



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

CICL XXX,

G.R. No. 238798

*Petitioner,* Present:

GESMUNDO, C.J.,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.,  
GAERLAN,  
ROSARIO,  
LOPEZ, J.,  
DIMAAMPAO,  
MARQUEZ,  
KHO, JR., and  
SINGH, JJ.

- versus -

**PEOPLE OF THE PHILIPPINES,**

*Respondent.*

Promulgated:  
March 14, 2023

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**DECISION**

**ZALAMEDA, J.:**

The society has endeavored to instill in us the concept of right and wrong from our first moment of consciousness. As adults, we abide by laws and rules premised on our recognition that obedience is right and proper, while defiance is wrong and sanctioned. We are cognizant, however, that children, with their malleable and developing minds, may not yet have the same level of awareness on the concept of right and wrong. As such, a different standard in determining a minor's culpability is employed, the guidelines for which is hereinafter set out.

The case before Us involves an assault that claimed the life of one, and tethered the freedom of another. The accused – a minor – disclaims responsibility for the death of the victim but the courts below found him culpable, his minority at the time of the assault notwithstanding. Did the accused cause the victim's untimely demise, and can his minority save him from a life behind bars?

We are tasked to resolve these questions in this Petition<sup>1</sup> for Review on *Certiorari* assailing the Decision<sup>2</sup> dated 29 November 2017 and Resolution<sup>3</sup> dated 19 March 2018 of the Court of Appeals (CA), which affirmed with modification the Judgment<sup>4</sup> dated 28 February 2014 of the Regional Trial Court of La Trinidad, Benguet, Branch 9, (RTC) finding petitioner CICL XXX guilty beyond reasonable doubt of the crime of homicide.

### Summary of Facts and Antecedents

As narrated by the CA, CICL XXX was charged with the crime of Frustrated Murder before the RTC on 1 March 2004. The Information was later amended to Frustrated Homicide. When the victim, AAA, died on 26 November 2008, the Information was amended anew, this time, to Homicide, the accusatory portion of which reads:<sup>5</sup>

That on or about the 28th day of October, 2003 at [REDACTED], Municipality of La Trinidad, Province of Benguet, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other, did then and there willfully, unlawfully and feloniously, and with intent to kill, attack one [AAA], by hitting his left eye, ear and head with a blunt instrument, **thereby** inflicting fatal injuries on [AAA] which caused his death thereafter.

<sup>1</sup> *Rollo*, pp. 7–25.

<sup>2</sup> *CA rollo*, pp. 84–99. Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Magdangal M. De Leon and Zenaida T. Galapate-Laguilles.

<sup>3</sup> *Rollo*, pp. 53–54.

<sup>4</sup> *Id.* at 29–39. Penned by Presiding Judge Francis A. Buliyat, Sr.

<sup>5</sup> *CA rollo*, p. 85.

That the accused is a minor being seventeen (17) years of age at the time of the commission of the crime.

**CONTRARY TO LAW.<sup>6</sup>**

When arraigned, CICL XXX, assisted by his counsel, entered a plea of “not guilty.” After the pre-trial conference, trial on the merits ensued.<sup>7</sup>

During the trial of the case, the prosecution presented the testimonies of EEE who is the brother of DDD and a friend of AAA, PO1 Loreto Pihoc, Dr. Romeo Concepcion, Dr. Manuel Kelly, Jr., BBB who is AAA’s mother, CCC who is AAA’s sister, and Dr. Editha Francisco. On the other hand, the defense presented CICL XXX and YYY, the guardian of CICL XXX.<sup>8</sup>

The prosecution established that AAA testified against CICL XXX on 27 October 2003 during the hearing of the complaint for physical injuries filed by DDD against CICL XXX before the *Punong Barangay* in Brgy. [REDACTED], Baguio City. AAA allegedly saw CICL XXX hit DDD with a bucket inside a bar in Assumption, Baguio City.<sup>9</sup>

The next day, on 28 October 2003, at around 3:00 A.M., BBB awakened from sleep when someone shouted “*Mama! Mama!*” She woke up her husband and when they went outside the house, AAA was lying in front of their gate, his face and eyes bloodied. Her husband washed AAA’s face with water and brought him inside the house. When asked what happened to him, AAA told them that CICL XXX and his companion were inside their house. When AAA asked what they were doing inside his house, CICL XXX replied they were looking for somebody. Thereafter, CICL XXX struck his eyes. After narrating the incident to his parents, AAA fell asleep.<sup>10</sup>

On 29 October 2003, AAA complained of dizziness. As his other eye was already popping out, AAA was brought to the Benguet General Hospital for treatment. On 30 October 2003, AAA was confined at the same hospital. The CT-Scan result showed that AAA suffered severe brain damage and was advised to transfer to another hospital. In the evening of the same date, he was transferred to Baguio General Hospital. Dr. Romeo Concepcion, the attending physician, remarked that when he first met AAA, the latter was conscious and coherent and had been blind on one eye with several abrasions on the head, face and shoulders. He wore an eye patch on his left eye and had several bluish discolorations on his forehead and both eyes. Based on the CT-Scan results, the victim had massive cerebral contusions and bleeding on spaces in the brain

<sup>6</sup> Records, pp. 250–251.

<sup>7</sup> *CA rollo*, p. 85.

<sup>8</sup> *Id.* at 85–86.

<sup>9</sup> *Id.* at 86.

<sup>10</sup> *Id.*

which may have been caused by any force or object hard enough to cause damage to the brain.<sup>11</sup>

On 31 October 2003, AAA's older sister, CCC, visited him at the hospital. AAA told her it was CICL XXX who mauled him. A few days later, AAA could no longer speak. He was later discharged from the hospital on 27 January 2004 in a vegetative state. After being bed-ridden for five years, AAA died on 26 November 2008. The Death Certificate issued by the Municipal Health Office of La Trinidad, Benguet stated that the immediate cause of death is "*Metabolic Encephalopathy*," the secondary cause is "*Ischemic Infarction*," and the underlying cause is "*Acute Intraparenchymal Hemorrhages, Bifrontal and Right Temporal Lobes with Subarachnoid and Subdural Extension secondary to Blunt Trauma to the Head*." Dr. Editha M. Francisco (Dr. Francisco), Municipal Health Officer of the Municipality of La Trinidad, Benguet, explained that "*metabolic encephalopathy*" is the disturbance in the brain function which may be due to "*ischemic infarction*," or brain tissue death secondary to loss of blood supply. Dr. Francisco explained that because of the blunt trauma to the head, there is bleeding within the brain (*acute intraparenchymal hemorrhages*) and outside the brain (*subarachnoid*).<sup>12</sup>

In his defense, CICL XXX denied the allegations against him. He admitted meeting AAA at the *Barangay* Hall of Brgy. ██████████, Baguio City during the hearing of the complaint filed against him by DDD. However, CICL XXX claimed he was drinking with his friends at a computer shop in Bonifacio, Baguio City from 7:00 P.M. to 12:00 A.M. on 27 October 2003. Thereafter, he and his friends transferred to another bar and stayed there until 4:00 in the morning of 28 October 2003. He then went home in Brgy. ██████████. CICL XXX admitted that he was only a student at that time. He quit school when the case was filed and returned home to Sagada to work as a ██████████.<sup>13</sup>

### Ruling of the RTC

On 28 February 2014, the RTC rendered judgment<sup>14</sup> convicting CICL XXX for homicide. The dispositive portion reads:

WHEREFORE, premises considered, accused ██████████ is hereby found GUILTY BEYOND REASONABLE DOUBT of the crime of HOMICIDE and is hereby sentenced to suffer the penalty of EIGHT (8) YEARS and ONE (1) DAY of [*prision mayor*] in its medium period, as minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of [*reclusion temporal*] in its medium period, as maximum.

<sup>11</sup> *Id.* at 86–87.

<sup>12</sup> *Id.* at 87.

<sup>13</sup> *Id.*

<sup>14</sup> *Rollo*, pp. 29–39.

Accused is also ordered to pay Five Hundred Eighty-Seven Thousand Three Hundred Forty-Five ([PHP] 587,345.00) (sic) as actual damages; Seventy Five Thousand ([PHP] 75,000.00) Pesos as civil indemnity and Twenty Five Thousand ([PHP] 25,000) Pesos as temperate damages to the heirs of the victim. All damages awarded in this case should be imposed with interest at the rate of six (6%) percent [*per annum*] from the finality of this Judgment until fully paid (*People vs. Asetre*, [G.R. No. 175834, June 8, 2011]). The awards for damages however are without subsidiary penalties in case of insolvency.

In view of the prison term of the convict [REDACTED] which is more than 3 years, he is considered a national prisoner (P.D. 29 and Supreme Court Circular No. 4-92-A), hence, he is ordered committed to the New Bilibid Prison at Muntinlupa City for the service of his prison term. By virtue thereof, issue (sic) a corresponding commitment order.

Let his cash bond posted by his bondsman in the amount of [PHP] 24,000.00 covered by O.R. No. 21683153 be released accordingly upon proper receipt.

Furnish copy of this JUDGMENT to the attending prosecution of Benguet; the representative of the victim; and the accused and his counsel.

SO ORDERED.<sup>15</sup>

The RTC noted that the identification of CICL XXX was predicated principally on the statement uttered by AAA to his mother when the latter and her husband found AAA wounded and lying on the ground. The RTC admitted such statement as part of the *res gestae*.<sup>16</sup> The RTC also ruled that the elements of the crime of homicide are present in this case. CICL XXX's denial and alibi were likewise regarded as weak.<sup>17</sup>

### Decision of the CA

In his appeal before the CA, CICL XXX argued that the proximate cause of AAA's death was not the injuries inflicted but the failure of the parents to give immediate medical attention and the unfortunate grave inadequacy of the medical treatment given to AAA. Also, CICL XXX insists the RTC erred in appreciating the statement allegedly uttered by AAA, identifying him as one of the assailants, as part of the *res gestae*.<sup>18</sup>

In its Decision<sup>19</sup> dated 29 November 2017, the CA affirmed the RTC's judgment with modification. The CA disposed:

<sup>15</sup> *Id.* at 39.

<sup>16</sup> *Id.* at 37.

<sup>17</sup> *Id.* at 38.

<sup>18</sup> *CA rollo*, p. 89.

<sup>19</sup> *Id.* at 84-99.

**WHEREFORE**, in view of the foregoing, the appeal is **DENIED**. The Judgment dated February 28, 2014 of the La Trinidad, Benguet Regional Trial Court, Branch 39, in Criminal Case No. 04-CR-5253 is **AFFIRMED** with the following **MODIFICATIONS**:

1) Taking into account the minority of the accused-appellant and the absence of any other modifying circumstances attendant to the crime, accused-appellant [REDACTED] is hereby sentenced to suffer the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

2) The award of temperate damages is **DELETED**. Accused-appellant is **ORDERED** to pay the heirs of [REDACTED] the following: [PHP] 504,145.01 as actual damages, [PHP] 50,000.00 as civil indemnity, and [PHP] 50,000.00 as moral damages, with interest on all the damages awarded at the rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

3) Paragraph 2 of the dispositive portion of the assailed Decision is **DELETED**. The case is **REMANDED** to the trial court for its appropriate action in accordance with Section 51 of Republic Act No. 9344.

All other aspects of the assailed Decision **STAND**.

**SO ORDERED.**<sup>20</sup>

Contrary to the defense's claim that the proximate cause of the death of AAA was the failure of the parents to provide him immediate medical attention, the CA ruled that the prosecution was able to show that AAA sustained heavy injuries resulting from the blows delivered by CICL XXX to the head of AAA with the use of a blunt object as well as the nexus between the injury sustained by AAA and his death.<sup>21</sup> The CA also affirmed the RTC in appreciating the testimony of AAA's mother as part of the *res gestae*.<sup>22</sup>

The CA nevertheless noted that the RTC failed to appreciate the privileged mitigating circumstance of minority. The CA ruled that CICL XXX is entitled to the retroactive application of Republic Act No. (RA) 9344<sup>23</sup> or the Juvenile Justice and Welfare Act of 2006. Section 6 thereof exempts a child above fifteen (15) years of age but below eighteen (18) years of age from criminal liability unless the child is found to have acted with discernment, in which case, the appropriate proceedings shall be observed. The CA found that CICL XXX acted with discernment when he mauled the victim.<sup>24</sup>

<sup>20</sup> *Id.* at 97-98.

<sup>21</sup> *Id.* at 89-90.

<sup>22</sup> *Id.* at 92-93.

<sup>23</sup> Juvenile Justice and Welfare Act of 2006. Approved on 28 April 2006.

<sup>24</sup> CA *rollo*, pp. 94-95.

The CA also ruled that CICL XXX shall be entitled to appropriate disposition under Section 51<sup>25</sup> of RA 9344.<sup>26</sup>

### Issue

The issue for consideration is whether or not the CA gravely erred in affirming CICL XXX's conviction for the crime charged.

In essence, CICL XXX argues that: (a) the CA erred in giving weight to the testimonies of the prosecution witnesses which failed to substantiate material facts and circumstances to prove the guilt of the accused; (b) the declaration of the victim cannot be considered as part of the *res gestae*; (c) there was a failure to seek adequate and timely medical intervention which is an intervening circumstance that could have saved the victim; (d) the CA erred in awarding civil damages; and (e) the CA erred in not appreciating doubt in favor of the accused.<sup>27</sup>

### Discussion

We now resolve.

At the onset, We affirm the lower courts in ruling that CICL XXX's authorship of the deadly attack against AAA was sufficiently established. The testimony of AAA's mother, BBB, about AAA's statement regarding CICL XXX as the perpetrator when they found him lying outside of their house, falls squarely under the *res gestae* exception to the hearsay rule.

Rule 130, Section 44 of the Revised Rules on Evidence<sup>28</sup> provides:

**SECTION 44. Part of the Res Gestae.** — Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto, under the stress of excitement caused by the occurrence with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. So, also, statements accompanying an

<sup>25</sup> **SECTION 51. Confinement of Convicted Children in Agricultural Camps and other Training Facilities.** — A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised[,] and controlled by the BUCOR, in coordination with the DSWD.

<sup>26</sup> *Id.* at 95–96.

<sup>27</sup> *Rollo*, p. 14–19.

<sup>28</sup> As amended by A.M. No. 19-08-15-SC, 2019 Amendments to the 1989 Revised Rules on Evidence, 08 October 2019.

equivocal act material to the issue, and giving it a legal significance, may be received as part of the *res gestae*.

As illustrated in *People v. Peña*,<sup>29</sup> the Court considered the statement of the victim who was repeatedly struck on his head with a gun, and subsequently shot in the head, as part of the *res gestae*. Notably, the police officers took his statement as to the identity of the perpetrator when he was already brought to the hospital. In so ruling, the Court explained:

[The victim's] declaration is admissible as part of the *res gestae* since it was made shortly after a startling occurrence and under the influence thereof. Under the circumstances, the victim evidently had no opportunity to contrive his statement beforehand.

In *People v. Hernandez*, **the infliction on a person of a gunshot wound on a vital part of the body should qualify by any standard as a startling occurrence.** And the rule is that testimony by a person regarding statements made by another as that startling occurrence was taking place or immediately prior or subsequent thereto, although essentially hearsay, is admissible exceptionally, on the theory that said statements are natural and spontaneous, unreflected and instinctive, made before there had been opportunity to devise or contrive anything contrary to the real fact that occurred, it being said that in these cases, it is the event speaking through the declarant, not the latter speaking of the event.

In this case, it is clear that the pistol-whipping and the gunshot on the head of [the victim] qualified as a startling occurrence. Notably, [the victim] constantly complained of pain in his head while his statement was being taken by SPO1 Bautista, so much so that there was no opportunity for him to be able to devise or contrive anything other than what really happened.<sup>30</sup> (Emphasis supplied)

Similarly, AAA's declarations were uttered immediately after a startling occurrence, *i.e.*, the gruesome attack wherein CICL XXX struck AAA's head and eyes with a blunt instrument. AAA narrated the circumstances of the startling occurrence to his mother immediately thereafter while under the stress of excitement caused by the attack. Hence, AAA's statements are admissible as part of *res gestae*.

We likewise sustain the ruling of the CA that the proximate cause of the death of AAA was the injury caused to him, and not the failure of his parents to immediately seek medical attention as claimed by the defense.

<sup>29</sup> 427 Phil. 129 (2002) [Per J. Ynares-Santiago, First Division].

<sup>30</sup> *Id.* at 138. Citations omitted.



In *People v. Acuram*,<sup>31</sup> the Court has ruled that the supposed delay in medical treatment does not break the connection between the overt criminal act, and the resulting injuries sustained by the victim:

The perceived delay in giving medical treatment to the victim does not break at all the causal connection between the wrongful act of the appellant and the injuries sustained by the victim: It does not constitute efficient intervening cause. The proximate cause of the death of the deceased is the shooting by the appellant. It is settled that anyone inflicting injuries is responsible for all the consequences of his criminal act such as death that supervenes in consequence of the injuries. The fact that the injured did not receive proper medical attendance would not affect appellant's criminal responsibility. The rule is founded on the practical policy of closing to the wrongdoer a convenient avenue of escape from the just consequences of his wrongful act. If the rule were otherwise, many criminals could avoid just accounting for their acts by merely establishing a doubt as to the immediate cause of death.<sup>32</sup>

As further discussed by the CA, the brain injury was caused by the force of the blow of the object used in hitting AAA's head, and not the perceived delay in seeking medical help, thus:

In contrast with the accused-appellant's assertion that the proximate cause of the death of the victim was the lack of medical attention and grave inadequacy of medical treatment, Dr. Kelly, Jr. opined that it would not make any difference if the Benguet General Hospital was equipped with the necessary instruments to treat the victim because the result and prognosis of the victim would still probably be the same. According to him, the victim would have died had there been no medical intervention because there would have been no way for the pressure inside the skull of the victim to go out. In time, the swelling in the brain and increase in the pressure in the brain would cause the demise of the patient.

Both Dr. Romeo Concepcion and Dr. Manuel Kelly, Jr. likewise unanimously observed that the cause of the brain injury of the victim was the force of the blow of a blunt object used in hitting his head[.]<sup>33</sup>

With CICTL XXX's clear identification as the author of the attack, it is also undisputable that the elements of the crime of homicide are present in this case. Article 249 of the Revised Penal Code provides:

**Article 249. Homicide.** – Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the

<sup>31</sup> 387 Phil. 142 (2000) [Per J. Quisumbing, Second Division].

<sup>32</sup> *Id.* at 153–154. Citation omitted.

<sup>33</sup> CA rollo, pp. 90–91.

circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

The elements of the crime of homicide are: (a) a person was killed; (b) the accused killed him/her without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.<sup>34</sup>

The foregoing requisites are extant in this case. It was established that CICL XXX hit AAA on the head with a blunt object which caused brain injury, and his subsequent death. The intent to kill is evident from the nature and location of the injury, conduct of the accused, and the circumstances under which the crime was committed. There is likewise no justifying circumstance, and it was not attended by any of the qualifying circumstances of murder, parricide, or infanticide.

