) whether or not he was entitled to the benefits of probation and

⁷ Id. at 58–62.

suspension of sentence under Republic Act No. 9344; and (3) whether or not imposing the penalty of imprisonment contravened the provisions of Republic Act No. 9344 and other international agreements.

Ruling of the Court

Article 249 of the *Revised Penal Code* prescribes the penalty of *reclusion temporal* for homicide. Considering that the petitioner was then a minor at the time of the commission of the crime, being 17 years, four months and 28 days old when he committed the homicide on March 30, 2000,⁸ such minority was a privileged mitigating circumstance that lowered the penalty to *prision mayor*.⁹

Under the *Indeterminate Sentence Law*, the minimum of the indeterminate sentence should be within the penalty next lower than the imposable penalty, which, herein, was *prision correccional* (i.e., six months and one day to six years). For the maximum of the indeterminate sentence, *prision mayor* in its medium period – eight years and one day to 10 years – was proper because there were no mitigating or aggravating circumstances present. Accordingly, the CA imposed the indeterminate penalty of imprisonment of six months and one day of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum.

The petitioner insists, however, that the maximum of his indeterminate sentence of eight years and one day of *prision mayor* should be reduced to only six years of *prision correccional* to enable him to apply for probation under Presidential Decree No. 968.

The petitioner's insistence is bereft of legal basis. Neither the *Revised Penal Code*, nor Republic Act No. 9344, nor any other relevant law or rules support or justify the further reduction of the maximum of the indeterminate sentence. To yield to his insistence would be to impose an illegal penalty, and would cause the Court to deliberately violate the law.

A.M. No. 02-1-18-SC¹⁰ (*Rule on Juveniles in Conflict with the Law*) provides certain guiding principles in the trial and judging in cases involving a child in conflict with the law. One of them is that found in Section 46 (2), in conjunction with Section 5 (k), whereby the restrictions on the personal

⁸ Per his birth certificate, Rosal's date of birth was November 2, 1982.

⁹ Article 68, par. 2 of the *Revised Penal Code*.

¹⁰ Resolution dated November 24, 2009.

liberty of the child shall be limited to the minimum.¹¹ Consistent with this principle, the amended decision of the CA imposed the ultimate minimums of the indeterminate penalty for homicide under the *Indeterminate Sentence Law*. On its part, Republic Act No. 9344 nowhere allows the trial and appellate courts the discretion to reduce or lower the penalty further, even for the sake of enabling the child in conflict with the law to qualify for probation.

Conformably with Section 9(a) of Presidential Decree 968,¹² which disqualifies from probation an offender sentenced to serve a maximum term of imprisonment of more than six years, the petitioner could not qualify for probation. For this reason, we annul the directive of the CA to remand the case to the trial court to determine if he was qualified for probation.

Although Section 38 of Republic Act No. 9344 allows the suspension of the sentence of a child in conflict with the law adjudged as guilty of a crime, the suspension is available only until the child offender turns 21 years of age, pursuant to Section 40 of Republic Act No. 9344, to wit:

Section 40. *Return of the Child in Conflict with the Law to Court.* – If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has wilfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

We note that the petitioner was well over 23 years of age at the time of his conviction for homicide by the RTC on July 19, 2006. Hence, the suspension of his sentence was no longer legally feasible or permissible.

¹¹ Section 46 (2), A.M. No. 02-1-18-SC, Rule on Juveniles in Conflict with the Law. *See also* Sec. 5 (k) of RA 9344 which provides: Every child in conflict with the law shall have the following rights, including but not limited to:

x x x x

(k) **the right to have restrictions on his/her personal liberty limited to the minimum**, and where discretion is given by law to the judge to determine whether to impose fine or imprisonment, the imposition of fine being preferred as the more appropriate penalty; (Emphasis Supplied)

¹² *Establishing A Probation System, Appropriating Funds Therefor and For Other Purposes* (July 24, 1976).

Lastly, the petitioner posits that condemning him to prison would be in violation of his rights as a child in conflict with the law as bestowed by Republic Act No. 9344 and international agreements.

A review of the provisions of Republic Act No. 9344 reveals, however, that imprisonment of children in conflict with the law is by no means prohibited. While Section 5 (c) of Republic Act No. 9344 bestows on children in conflict with the law the right not to be unlawfully or arbitrarily deprived of their liberty; imprisonment as a proper disposition of a case is duly recognized, subject to certain restrictions on the imposition of imprisonment, namely: (a) the detention or imprisonment is a disposition of last resort, and (b) the detention or imprisonment shall be for the shortest appropriate period of time. Thereby, the trial and appellate courts did not violate the letter and spirit of Republic Act No. 9344 by imposing the penalty of imprisonment on the petitioner simply because the penalty was imposed as a last recourse after holding him to be disqualified from probation and from the suspension of his sentence, and the term of his imprisonment was for the shortest duration permitted by the law.

A survey of relevant international agreements¹³ supports the course of action taken herein. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Guidelines),¹⁴ the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Liberty¹⁵ are consistent in recognizing that imprisonment is a valid form of disposition, provided it is imposed as a last resort and for the minimum necessary period.

Lastly, following Section 51 of Republic Act No. 9344, the petitioner, although he has to serve his sentence, may serve it in an agricultural camp or other training facilities to be established, maintained, supervised and controlled by the Bureau of Corrections, in coordination with the Department of Social Welfare and Development, in a manner consistent with the offender child's best interest. Such service of sentence will be in lieu of service in the regular penal institution.

¹³ The provisions of all these agreements are adopted by or incorporated in RA 9344, *per* Section 5.

¹⁴ 19.1 of the Beijing Guidelines (November 29, 1985) provides: "The placement of a juvenile in an institution shall be a disposition of last resort and for the minimum necessary period." Also 17.1 (b) also provides that: "Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum."

¹⁵ Fundamental Perspectives No. 2 states: "Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations standard minimum rules for the Administration of Juvenile Justice (The Beijing Rules). Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by judicial authority, without precluding the possibility of his or her early release."

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; **AFFIRMS** the amended decision promulgated on December 7, 2006 in C.A.- G.R. CR No. 29295, but **DELETING** the order to remand the judgment to the trial court for implementation; and **DIRECTS** the Bureau of Corrections to commit the petitioner for the service of his sentence in an agricultural camp or other training facilities under its control, supervision and management, in coordination with the Department of Social Welfare and Development.

No pronouncement on costs of suit.

SO ORDERED.

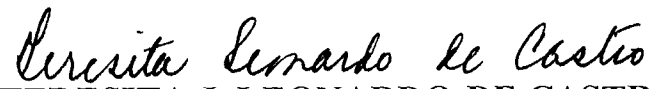
WE CONCUR:



LUCAS P. BERSAMIN
Associate Justice



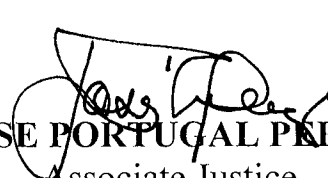
MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice