



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

N O T I C E

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 April 2022** which reads as follows:*

“G.R. No. 252551 (*People of the Philippines v. XXX*). — On appeal² is the November 20, 2019 Decision³ of the Court Appeals (CA) in CA-G.R. CR HC No. 12246, affirming the November 20, 2018 Joint Decision⁴ of the Regional Trial Court, [REDACTED]⁵, convicting accused-appellant XXX (accused-appellant) of two counts of Statutory Rape under Article 266-A, paragraphs 1 and 2, of the Revised Penal Code (RPC),⁶ in relation to Republic Act No. (RA) 7610,⁷ in Criminal Case Nos. 2012-110-I and 2012-111-I.

The Facts

In separate Informations,⁸ accused-appellant was charged with two counts of Statutory Rape: (1) by sexual assault under paragraph 2 of Article 266-A of the RPC, and (2) through carnal knowledge under the first paragraph of the same article, which read, thus:

1. [Statutory rape by sexual assault] Criminal Case No. 2012-110-I:

¹ Initials were used to identify the accused-appellant pursuant to Amended Administrative Circular No. 83-15 dated September 5, 2017 entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.”

² *Rollo*, pp. 24-25.

³ Id. at 3-23. Penned by Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of this Court) and concurred in by Associate Justices Maria Elisa Sempio Diy and Gabriel T. Robeniol.

⁴ Records, pp. 253-264. Penned by Acting Presiding Judge Agripino R. Bravo.

⁵ Geographical location is blotted out pursuant to Supreme Court Amended Circular No. 83-2015.

⁶ As amended by Republic Act No. 8353, The Anti Rape Law of 1997, enacted on October 23, 1997.

⁷ Entitled “THE SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION, AND DISCRIMINATION ACT.” Approved: June 17, 1992.

⁸ Records pp. 2-3, 5-6.

That on or about August 2011, sometimes (sic) prior or subsequent thereto, in the [REDACTED], Philippines,⁹ and within the jurisdiction of this Honorable Court, the above-named accused, through force, intimidation and/or threat, did then and there unlawfully, willfully and feloniously, assault sexually one [XXX],¹⁰ a minor, the (sic) five (5) years of age, touching the latter's vagina and thereafter inserted his finger in the vagina of the complainant-minor, against her will and without her consent, which debases, demeans and/or degrades the intrinsic worth and dignity of a (sic) the complainant-minor as a human being.

CONTRARY TO LAW.¹¹

2. [Statutory rape through sexual intercourse] Criminal Case No. 2012-111-I:

That on or about 8th day of March 2012, sometimes (sic) prior or subsequent thereto, in [REDACTED] [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, through force, intimidation and/or threat, did then and there unlawfully, willfully and feloniously, had carnal knowledge to (sic) one [AAA], a minor, then five (5) years of age, against her will and without her consent, which debases, demeans and/or degrades the intrinsic worth and dignity of a (sic) the complainant-minor as a human being.

CONTRARY TO LAW.¹²

Upon arraignment, accused-appellant pleaded not guilty to the charges.¹³

Version of the Prosecution

The prosecution offered documentary evidence to support the charges,¹⁴ and presented three witnesses, namely: (1) AAA, the victim; (2) BBB, the victim's mother; and (3) Dr. Melissa T. Capili-Vargas (Dr. Capili-Vargas), the Rural Health Physician who medically examined AAA.¹⁵

⁹ Geographical location is redacted pursuant to Supreme Court Amended Administrative Circular No. 83-2015, Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances issued on September 5, 2017.

¹⁰ "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004." (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

¹¹ Records, p. 2.

¹² Id. at 5.

¹³ *Rollo*, p. 5.

¹⁴ Records, pp. 32-34.

¹⁵ Id.

AAA was five years old when the alleged rape incidents occurred.¹⁶ BBB engaged accused-appellant as service tricycle driver to ferry AAA from school to their house. Although AAA was usually accompanied by an older male cousin, on certain instances, AAA was by her lonesome and charged to accused-appellant's care for the stretch of the trip. AAA typically sat in front of accused-appellant as he drove.¹⁷

On different occasions beginning in August 2011, whether AAA was alone with accused-appellant inside the tricycle as they waited for the other service passengers, or while AAA sat in front of accused-appellant as he drove, accused-appellant would fondle AAA and insert his finger inside AAA's vagina.¹⁸

On March 8, 2012, while waiting for the other service passengers, accused-appellant brought AAA to the toilet of the church beside the school, positioned AAA on top of the toilet bowl, undressed himself and AAA of their apparel, pants, skirt and underwear, and then inserted his penis into AAA's vagina.¹⁹ Upon returning to the tricycle, accused-appellant once again fondled AAA's vagina.²⁰

Meanwhile, BBB received a report concerning accused-appellant's repeated fondling of AAA, *i.e.*, touching and inserting his finger into her vagina.²¹ Thus, upon AAA's arrival at their house, BBB asked AAA about the alleged incidents.²²

AAA initially hesitated to confirm to her mother the ordeal she suffers. However, at BBB's persistence and prodding, AAA finally disclosed to her mother all that accused-appellant had done to her, specifically that accused-appellant constantly fondled her while on board the tricycle, and that he raped her inside the toilet of the church. AAA told her mother that she kept the ordeal from her since she was afraid of accused-appellant and her mother's reaction.²³

In all haste, BBB brought AAA to the Municipal Health Officer, Dr. Capili-Vargas, who examined the victim and issued the following medical report:²⁴

Genital Examination:

- [Inflammation] and redness: lateral (right and left areas) vestibule, posterior introitus, posterior (lower) urethra

¹⁶ AAA's Certificate of Live Birth, *id.* at 18.

¹⁷ *Id.* at 255.

¹⁸ *Id.* at 54-55.

¹⁹ *Rollo*, pp. 5-6.

²⁰ Records, pp. 12-13.

²¹ *Rollo*, p. 6.

²² Records, pp. 15-16.

²³ *Rollo*, p. 7.

²⁴ *Id.*

- Enlarged clitoris and clitoral fold
- Widened vaginal orifice (opening).²⁵

BBB further testified that the traumatic experience changed AAA, from a jolly and inquisitive child, to being secretive and oblivious to her surroundings. Consequently, BBB brought AAA to a psychiatrist for treatment and therapy.²⁶

On cross examination, although confused on specific dates, AAA remained consistent in her narration of the circumstances of her having been raped by accused-appellant.²⁷

Version of the Defense

For his defense, only accused-appellant testified; he denied the charges of rape. Accused-appellant maintained that he only did what he was hired to do — fetch AAA from her school and await for the other passengers who had a later dismissal time before driving her home.²⁸ Accused-appellant asserted that he was not with the victim when she was sexually abused since he waited for the dismissal of the other service passengers at the terminal.²⁹

Ruling of the Regional Trial Court

In its November 20, 2018 Joint Decision, the RTC found accused-appellant guilty of both charges of Rape, by carnal knowledge and by sexual assault:

WHEREFORE, premises considered, this Court finds the accused [XXX] **GUILTY of RAPE THROUGH SEXUAL ASSAULT under Art. 266-A (2) of RPC in rel. to RA 7610** in Criminal Case No. 2012-110-I. He is sentenced to suffer the indeterminate penalty of 12 years of *prision mayor*, as minimum, up to 20 years of *reclusion temporal*, as maximum, and to pay the private offended party the amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P25,000.00 as exemplary damages.

In Criminal Case No. 2012-111-I, the accused is found **GUILTY of STATUTORY RAPE** defined under **Art. 266-A (2) of the Revised Penal Code** and is meted the penalty of **RECLUSION PERPETUA without the eligibility of parole and** is also **ORDERED** to pay the private offended party as follows: **Php 75,000.00** as civil indemnity, **Php 75,000.00** as moral damages, and **P30,000.00** as exemplary damages.

He is **FURTHER** ordered to pay interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid, pursuant to the case of *People vs. Vitero*, (708 Phil. 49, 65 [2013]).

²⁵ Records, p. 19.

²⁶ *Rollo*, p. 7.

²⁷ Id. at 6.

²⁸ Records, pp. 162-172.

²⁹ *Rollo*, pp. 7-8.

Issue **MITTIMUS** for the immediate transfer of the accused to the National Penitentiary in Muntinlupa City, Metro Manila.

SO ORDERED.³⁰

The RTC ruled that the evidence of the prosecution sufficiently established accused-appellant's culpability for Statutory Rape, by sexual assault and through carnal knowledge, under Article 266-A (1) and (2) of the RPC, in relation to Section 5(b), Article III of RA 7610. The trial court did not give credence to accused-appellant's bare denial and alibi, unsubstantiated by any sort of evidence.³¹ In all, the trial court found that AAA's categorical and consistent positive identification of accused-appellant as the perpetrator of her rape trumps accused-appellant's unsubstantiated defenses of denial and alibi without probative value.³²

Accused-appellant appealed³³ to the CA.

In its November 20, 2019 Decision, the CA affirmed with modification the RTC's Decision, increasing the award of damages for the two convictions of rape. The appellate court sustained the trial court's findings on AAA's credibility, ruling that AAA's account of the instances of her rape by accused-appellant was straightforward and candid, and corroborated by the medical findings of the examining physician. To the appellate court, AAA's positive testimony, and the physician's findings, were sufficient to conclude that accused-appellant sexually abused AAA.³⁴ Thus, the CA affirmed accused-appellant's guilt beyond reasonable doubt:

WHEREFORE, the appeal is **DISMISSED**. The herein assailed Decision of the court *a quo* is **AFFIRMED WITH MODIFICATIONS** as to the amount of damages in that:

1. In **Criminal Case No. 2012-110-1**, accused appellant should pay private complainant the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P50,000.00 as exemplary damages;
2. In **Criminal Case No. 2012-111-1**, accused appellant is ordered to pay civil indemnity of P100,000.00, moral damages of P100,000.00, and exemplary damages of P100,000.00.

The rest of the Decision stays.

³⁰ Records, pp. 263-264.

³¹ Id. at 262.

³² Id.

³³ Via Notice of Appeal, CA *rollo*, pp. 13-14.

³⁴ *Rollo*, pp. 12-22.

SO ORDERED.³⁵

In its January 27, 2020 Resolution,³⁶ the CA gave due course to accused-appellant's Notice of Appeal,³⁷ and directed the elevation of the case records to this Court.

Both plaintiff-appellee People of the Philippines and accused-appellant manifested³⁸ that they would no longer file supplemental briefs.³⁹

Issue

The sole issue for Our resolution is whether accused-appellant raped, by sexual assault and by carnal knowledge, the minor victim.

Accused-appellant maintains his innocence; he assails AAA's credibility by focusing on her questionable behavior contemporaneous and after the rape incidents, which supposedly ran contrary to the usual conduct of rape victims. Accused-appellant insists that, contrary to AAA's testimony, he was simply never left alone with her even as they waited for other passengers who had a later dismissal time from school. During the one-hour waiting period, accused-appellant supposedly lulled away the time at a nearby terminal to watch television with fellow drivers. Accused-appellant thus asserts that it was impossible for him to have brought AAA to the comfort room and therein rape AAA.

As regards his sexual assault of AAA while other passengers were on board the tricycle, accused-appellant is adamant that the claim is preposterous.⁴⁰ AAA's behavior after the supposed repeated molestations and the instances of rape should have put AAA on guard to protect herself. Moreover, AAA could have told her mother and ultimately, AAA should have resisted, screamed and made a scene to alert everyone around her that she was being sexually abused by accused-appellant.⁴¹

Accused-appellant proffers no reason for why AAA claimed that he raped her, only that it was impossible for him to have raped AAA and her testimony is incredible.

³⁵ Id. at 22.

³⁶ Id. at 27.

³⁷ Id. at 24-25.

³⁸ Manifestation dated November 24, 2020 filed by XXX, and Manifestation dated December 9, 2020 filed by the Office of the Solicitor General.

³⁹ Temporary *rollo*, unpaginated.

⁴⁰ CA *rollo*, p. 38.

⁴¹ Id. at 39-40.



Our Ruling

Accused-appellant's appeal is without merit.

Accused-appellant's arguments are paltry. The factual findings of the lower courts clearly lay out the elements of both rape charges, by sexual assault or carnal knowledge, which were duly established by the prosecution.

The baseness and depravity of accused-appellant's acts are highlighted by his implausible contention that a five-year old should "have taken measures to"⁴² preclude her rape by a 29-year old predator.⁴³

AAA's testimony, even on cross-examination was unwavering. She categorically testified that on separate occasions, accused-appellant inserted his finger onto her vagina, and inside the toilet room, accused-appellant positioned her to stand on the toilet bowl, undressed them of the bottom half of their garments, and thereafter accused-appellant had sexual intercourse with her, penetrating his penis onto her vagina.⁴⁴

In a long line of cases, We have ruled that "the date, place, and time of the [rape incident] need not be accurately established since these are not elements of rape."⁴⁵ Traumatic responses vary. It is plausible that rape victims, especially a five-year-old child of tender years, cannot recount the precise details of a traumatic experience.⁴⁶

Indeed, jurisprudence has considered "youth and immaturity [as] badges of truth and sincerity," and has generally granted a wide latitude to innocuous errors when relating traumatic incidents of the past.⁴⁷ In *People v. Garcia*,⁴⁸ We held, thus:

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public

⁴² Id.

⁴³ Id.

⁴⁴ Records, pp. 260-263.

⁴⁵ *People v. Corpuz*, 812 Phil. 62, 87 (2017).

⁴⁶ See *People v. Entrampas*, 808 Phil. 258, 268 (2017).

⁴⁷ *People v. Divinagracia, Sr.*, 814 Phil. 730, 747 (2017).

⁴⁸ 695 Phil. 576 (2012).

trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.⁴⁹ (Citations omitted)

The guilt of accused-appellant holds fast against his predatory assertions, and his attempt to gaslight⁵⁰ a child victim and her traumatic response to the repeated sexual abuse. The ostensible incongruity in AAA's story does not weaken the substance of her declaration that accused-appellant raped her in two instances. The elements of the crime of Rape were established by her clear and straightforward narration that accused-appellant repeatedly fondled her vagina, inserted his finger as he drove, or while they were alone in the tricycle, and had sexual intercourse with her inside a public toilet.⁵¹

Statutory Rape charges, whether by sexual assault or by carnal knowledge, require the establishment of only two elements: (1) a prerequisite element—the victim's age is below twelve (12) years old at the time of the rape; and (2) (i) for rape by sexual assault, that accused inserted any instrument or object into the genital or anal orifice of the victim; while (ii) for rape by carnal knowledge, that accused had sexual intercourse with the victim.⁵²

The trial court found AAA's testimony to be "straightforward and detailed in many aspects":⁵³

While admittedly, she got confused with some of the questions propounded by the defense counsel, the victim was able to maintain her side of the story that she was initially molested by the accused when the latter inserted his fingers into the victim's vagina, and that thereafter, the accused had carnal knowledge of her inside the comfort room located inside the premises of the church grounds. The victim was telling the truth and her testimony deserves full faith and credence. The exhaustive detailed Judicial Affidavit of the victim, which served as her direct testimony showed her consistency as a witness-victim. Unfortunately, the defense failed to put a cloud of doubt on the testimony of the prosecution's vital witness.⁵⁴

We find no reason to disturb the trial court's assessment, especially when affirmed by the appellate court.⁵⁵ Indeed, as We have ruled in *People v. Abellano*:⁵⁶

⁴⁹ Id. at 588-589.

⁵⁰ Gaslighting is an insidious form of manipulation and psychological control. Victims of gaslighting are deliberately and systematically fed false information that lead them to question what they know to be true, often about themselves. They may end up doubting their memory, their perception, and even their sanity. See <https://www.psychologytoday.com/us/basics/gaslighting>. Last visited June 10, 2021.

⁵¹ Records, pp. 43-57.

⁵² Article 266-A, paragraphs 1 (d) and 2 of the RPC; see *People v. Pueyo*, G.R. No. 192327, February 26, 2020.

⁵³ CA *rollo*, p. 55.

⁵⁴ Records, p. 260.

⁵⁵ *Gamaro v. People*, 806 Phil. 483, 504 (2017).

⁵⁶ 551 Phil. 826 (2007).

The trial court's evaluation of a witness' credibility is accorded the highest respect because it had the direct and singular opportunity to observe the facial expression, gesture, and tone of voice of a witness while testifying. The trial court has the strategic position to determine whether a witness is telling the truth and its findings thereon are accorded finality, unless there appears on record some fact or circumstance of weight which the lower court may have overlooked, misunderstood, or misappreciated and, if properly considered, would alter the results of the case.⁵⁷

AAA's positive testimony is consistent with the medical finding that she had "inflammation and redness"⁵⁸ in her vagina and a "widened vaginal orifice (opening)"⁵⁹ — an indication that something had been inserted in her sex organ. The Court has oft-ruled that "when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established."⁶⁰

Hence, We affirm accused-appellant's conviction for Statutory Rape, through carnal knowledge and by sexual assault, under paragraphs 1 and 2, Article 266-A (1) of the RPC, as amended. However, the proper nomenclature of the crime should be Qualified Statutory Rape considering that the victim was below seven years of age at the time of the rape incidents.

We also sustain the penalty of *reclusion perpetua* without eligibility for parole imposed on accused-appellant by the trial court, and affirmed by the CA, for the offense of Qualified Statutory Rape by sexual intercourse. It is undisputed that AAA is a child below seven years of age during the rape incidents.