However, as noted by the CA, the minority of C<sup>I</sup>CL XXX warrants the retroactive application of RA 9344, as amended, insofar as it is beneficial to him. Section 6 thereof states:

**SECTION 6.** *Minimum Age of Criminal Responsibility.* – . . .

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

Since C<sup>I</sup>CL XXX was 17 years old at the time of the commission of the crime, it is imperative to determine whether he is exempt from any criminal liability. The answer, in turn, hinges on whether C<sup>I</sup>CL XXX acted with discernment in the commission of the acts complained of.

*How is discernment determined?*

Discernment is defined as the capacity of the child at the time of the commission of the offense to understand the difference between right and wrong and the consequences of the wrongful act.<sup>35</sup> To further our

<sup>34</sup> *Anisco v. People*, 890 Phil. 772, 782 (2020) [Per J. Delos Santos, Third Division].

<sup>35</sup> 2019 Supreme Court Revised Rule on Children in Conflict with the Law, A.M. No. 02-1-18-SC. Approved on 22 January 2019.

understanding of discernment as a legal concept, a review of its jurisprudence and history provides an enlightening discourse.

Among the earliest discussions on discernment is the 1917 case of *US v. Maralit*.<sup>36</sup> The Court stated that in establishing discernment, it must appear from the evidence that the accused acted with knowledge of the nature of his acts and of the results which would naturally follow therefrom. To establish the fact that a person acted with discernment, it is not necessary that some witness declare directly and in words that he acted with discernment. It is sufficient that, from the evidence as a whole, it is a necessary inference that he so acted. The trial court may take into consideration all the facts and circumstances presented by the record, together with the appearance of the accused as he stood and testified during trial.<sup>37</sup>

In the 1939 case of *People v. Doqueña (Doqueña)*,<sup>38</sup> the Court restated that discernment was the mental capacity to understand the difference between right and wrong. Discernment should be determined by taking into consideration all the facts and circumstances accorded by the records in each case, the very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during the trial.<sup>39</sup>

In *Guevarra v. Hon. Almodovar (Guevarra)*,<sup>40</sup> the Court had the opportunity to distinguish discernment from criminal intent. A crime, whether committed by *dolo* or *culpa*, requires the distinct element of intelligence. This intelligence necessarily includes the concept of discernment:

[T]he terms "intent" and "discernment" convey two distinct thoughts. While both are products of the mental processes within a person, the former refers to the desire of one's act while the latter relate to the moral significance that person ascribes to the said act. Hence a person may not intend to shoot another but may be aware of the consequences of his negligent act which may cause injury to the same person in negligently handling an air rifle. It is not correct, therefore, to argue, as petitioner does, that since a minor above nine years of age but below fifteen acted with discernment, then he intended such act to be done. He may negligently shoot his friend, thus did not intend to shoot him, and at the same time recognize the undesirable result of his negligence.

In further outlining the distinction between the words "intent" and "discernment," it is worthy to note the basic reason behind the enactment of the exempting circumstances embodied in Article 12 of the RPC; the complete absence of intelligence, freedom of action, or intent, or on the absence of negligence on the part of the accused. . .

<sup>36</sup> 36 Phil. 155 (1917) [Per J. Moreland, *En Banc*].

<sup>37</sup> *Id.* at 158.

<sup>38</sup> 68 Phil. 580 (1939) [Per J. Diaz, *En Banc*].

<sup>39</sup> *Id.* at 582-583.

<sup>40</sup> 251 Phil. 427 (1989) [Per J. Paras, Second Division].

It is for this reason, therefore, why minors nine years of age and below are not capable of performing a criminal act. On the other hand, minors above nine years of age but below fifteen are not absolutely exempt. However, they are presumed to be without criminal capacity, but which presumption may be rebutted if it could be proven that they were "capable of appreciating the nature and criminality of the act, that is, that (they) acted with discernment." The preceding discussion shows that "intelligence" as an element of *dolo* actually embraces the concept of discernment as used in Article 12 of the RPC and as defined in the aforesaid case of *People vs. Doquena, supra*. It could not therefore be argued that discernment is equivalent or connotes "intent" for they refer to two different concepts. Intelligence, which includes discernment, is a distinct element of *dolo* as a means of committing an offense.

In evaluating felonies committed by means of *culpa*, three (3) elements are indispensable, namely, intelligence, freedom of action, and negligence. Obviously, intent is wanting in such felonies. However, intelligence remains as an essential element, hence, it is necessary that a minor above nine but below fifteen years of age be possessed with intelligence in committing a negligent act which results in a quasi-offense. For him to be criminally liable, he must discern the rightness or wrongness of the effects of his negligent act[.]<sup>41</sup>

In *Remiendo v. People*,<sup>42</sup> the Court reiterated *Doqueña* and *Guevarra* emphasizing that the prosecution is burdened to prove that the accused acted with discernment and that the surrounding circumstances must demonstrate that the minor knew what he was doing and that it was wrong. Such circumstance includes the gruesome nature of the crime and the minor's cunning and shrewdness.<sup>43</sup>

The Court in *Dorado v. People*<sup>44</sup> (*Dorado*) further elucidated that when a minor above fifteen (15) but below eighteen (18) years old is charged with a crime, it cannot be presumed that he or she acted with discernment. During the trial, the prosecution must specifically prove as a separate circumstance that the child in conflict with the law committed the alleged crime with discernment. Notably, *Dorado* also specified circumstances which would exhibit discernment, *viz.*:

"The discernment that constitutes an exception to the exemption from criminal liability of a minor [ . . . ] who commits an act prohibited by law, is his mental capacity to understand the difference between right and wrong, and such capacity may be known and should be determined by taking into consideration all the facts and circumstances accorded by the records in each case, the very appearance, the very attitude, the very comportment and

<sup>41</sup> *Id.* at 433-434.

<sup>42</sup> 618 Phil. 273 (2009) [Per J. Nachura, Third Division].

<sup>43</sup> *Id.* at 289.

<sup>44</sup> *Dorado v. People*, 796 Phil. 233 (2016) [Per J. Mendoza, Second Division].

behavior of said minor, not only before and during the commission of the act, but also after and even during the trial.”

