

## EN BANC

[ G.R. No. 174659, July 28, 2008 ]

### **PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAGA SARAPIDA MAMANTAK AND LIKAD SARAPIDA TAURAK, ACCUSED-APPELLANTS.**

**FACTS:** A mother lost her two-year old son in Manila and recovered him after 16 months from the two accused in Kapatagan, Lanao del Norte. She reported him missing to the authorities and even informed the public through tv and radio announcements but to no avail. Months after the disappearance of her son, she received a call from a Muslim woman asking for P30,000 in exchange for her son who was in their custody in Mindanao. With the assistance of the Presidential Anti-Organized Crime Task Force, the two accused were arrested during the pay off. One of the accused claimed that she was merely giving the boy refuge when she took him under her care and the other accused stated that she was only at the pay off point by coincidence and it was her first time seeing the boy.

**ISSUE:** Were the testimony of the two accused credible?

**RULING:** No. The Court held that evidence to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. The statements of the two accused did not deserve credence. The factual findings of the trial court, including its assessment of the credibility of the witnesses and the probative weight thereof, are accorded great, if not conclusive, value when affirmed by the Court of Appeals.

#### ***What is the essence of the crime of kidnapping?***

It is the actual deprivation of the victim's liberty coupled with the intent of the accused to effect it. If the victim is a minor or if the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his detention becomes inconsequential.

#### ***Elements of Kidnapping:***

- (1) the offender is a private individual; not either of the parents of the victim or a public officer who has a duty under the law to detain a person;
- (2) he kidnaps or detains another, or in any manner deprives the latter of his liberty;
- (3) the act of detention or kidnapping must be illegal and
- (4) in the commission of the offense, any of the following circumstances is present:
  - (a) the kidnapping or detention lasts for more than three days;
  - (b) it is committed by simulating public authority;

- (c) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made or
- (d) the person kidnapped or detained is a minor, female or a public official.

***What is ransom?***

Ransom means money, price or consideration paid or demanded for the redemption of a captured person that will release him from captivity. No specific form of ransom is required to consummate the felony of kidnapping for ransom as long as the ransom is intended as a bargaining chip in exchange for the victim's freedom. The amount of and purpose for the ransom is immaterial.

***Death Penalty Law***

While the penalty for kidnapping for the purpose of extorting ransom from the victim or any other person under Article 267 of the Revised Penal Code is death, RA 9346 has banned the death penalty and reduced all death sentences to reclusion perpetua without eligibility for parole. Pursuant to this law, we reduce the penalty imposed on appellants from death to reclusion perpetua, without eligibility for parole.

***Is the award of damages proper?***

Yes. When the crime of kidnapping is attended by a demand for ransom, by way of example or correction, an award for exemplary damages is proper.

## **D E C I S I O N**

### **CORONA, J.:**

There are people who are simply incapable of feeling pity or compassion for others.

Ma. Teresa Basario must have felt a dagger deep in her heart when she lost her two-year old son, Christopher, two weeks before Christmas on December 13, 1999. And again upon being reunited with him some 16 months later when he could neither recognize her nor remember who he was.

Justice demands that those responsible for this cruel and agonizing separation of mother and child be punished to the full extent of the law.

At about 3:00 p.m. on December 13, 1999, Teresa went with Christopher and her elder sister Zenaida to a McDonald's outlet in the KP Tower in Juan Luna St., Binondo, Manila. Teresa and Christopher looked for a vacant table while Zenaida proceeded to order their food. Shortly after Teresa took her seat, Christopher followed Zenaida to the counter. Barely had Christopher gone from his mother's sight when she realized that he had disappeared. She and her sister frantically looked for him inside and outside the premises of the fastfood outlet, to no avail. As their continued search for the child was futile, they reported him missing to the nearest police detachment.

The following day, Teresa went to several TV and radio stations to inform the public of the loss of Christopher and to appeal for help and information. Despite the publicity, however, Teresa received no word about Christopher's whereabouts. Worse, pranksters were gleefully having a field day aggravating her misery.