We likewise leave undisturbed the appellate court's modification of the award of damages to AAA for Qualified Statutory Rape in Criminal Case No. 2012-111-I in the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.⁶¹

With regard to Criminal Case No. 2012-110-I, *People v. Tulagan*⁶² instructs that:

Considering the development of the crime of sexual assault from a mere "crime against chastity" in the form of acts of lasciviousness to a "crime against persons" akin to rape, as well as the rulings in *Dimakuta* and *Caoili*, We hold that if the acts constituting sexual assault are committed against a victim under 12 years of age or is demented, the nomenclature of the offense should now be "Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to

⁵⁷ Id. at 839.

⁵⁸ Records, p. 19.

⁵⁹ Id.

⁶⁰ *Pendoy v. Court of Appeals*, G.R. No. 228223, June 10, 2019.

⁶¹ See *People v. Jugueta*, 783 Phil. 806, 848 [2016].

⁶² G.R. No. 227363, March 12, 2019.

Section 5 (b) of R.A. No. 7610” and no longer “Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610,” because sexual assault as a form of acts of lasciviousness is no longer covered by Article 336 but by Article 266-A (2) of the RPC, as amended by R.A. No. 8353. Nevertheless, the imposable penalty is still *reclusion temporal* in its medium period, and not *prision mayor*.⁶³

Therefore, the proper nomenclature for the crime committed in Criminal Case No. 2012-110-I is Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5(b) of RA 7610.

For his conviction of Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5(b), Article III of RA 7610, the RTC sentenced accused-appellant to an “indeterminate penalty of 12 years of *prision mayor*, as minimum, up to 20 years of *reclusion temporal*, as maximum.” The appellate court affirmed this sentencing by the RTC.

We modify.

Albeit recognizing the discrepancy in the imposable penalties for violation of Section 5 (b) of RA No. 7610—*reclusion temporal* medium when the victim is under 12 years old is lower compared to the penalty of *reclusion temporal* medium to *reclusion perpetua* when the victim is 12 years old and below 18, *Tulagan*⁶⁴ has specified that, “applying the Indeterminate Sentence Law, the minimum term in the case of the younger victims [below 12 years of age] shall be taken from *reclusion temporal* minimum.”

Thus, the correct penalty of accused-appellant in Criminal Case No. 2012-110-I for Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5(b) of RA 7610 is twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal* as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

Lastly, we affirm the lower courts’ uniform ruling that the awards shall earn interest of 6% per annum from finality of this Resolution until full satisfaction thereof.⁶⁵

WHEREFORE, the appeal is **DISMISSED**. The November 20, 2019 Decision of the Court of Appeals in CA-G.R. CR HC No. 12246 is **AFFIRMED** with **MODIFICATION** as follows:

⁶³ Id.

⁶⁴ Id.

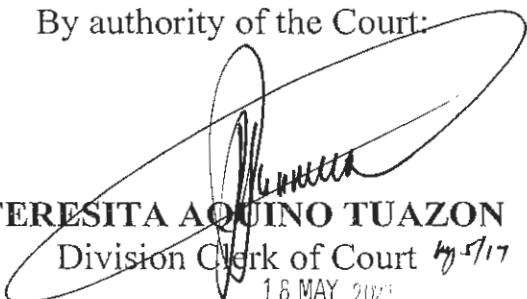
⁶⁵ See *Nacar v. Gallery Frames*, 716 Phil. 267, 282-283 (2013).

- 1) In Criminal Case No. 2012-111-I, accused-appellant XXX is found **GUILTY** of **QUALIFIED STATUTORY RAPE**, and sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and ordered to pay the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.
- 2) In Criminal Case No. 2012-110-I, accused-appellant XXX is found **GUILTY** of Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code in relation to Section 5(b) of RA 7610, and is sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years, ten (10) months and twenty-one (21) days of *reclusion temporal* as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from finality of this Resolution until full satisfaction thereof.

SO ORDERED.” (*Perlas-Bernabe, S.A.J., on official leave; Hernando, J., Acting Chairperson per Special Order No. 2887 dated April 8, 2022*)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *b-717*
18 MAY 2022

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THE DIRECTOR (reg)
Bureau of Corrections
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 65
Infanta, Quezon
(Crim. Case Nos. 2012-110-I and 2012-111-I)

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*with copy of CA Decision dated 20 November 2019

Please notify the Court of any change in your address.

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