“The basic reason behind the exempting circumstance is complete absence of intelligence, freedom of action of the offender which is an essential element of a felony either by *dolus* or by *culpa*. Intelligence is the power necessary to determine the morality of human acts to distinguish a licit from an illicit act. On the other hand, discernment is the mental capacity to understand the difference between right and wrong.” As earlier stated, the “prosecution is burdened to prove that the accused acted with discernment by evidence of physical appearance, attitude or deportment not only before and during the commission of the act, but also after and during the trial. The surrounding circumstances must demonstrate that the minor knew what he was doing and that it was wrong. **Such circumstance includes the gruesome nature of the crime and the minor’s cunning and shrewdness.**” In an earlier case, it was written:

For a minor at such an age to be criminally liable, the prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence, that he acted with discernment, meaning that he knew what he was doing and that it was wrong. **Such circumstantial evidence may include the utterances of the minor; his overt acts before, during and after the commission of the crime relative thereto; the nature of the weapon used in the commission of the crime; his attempt to silence a witness; his disposal of evidence or his hiding the *corpus delicti*.**<sup>45</sup> (Emphasis supplied)

The pronouncements in *Dorado* were recapitulated in *CICL XXX v. People*,<sup>46</sup> where the Court stressed that the prosecution must specifically prove as a separate circumstance that the alleged crime was committed with discernment, and for a minor at such an age to be criminally liable, the prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence, that the minor acted with discernment.<sup>47</sup>

In *People v. ZZZ*,<sup>48</sup> the Court emphasized that discernment refers to the mental capacity of a minor to fully appreciate the consequences of his or her unlawful act. Discernment is determined by considering all the facts of each case.<sup>49</sup>

On the basis of the foregoing, this Court consistently held for more than a hundred years that **in determining discernment, courts shall consider the totality of facts and circumstances in each case.**<sup>50</sup> Further, discernment may

<sup>45</sup> *Id.* at 250–251.

<sup>46</sup> 859 Phil. 912 (2019) [Per J. Caguioa, Second Division].

<sup>47</sup> *Id.* at 922–923.

<sup>48</sup> 879 Phil. 629 (2019) [Per J. Leonen, Third Division].

<sup>49</sup> *Id.* at 647.

<sup>50</sup> *Id. Supra* note 36.

**be established by either direct or circumstantial evidence.**<sup>51</sup> These circumstances include, but are not limited to: (i) the very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during trial, (ii) the gruesome nature of the crime, (iii) the minor's cunning and shrewdness, (iv) the utterances of the minor, (v) his overt acts before, during and after the commission of the crime, (vi) the nature of the weapon used, (vii) his attempt to silence a witness, and (viii) his disposal of evidence or his hiding the *corpus delicti*.

*Who determines discernment?*

RA 9344, Section 22 as amended by RA 10630, Section 7<sup>52</sup> mandates the social worker to conduct an initial assessment to determine whether the child acted with discernment, *viz.*:

**SECTION 22. Duties During Initial Investigation.** — The law enforcement officer shall, in his/her investigation, determine where the case involving the child in conflict with the law should be referred.

The social worker shall conduct an initial assessment to determine the appropriate interventions and whether the child acted with discernment, using the discernment assessment tools developed by the DSWD. The initial assessment shall be without prejudice to the preparation of a more comprehensive case study report[.]

It must be emphasized, however, that the social worker's assessment is merely an initial or preliminary determination of discernment. **The final discretion to determine the existence of discernment remains vested in the courts.** As gleaned from congressional deliberations, the legislative intent was to give judges the discretion to determine whether or not the child acted with discernment:

COMMITTEE ON JUSTICE, HOUSE OF REPRESENTATIVES

*Representative Baterina:* May I now terminate... but before I do that, may I just proceed to satisfy myself on the matter of the age of discernment.

Would you say that the age of discernment is... cannot be generalized that the age of discernment is independent, I mean,

<sup>51</sup> See *People v. Lignes*, 874 Phil. 530, 539-540 (2020) [Per J. Peralta, First Division].

<sup>52</sup> An Act Strengthening the Juvenile Justice System in the Philippines, Amending for the Purpose RA 9344 [Approved on 3 October 2013].

individualized. In other words, would discernment can happen to a younger one and another for another person it can be... he can have an age of discernment at a higher level, higher age, and how come we can... we must generalize?

*Atty. Muyot (resource speaker):* Thank you for that question, Your Honors. What the bills seek to do is not generalize but to put a minimum, a minimum age of criminal liability and then put a spread over that minimum wherein **the judge will be given the discretion to determine whether or not the child has the discernment.**

For instance, in some of the bills the minimum age is fixed at 12. But then there is a spread of up to 15 so that from 12 to below 15 **the judge is still given a discretion to determine whether or not the child had acted with discernment. So if the child has acted with discernment, the judge can go on to find criminal liability on the part of the child. But if the judge feels that based on, let's say, the level of education or the level of mental development of a child discernment is not possible, then he can... he has the discernment to say the child should not be liable.**<sup>53</sup> (Emphasis supplied)

Moreover, the legislature intended to have testimonies of social workers or child psychologists be appreciated as evidence by courts in determining discernment:

#### RECORDS OF THE SENATE

*Senator Osmena:* Mr. President, may I just beg the indulgence of the good Sponsor and Senator Pimentel, the Minority Leader. I am not a lawyer. May I know how we prove... First, what is "discernment"? and how does the prosecutor prove that somebody acted with discernment?

*Senator Pangilinan:* Mr. President, first, there is a legal definition for discernment. The Supreme Court, in a number of cases, has defined discernment as the ability, or in so many words, the capacity to distinguish between right and wrong. That is the legal definition of discernment. The next question is: who determines or what is the basis for determining that one has, in fact, acted with discernment? **Testimonies from the social workers, for example, child psychologists when entered into the record during trial will be now used as testimonial evidence to establish whether or not discernment is present.**<sup>54</sup> (Emphasis supplied)

Finally, Section 10 of the 2019 Supreme Court Revised Rule on Children in Conflict with the Law<sup>55</sup> now categorically provides:

<sup>53</sup> House of Representatives, Committee on Justice, TSN dated 23 November 2004, p. 24.

<sup>54</sup> Records of the Senate dated 22 November 2005, Vol. II Session 34, pp. 25--26.

<sup>55</sup> 2019 Supreme Court Revised Rule on Children in Conflict with the Law, A.M. No. 02-1-18-SC, 22 January 22, 2019.

**SECTION 10. *Determination of Discernment.* — Discernment is preliminarily determined by a social worker and finally by the court.**

The determination of discernment shall take into account the ability of a child to understand the moral and psychological components of criminal responsibility and the consequences of the wrongful act; and whether a child can be held responsible for essentially antisocial behavior. (Emphasis supplied)

There is no question that the social worker only renders a preliminary or initial assessment on the existence of discernment. The assessment of a social worker or psychologist is merely evidentiary and is not binding upon the court. Ultimately, the court finally determines discernment, based on its own appreciation of all the facts and circumstances in each case.