On February 25, 2001, Teresa received a call from a woman who sounded like a muslim. The caller claimed to have custody of Christopher and asked for P30,000 in exchange for the boy.

On March 27, 2001, the same muslim-sounding woman called and instructed Teresa to get a recent photo of her son from the Jalal Restaurant at the Muslim Center in Quiapo, Manila. True enough, when Teresa went there, someone gave her a recent picture of Christopher. She then contacted the mysterious woman through the cellphone number the latter had previously given her. When the woman instructed her to immediately board a ship for Mindanao, Teresa reasoned that she had not raised the ransom money yet. They then agreed to conduct the pay off in the morning of April 7, 2001 at Pitang's Carinderia in Kapatagan, Lanao del Norte.

Teresa sought the help of the Presidential Anti-Organized Crime Task Force (PAOCTF). A team was formed and Police Officer (PO)<sup>3</sup><sup>[1]</sup> Juliet Palafox was designated to act as Teresa's niece.

Together with the PAOCTF team, Teresa left for Mindanao on April 4, 2001. On April 7, 2001, they arrived in Iligan City and proceeded to the designated meeting place.

At around 8:30 a.m., while Teresa and PO3 Palafox were waiting at Pitang's Carinderia, two women came. They were Raga Sarapida Mamantak and Likad Sarapida Taurak. Mamantak approached Teresa and PO3 Palafox and asked who they were waiting for. Teresa replied that they were waiting for a certain Rocma Bato, the name written at the back of the picture she received in Jalal Restaurant in Manila. She showed the photo to Mamantak who stated that she knew Bato. Mamantak then told Teresa that she would ask a cousin of Bato if the latter was already in Kapatagan. Mamantak turned to Taurak, supposedly the cousin of Bato. Taurak came near Teresa and PO3 Palafox and informed them that she had Christopher. Taurak asked Teresa and PO3 Palafox to come with her but they refused. Taurak reluctantly agreed to leave Mamantak with them while she fetched Christopher.

Several hours later, in the afternoon of the same day, Taurak returned and told Teresa that Christopher was in a nearby ice plant. She asked Teresa to go with her but the latter insisted on their agreement that the boy be handed over at the carinderia. Taurak relented, left and came back after several minutes with Christopher.

Upon seeing her son, Teresa cried and embraced him. However, the child was unmoved. He no longer recognized nor understood her for he could only speak in the muslim dialect. When asked who he was, the boy gave a muslim name with "Taurak" as surname.

Mamantak and Taurak interrupted Teresa and demanded the ransom money. She answered that her niece had it and pointed to PO3 Palafox. Thereafter, Mamantak and PO3 Palafox boarded a jeepney which was parked outside, under Taurak's watchful eyes. Inside the jeepney, PO3 Palafox handed the ransom money to Mamantak. At this juncture, PO3 Palafox gave the pre-agreed signal and the PAOCTF team then closed in and arrested Mamantak and Taurak.

Christopher relearned Tagalog after a month and gradually began to forget the incident. On the other hand, Teresa almost lost her sanity. At the time Christopher was kidnapped, she was pregnant with her third child. The child, born very sickly, eventually died.

The sisters Mamantak and Taurak were charged with kidnapping for ransom under the following Information:

That on December 13, 1999 in Binondo, Manila and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another and grouping themselves together, did then and there, willfully, unlawfully and feloniously take, carry away and deprive Christopher Basario, a two-year old minor of his liberty against his will for the purpose of extorting ransom as in fact a demand for ransom was made as a condition for his release amounting to THIRTY THOUSAND PESOS (P30,000.00) to the damage and prejudice of Christopher Basario in said amount and such other amount as maybe awarded to him under the provisions of the Civil Code.

CONTRARY TO LAW.

Mamantak and Taurak pleaded not guilty when arraigned. After pre-trial, trial ensued and the parties presented their respective evidence.