In the instant case, there is no mention of any preliminary assessment conducted by a social worker. However, the lack of assessment is understandable since RA 9344 was enacted in 2006 while the Information in this case was originally filed in 2004. At the time of filing, there was no prescribed procedure for a local social welfare and development officer to render an initial assessment on discernment. In any event, the lack of initial or preliminary assessment does not preclude the court from rendering its own findings on discernment. Since the social worker's assessment is merely preliminary and considered as evidence, the court is not bound by the assessment and may still independently determine the existence of discernment, after considering all established facts and circumstances.

The totality of the facts and circumstances of this case lead to the conclusion that CICL XXX acted with discernment in the commission of the crime. CICL XXX was aware that his actions were wrong and would likely result in the death of AAA.

*First*, the gruesome nature of the attack committed against the victim indicates discernment on the part of CICL XXX.

To recall, on 28 October 2003, at around 3:00 A.M., AAA's mother heard someone shouting "*Mama! Mama!*" She and her husband immediately went outside their house and saw the victim lying in front of their gate, with his face and eyes bloodied. AAA related to his parents that CICL XXX, together with a companion, were at their house. It was CICL XXX who struck his eyes. After narrating the incident, AAA fell asleep. The next day, AAA complained of dizziness and one of his eyes was popping out. At the hospital, his CT-Scan result showed severe brain damage. The victim also became blind in one eye with several abrasions on the head, face, and shoulders. Based on the CT-Scan results, AAA had massive cerebral contusions and bleeding on spaces in the brain which may have been caused by any force or object hard enough to cause damage to the brain. A few days later, he could no longer



speak. On 26 January 2004, he was discharged from the hospital in a vegetative state. After being bedridden for five years, the victim died on 26 November 2008.<sup>56</sup>

As observed by Chief Justice Alexander G. Gesmundo, CICL XXX acted with discernment when he mauled the victim with a blunt object which is hard enough to break a skull or shake a brain.<sup>57</sup> Justice Maria Filomena D. Singh likewise states that the brain injuries suffered by AAA palpably show the gruesome nature of the crime. Thus, the act totally speaks of discernment.<sup>58</sup> Justice Henri Jean Paul B. Inting also adds that the location of the wounds and deliberateness of their infliction upon AAA demonstrate CICL XXX's discernment. It has been held that the head of a person is a vital part of the body and the infliction of a heavy blow thereon may even establish intent to kill.<sup>59</sup> The testimonies of Dr. Romeo Concepcion and Dr. Manuel Kelly, Jr. also prove the severity of the wounds inflicted upon AAA which were sufficient to cause his death.<sup>60</sup>

*Second*, the circumstances showed CICL XXX's cunning and shrewdness. He perpetrated the attack early in the morning at around 3:00 A.M. while accompanied by a companion. They waited for the victim to get home and after striking the victim, they escaped before any witnesses could see them.

*Third*, CICL XXX's attack against the victim can be considered as an attempt to silence the latter or an act of retaliation for testifying against him in a separate mauling incident during the *barangay* proceedings. According to the prosecution, on 27 October 2003, or a day before the attack, the victim testified against CICL XXX during a hearing on the complaint for physical injuries filed by DDD. The victim allegedly saw him hit DDD with a bucket inside a bar in Baguio City.

*Fourth*, CICL XXX testified that he quit school when the instant case was filed. He then fled to his home in Sagada where he worked as a [REDACTED] [REDACTED].<sup>61</sup> CICL XXX's overt acts of quitting school and returning home to Sagada are indicative of his awareness that what he did was wrong. CICL XXX's own testimony reveals his awareness that his actions were wrong. He dropped out of school because he was scared after he received a warning that he should watch his back:<sup>62</sup>

Q And after October 2008 what occupation did you engage in?

<sup>56</sup> CA rollo, pp. 86-87.

<sup>57</sup> See Reflections of Chief Justice Gesmundo, p. 6.

<sup>58</sup> Reflections of Associate Justice Singh, p. 2.

<sup>59</sup> Reflections of Associate Justice Inting, p. 5, citing *People v. Balderas*, 342 Phil. 435, 452 (1997).

<sup>60</sup> *Id.* at 9.

<sup>61</sup> CA rollo, p. 87.

<sup>62</sup> See Reflections of Associate Justice Inting, p. 14.

A After that I dropped out from school, I went home to Sagada to be a

Q Why did you drop out?

A Because a case was filed against me so I just stopped.

Q Why did you have to drop out?

A Because somebody told me to watch my back because people might go after me. x x x

Q Why did you take seriously that you have to quit?

A I got scared.<sup>63</sup>

To suddenly quit school and flee to his home shows that CICAL XXX had full knowledge of the gravity and consequences of his act.

*Lastly*, as noted by Associate Justice Inting, the records bear that at or near the time of the incident, CICAL XXX was a second-year Nursing student. His level of education shows that he had the capacity to discern that inflicting bodily harm upon AAA was wrong, and it would likely result in his death.<sup>64</sup>

Also, there is testimony on record that CICAL XXX was advised by his guardian, YYY, during the settlement conference for the incident involving DDD not to do the act complained of (*i.e.*, mauling) again, and that CICAL XXX should concentrate on his studies. This shows that CICAL XXX was made aware that it is wrong to physically harm another person.<sup>65</sup>

Considering the foregoing reasons, We quote with approval the ruling of the CA that CICAL XXX, who was then already 17 years old, or only several months before reaching the age of majority, acted with clear discernment:

In the present case, it was clearly established that the accused-appellant acted with discernment when he and his unidentified companion went to the house of victim and waited for him to arrive home. When the victim arrived, he and his unidentified companion mauled the victim after the accused-appellant could not give a good explanation for intruding the victim's house. Accused-appellant further knew what he was doing and what he did was wrong when after mauling the victim, he and his companion left the latter bleeding and lying in front of the gate.<sup>66</sup>

Ultimately, a careful consideration of all facts and circumstances, particularly the gruesome nature of the attack, the chosen time and place, the

<sup>63</sup> Records, pp. 506-507.

<sup>64</sup> See Reflections of Associate Justice Inting, p. 13.

<sup>65</sup> *Id.* at 9-10.

<sup>66</sup> CA rollo, pp. 94-95.

attempt to silence the victim who previously acted as a witness, and his very behavior and level of education, indicates that he acted with discernment. As gleaned from these facts, he committed the crime with an understanding of its depravity and consequences.<sup>67</sup> Thus, CICL XXX is criminally liable for his act.

*On the retroactive application of RA 9344, as amended, as well as the failure of the prosecution and trial court to take into account discernment*

Associate Justice Amy C. Lazaro-Javier correctly pointed out that both “the prosecution and defense were oblivious of the enactment of RA 9344 and were all working erroneously under the compelling shadow of the former rules.”<sup>68</sup> There was an obvious oversight on the part of the prosecution when it failed to take discernment into account as newly mandated by RA 9344. Likewise, the RTC failed to properly deal with the issue of discernment in its decision.<sup>69</sup>

However, the prosecution’s failure to allege discernment in the Information and the trial court’s failure to discuss discernment in its decision are not sufficient grounds to acquit CICL XXX.

While it is true that the circumstance of acting with discernment must be specifically alleged in the Information, the accused may waive the right to question the defects or insufficiency of said Information. As held in *People v. Solar*:<sup>70</sup>

The Court notes that the right to question the defects in an Information is not absolute. In fact, defects in an Information with regard to its form may be waived by the accused. For instance, in *People v. Palarca*, the accused was charged with rape, but the Information filed against him failed to specify that he had carnal knowledge of the victim through force or intimidation. When it reached the Court, it held that the accused therein may still be validly convicted of the crime despite the insufficiency of the Information, ratiocinating thus:

In any event, accused-appellant failed to interpose any objection to the presentation by the prosecution of evidence which tended to prove that he committed the rape by force and intimidation. While generally an accused cannot be convicted of an offense that is not clearly charged in the

<sup>67</sup> See supra note 48 at 649.

<sup>68</sup> Reflections of Associate Justice Lazaro-Javier, p. 4.

<sup>69</sup> *Id.*

<sup>70</sup> 858 Phil. 884 (2019) [Per J. Caguioa, *En Banc*].

complaint or information, this rule is not without exception. The right to assail the sufficiency of the information or the admission of evidence may be waived by the accused-appellant. In *People v. Lopez*, we held that **an information which lacks certain essential allegations may still sustain a conviction when the accused fails to object to its sufficiency during the trial, and the deficiency was cured by competent evidence presented therein.** . . .

Similarly, in the case of *People v. Razonable*, the Court held that if an Information is defective, such that it fails to sufficiently inform the accused of the nature and cause of the accusation against him, then it is the accused's duty to enforce his right through the procedural rules created by the Court for its proper enforcement. . . .

To recall, in the present case, Rolando did not question the supposed insufficiency of the Information filed against him through either a motion to quash or motion for bill of particulars. He voluntarily entered his plea during the arraignment and proceeded with the trial. Thus, he is deemed to have waived any of the waivable defects in the Information, including the supposed lack of particularity in the description of the attendant circumstances. In other words, Rolando is deemed to have understood the acts imputed against him by the Information. The CA therefore erred in modifying Rolando's conviction in the way that it did when he had effectively waived the right to question his conviction on that ground.<sup>71</sup>

The rule requiring an accused to timely raise objections to defects in the Information was further expounded by Chief Justice Gesmundo in his concurring opinion:

To reiterate, the right to be informed of the charges against the accused is not concluded upon the filing of the Information. It continues until the accused is formally arraigned. At that point, the defense counsel, as well as the prosecutor and the court, must ensure that the accused has understood the charges, including any aggravating or qualifying circumstance stated therein. If there are any unclear matters, these must be clarified to the accused so that a proper plea may be entered. **Failure to raise any objection as to the sufficiency of the Information upon entering a plea during arraignment constitutes as a waiver to assail said Information.**

Accordingly, **when the accused fails to object to the defect in the sufficiency of the Information, such as in the case at bench, he waives the right to question such defect. Hence, the Information, which may have a deficiency in certain allegations, shall still sustain a conviction because of the lack of objections.** Consequently, past criminal cases, which

<sup>71</sup> *Id.* at 922-924.

judgments have already become final and executory, cannot benefit from the proposed procedure of the *ponencia* because any defect in the Information, specifically in the allegation of qualifying or aggravating circumstance, is cured by the lack of objections as to the sufficiency of the Information at the earliest possible opportunity.<sup>72</sup> (Emphasis supplied)

In the present case, the defense did not interpose any objection to the amended Information charging CICL XXX with homicide. Even though the Information contained no allegation that CICL XXX acted with discernment, CICL XXX's failure to challenge the insufficiency meant his right to question the defect was waived. Hence, CICL XXX may still be convicted of homicide if discernment was established during trial.

On the other hand, regarding the lack of discussion on discernment in the trial court's decision, both the CA and this Court are not precluded from correcting this deficiency. It was held in *Encinares v. People*:<sup>73</sup>

Time and again, it has been held that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment, whether assigned or unassigned. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>74</sup>

The basis for the CA's and this Court's determination of discernment on the part of CICL XXX is the records of this case, including those presented by the prosecution. Associate Justice Ramon Paul L. Hernando emphatically states that the circumstances and conditions necessary to infer discernment, as opposed to merely presuming, have been sufficiently established by the prosecution, which may then be rightly used as basis in convicting CICL XXX of the crime he consciously committed.<sup>75</sup>

Also, as aptly stated by Associate Justice Jhosep Y. Lopez, allowing for the CA's determination as to the presence of discernment found in the record strikes a balance between the principle of retroactivity of penal laws favorable to an accused *vis-à-vis* the prosecution's burden to prove an added element of a crime, especially considering the peculiar situation in this case.<sup>76</sup>

<sup>72</sup> *Id.* at 953-958.

<sup>73</sup> G.R. No. 252267, 11 January 2021 [Per J. Perlas-Bernabe, Second Division].

<sup>74</sup> *Id.*

<sup>75</sup> Reflections of Associate Justice Hernando, p. 2.

<sup>76</sup> See Reflections of Associate Justice J. Lopez, p. 3.

Here, the CA addressed the deficiency by including a discussion on discernment even though it was not raised as an error. After all, an appeal in a criminal case opens the entire case for review.

*On the penalty and damages*

We likewise affirm the penalty imposed by the CA. The penalty for the crime of homicide under Article 249 of the RPC is *reclusion temporal* with the duration of twelve (12) years, one (1) day to twenty (20) years. Considering the privileged mitigating circumstance of minority, the penalty is reduced by one degree pursuant to Article 68 of the RPC. Applying the Indeterminate Sentence Law, the proper imposable penalty shall be the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.<sup>77</sup>

Section 38 of RA 9344 allows for the suspension of the sentence of minors notwithstanding said child reaching the age of majority at the time the judgment of conviction was pronounced. However, *Hubilla v. People*<sup>78</sup> has clarified that the sentence of the offender may only be suspended until he or she is 21 years old in accordance with Section 40 of the law. Thus, this is no longer applicable in this case.