In defense, Mamantak and Taurak denied the charges against them. Taurak testified that at the time and date of the alleged kidnapping, she was peddling wares in Divisoria market, Manila. When she saw Christopher wandering about aimlessly, she talked to him but he did not seem to understand her. She took the boy under her care and waited for someone to come for him. No one did. As it was already 7:00 p.m., she brought the boy home with her to the Muslim Center in Quiapo.

The next day, she and her husband took the boy to the nearest police outpost but no one was there so they just brought the boy to their stall. They opted to keep the boy until his parents could claim him.

On February 17, 2001, Taurak brought the child to Maganding, Sultan Kumander, Lanao del Sur. Sometime later, Teresa contacted her and asked for Christopher's picture for confirmation. It was at this point that Taurak arranged a meeting at Pitang's Carinderia in Kapatagan, Lanao del Norte on April 7, 2001. She did not bring the boy at first as a precautionary measure. Only after confirming that Teresa was the boy's mother did she relinquish custody to her. However, she was shocked when members of the PAOCTF suddenly arrested her. She protested because she was innocent. There were no charges against her nor was there a warrant for her arrest.

Mamantak corroborated her sister Taurak's testimony. She claimed that she was at Nunungan, Lanao del Norte on December 13, 1999. At that time, she did not know the exact whereabouts of Taurak who was in Manila and whom she had not seen for some time. They met again on April 7, 2001 at Pitang's Carinderia but only by chance. She happened to be there when Taurak came. When Teresa arrived later, Taurak talked to her and then left, returning after a few hours with Christopher whom Mamantak saw for the first time. Taurak told her that she had found the boy and was returning him to his mother. Mamantak stayed in the carinderia all the while, waiting for her ride home at 4:00 p.m. She was stunned when PAOCTF members suddenly arrested her and her sister as she had not committed any crime and there was no warrant for her arrest.

After evaluating the respective evidence of the parties, the trial court rendered a decision<sup>[2]</sup> on November 30, 2004 finding Taurak and Mamantak guilty as charged:

WHEREFORE, judgment is hereby rendered finding both accused LIKAD SARAPIDA TAURAK and accused RAGA SARAPIDA [MAMANTAK] GUILTY beyond reasonable doubt of the crime of Kidnapping for Ransom as amended by RA No. 7659 and both are hereby sentenced to suffer the penalty of *RECLUSION PERPETUA*. Both accused are hereby jointly and severally ordered to pay the Christopher Basario represented by the mother, [Ma.] Teresa Basario the amount of PHP50,000.00 as

compensatory damages and PHP50,000.00 as moral damages. With costs against the accused.

Both accused are given credit for the preventive imprisonment undergone by them during the pendency of this case.

SO ORDERED.<sup>[3]</sup>

Taurak and Mamantak appealed to the Court of Appeals. In a decision<sup>[4]</sup> dated March 31, 2006, the appellate court ruled that the trial court erred in not considering the demand for P30,000 as a demand for ransom. Such circumstance required the imposition of the death penalty. Thus, the appellate court affirmed the conviction of Taurak and Mamantak with modification amending the penalty from *reclusion perpetua* to death.<sup>[5]</sup> Pursuant to Section 13, Rule 124 as amended by Administrative Matter No. 00-5-03-SC, the appellate court certified the case to this Court and accordingly ordered the elevation of the records.<sup>[6]</sup>

We affirm the Court of Appeals, with a modification of penalty.

Kidnapping is defined and punished under Article 267 of the Revised Penal Code, as amended by Republic Act (RA) 7659:

ART. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death.

1. If the kidnapping or detention shall have lasted more than three days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.

The crime has the following elements:

- (1) the offender is a private individual; not either of the parents of the victim<sup>[7]</sup> or a public officer who has a duty under the law to detain a person;<sup>[8]</sup>
- (2) he kidnaps or detains another, or in any manner deprives the latter of his liberty;

(3) the act of detention or kidnapping must be illegal and

(4) in the commission of the offense, any of the following circumstances is present: (a) the kidnapping or detention lasts for more than three days; (b) it is committed by simulating public authority; (c) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made or (d) the person kidnapped or detained is a minor, female or a public official.

If the victim is a minor, the duration of his detention is immaterial. Likewise, if the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his detention becomes inconsequential. The crime is qualified and becomes punishable by death even if none of the circumstances mentioned in paragraphs 1 to 4 of Article 267 of the Revised Penal Code is present.<sup>[9]</sup>

The essence of the crime of kidnapping is the actual deprivation of the victim's liberty coupled with the intent of the accused to effect it.<sup>[10]</sup> It includes not only the imprisonment of a person but also the deprivation of his liberty in whatever form and for whatever length of time.<sup>[11]</sup> And liberty is not limited to mere physical restraint but embraces one's right to enjoy his God-given faculties subject only to such restraints necessary for the common welfare.<sup>[12]</sup>

The two-year-old Christopher suddenly disappeared in Binondo, Manila and was recovered only after almost 16 months from Taurak and Mamantak (both of them private individuals) in Kapatagan, Lanao del Norte. During the entire time the boy was kept away from his mother, he was certainly deprived or restrained of his liberty. He had no means, opportunity or capacity to leave appellants' custody and return to his family on his own. He had no choice but to stay with total strangers, go with them to a far away place and learn a culture and dialect alien to him. At such a very tender age, he was deprived of the liberty to enjoy the company and care of his family, specially his mother.

Taurak unlawfully kept the child under her control and custody and even brought him to Lanao del Norte. She demanded P30,000 in exchange for his return to his mother. On the other hand, Mamantak's actions (e.g., her presence in the *carinderia* and her acceptance of the ransom) showed without doubt that she was aiding her sister and was acting in concert with her. These were the identical factual findings of both the trial and appellate courts. There is no reason to disturb them as they are sufficiently supported by evidence.

Taurak's story that she merely gave Christopher refuge was incredible. It was like the apocryphal tale of a man accused of theft of large cattle; his excuse was that he saw a piece of rope and brought it home not knowing that there was a cow tied to the other end. She never even tried to bring the boy to the proper authorities or surrender him to the Department of Social Welfare and Development's social workers in her *barangay* or in the city hall at any time during the 16 months he was with her. And how could Teresa have initiated her phone conversations with Taurak when they were total strangers to each other?

Similarly, Mamantak's account that she was at Pitang's Carinderia only by coincidence and that it was only there that she first saw Christopher invites nothing but disbelief. The unequivocal testimonies of the prosecution witnesses on her role in arranging for the payment of ransom and the release of the kidnap victim (e.g., confirming the identity of Teresa and demanding and receiving the ransom money) showed otherwise. The evidence clearly established that Mamantak was a principal in the kidnapping of Christopher.

Evidence to be believed must not only proceed from the mouth of a credible witness but must be credible in itself.<sup>[13]</sup> The trial and appellate courts correctly ruled that the statements of Taurak and Mamantak did not deserve credence. Moreover, factual findings of the trial court, including its assessment of the credibility of the witnesses and the probative weight thereof, are accorded great, if not conclusive, value when affirmed by the Court of Appeals.<sup>[14]</sup>

The Court of Appeals considered the demand for P30,000 as a qualifying circumstance which necessitated the imposition of the death penalty. On the other hand, the trial court deemed the amount as too measly, compared to what must have been actually spent for the care and subsistence of Christopher for almost two years. It therefore treated the amount not as ransom but as a reimbursement of expenses incurred for taking care of the child. (Kidnappers in Mindanao today call it reimbursement for "board-and-lodging.")

Ransom means money, price or consideration paid or demanded for the redemption of a captured person that will release him from captivity.<sup>[15]</sup> No specific form of ransom is required to consummate the felony of kidnapping for ransom as long as the ransom is intended as a bargaining chip in exchange for the victim's freedom.<sup>[16]</sup> The amount of and purpose for the ransom is immaterial.

In this case, the payment of P30,000 was demanded as a condition for the release of Christopher to his mother. Thus, the Court of Appeals correctly considered it as a demand for ransom.

One final point of law. While the penalty for kidnapping for the purpose of extorting ransom from the victim or any other person under Article 267 of the Revised Penal Code<sup>[17]</sup> is death, RA 9346<sup>[18]</sup> has banned the death penalty and reduced all death sentences to *reclusion perpetua* without eligibility for parole. Pursuant to this law, we reduce the penalty imposed on appellants from death to *reclusion perpetua*, without eligibility for parole.

In line with prevailing jurisprudence, the award of P50,000 civil indemnity<sup>[19]</sup> was proper. Pursuant to *People v. Garalde*,<sup>[20]</sup> the award of P50,000<sup>[21]</sup> moral damages is increased to P200,000 considering the minority of Christopher. Moreover, since the crime was attended by a demand for ransom, and by way of example or correction, Christopher is entitled to P100,000 exemplary damages.<sup>[22]</sup>

**WHEREFORE**, the appeal is hereby **DENIED**. The March 31, 2006 decision of the

Court of Appeals in CA-G.R. CR-H.C. No. 00729

is **AFFIRMED** with **MODIFICATION**. Appellants Raga Sarapida Mamantak and Likad Sarapida Taurak are hereby found guilty beyond reasonable doubt of the crime of kidnapping for ransom for which they are sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. They are further ordered to pay, jointly and severally, P50,000 civil indemnity, P200,000 moral damages and P100,000 exemplary damages to their young victim Christopher Basario.

Costs against appellants.

**SO ORDERED.**

*Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Chico-Nazario, Velasco, Jr., Leonardo-De Castro, and Brion, JJ., concur. Azcuna, Tinga, and Reyes, JJ., on official leave. Nachura, J., no part.*

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\* On official leave.

\*\* No part.

\*\*\* On leave.

[1] In some parts of the records, PO2.

[2] Penned by Acting Presiding Judge Amor A. Reyes of the Regional Trial Court of Manila, Branch 43. Court of Appeals Records, pp. 23-39.

[3] *Id.*

[4] Penned by Associate Justice Roberto A. Barrios (deceased) and concurred in by Mario L. Guariña III and Santiago Javier Ranada (retired) of the Fifth Division of the Court of Appeals. *Rollo*, pp. 2-20.

[5] *Id.*

[6] *Id.*

[7] When the victim is a minor and the accused is any of the parents, the crime is defined and penalized under the second paragraph of Article 271 of the Revised Penal Code.

[8] A public officer (such as policeman) who has a duty under the law to detain a person but detains a person without legal ground is liable for arbitrary detention defined and penalized under Article 124 of the Revised Penal Code. Thus, a public officer who has no legal duty to detain a person may be prosecuted for illegal detention and kidnapping.

[9] *People v. Jatulan*, G.R. No. 171653, 24 April 2007, 522 SCRA 174.

[10] *Id.*

[11] *Id.*

[12] *See Rubi v. Provincial Board of Mindoro*, 39 Phil. 660 (1919).

[13] *People v. Alba*, 326 Phil. 519 (1996).

[14] *People v. Garalde*, G.R. No. 173055, 13 April 2007, 521 SCRA 327.

<sup>[15]</sup> *People v. Jatulan, supra.*

<sup>[16]</sup> *Id.*

<sup>[17]</sup> As amended by RA 7659.

<sup>[18]</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

<sup>[19]</sup> See *People v. Solangon*, G.R. No. 172693, 21 November 2007; *People v. Yambot*, 397 Phil. 23, (2000).

<sup>[20]</sup> *Supra* note 12.

<sup>[21]</sup> See *People v. Solangon, supra*; *People v. Baldogo*, 444 Phil. 35, 66 (2003); *People v. Garcia*, 424 Phil. 158, 194 (2002).

<sup>[22]</sup> *Id.*