At any rate, CICL XXX shall be entitled to the appropriate disposition under Section 51 of the same law which provides:

**SECTION 51. *Confinement of Convicted Children in Agricultural Camps and other Training Facilities.*** -- A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

In *People v. Jacinto*,<sup>79</sup> the Court declared that Section 51 applies regardless of the age of the offender at the time of the promulgation of the judgment of conviction.

As ruled by the CA, in lieu of service in the regular penal institution, CICL XXX may serve his sentence in an agricultural camp or other training

<sup>77</sup> CA rollo, p. 95.

<sup>78</sup> 748 Phil. 441 (2014) [Per J. Bersamin, First Division].

<sup>79</sup> 661 Phil. 224 (2011) [Per J. Perez, First Division].

facilities. In view thereof, the case shall be remanded to the court of origin for its appropriate action in accordance with Section 51 of RA 9344.<sup>80</sup>

As to the damages, We affirm the CA's directive for CICL XXX to pay to the heirs of AAA, the following: (a) PHP 504,145.01 as actual damages; (b) PHP 50,000.00 as civil indemnity; and (c) PHP 50,000.00 as moral damages pursuant to *People v. Jugueta*.<sup>81</sup> All damages are subject to interest at the rate of six percent (6%) per annum from the date of the finality of the judgment until fully paid.

#### *Guidelines on determining discernment*

In view of the discussions on discernment in our jurisprudence through the years, there is a need to streamline the discernment determination process for crimes involving a child in conflict with the law. Thus, We provide the following guidelines:

1. Discernment is the capacity of the child at the time of the commission of the offense to understand the difference between right and wrong and the consequences of the wrongful act.<sup>82</sup>
2. The task of ascertaining discernment is undertaken preliminarily by a social worker, and finally by the court. The determination of discernment shall take into account the ability of a child to understand the moral and psychological components of criminal responsibility and the consequences of the wrongful act; and whether a child can be held responsible for essentially antisocial behavior.<sup>83</sup> The assessment of a social worker is merely evidentiary and is not binding upon the court. Ultimately, the court finally determines discernment, based on its own appreciation of all the facts and circumstances in each case.
3. In our jurisdiction, there is no presumption that a minor acts with discernment. The prosecution must specifically prove as a separate circumstance that the alleged crime was committed with discernment. For a minor at such an age to be criminally liable, the prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence, that he acted with discernment.<sup>84</sup>

<sup>80</sup> CA rollo, p. 98.

<sup>81</sup> 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

<sup>82</sup> A.M. No. 02-1-18-SC, 2019 Supreme Court Revised Rule on Children in Conflict with the Law, 22 January 2019.

<sup>83</sup> *Id.*

<sup>84</sup> *CICL XXX v. People*, 859 Phil. 912, 928 (2019) [Per J. Caguina, Second Division].

4. In determining discernment, courts shall consider the totality of facts and circumstances in each case.<sup>85</sup> Such circumstances include, but are not limited to: (i) the very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during trial, (ii) the gruesome nature of the crime, (iii) the minor's cunning and shrewdness, (iv) the utterances of the minor, (v) his overt acts before, during and after the commission of the crime, (vi) the nature of the weapon used, (vii) his attempt to silence a witness, and (viii) his disposal of evidence or his hiding the *corpus delicti*.

These guidelines encapsulate the carefully crafted rules and principles in dealing with children in conflict with law, taking into account their rights and special circumstances.


**ACCORDINGLY**, the Petition is **DENIED**. The Court of Appeal's 29 November 2017 Decision and 19 March 2018 Resolution in CA-G.R. CR No. 39196 are **AFFIRMED**.

CICL XXX is **GUILTY** of the crime of Homicide and is sentenced to suffer the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

He is also **ORDERED** to pay the heirs of AAA the following: (a) PHP 504,145.01 as actual damages; (b) PHP 50,000.00 as civil indemnity; and (c) PHP 50,000.00 as moral damages. All damages awarded shall earn a 6% interest per annum from the finality of this Decision until full payment.

The case is also remanded to the trial court for its appropriate action in accordance with Section 51 of Republic Act No. 9344.

**SO ORDERED.**

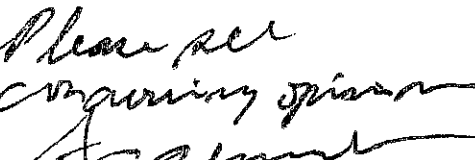
  
**RODIL V. ZALAMEDA**  
Associate Justice

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<sup>85</sup> *Supra* note 48.



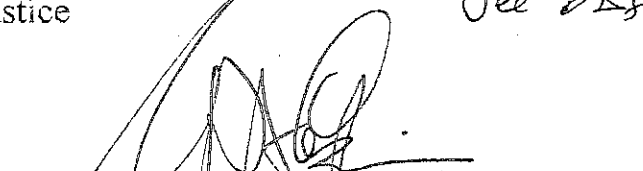
WE CONCUR:

*Please see concurring opinion*  
  
**ALEXANDER G. GESMUNDO**  
 Chief Justice

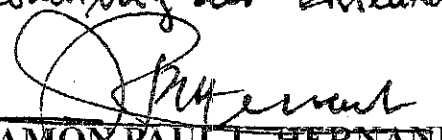
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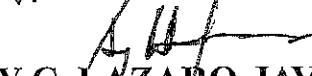
*See separate opinion*

  
**MARVIC M.V.F. LEONEN**  
 Associate Justice

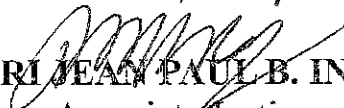
  
**ALFREDO BENJAMIN S. CAGUIOA**  
 Associate Justice

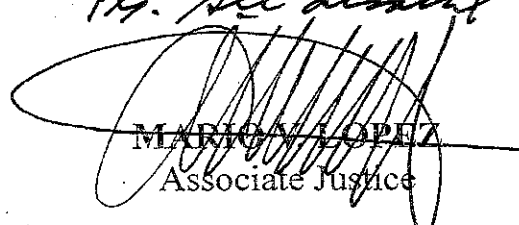
*See Concurring and Dissenting Opinions*


  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

*Pls. see Dissent,*  
  
**AMY C. LAZARO-JAVIER**  
 Associate Justice


*Please see concurring opinion*


  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

*Pls. see dissent*  
  
**MARION LOPEZ**  
 Associate Justice

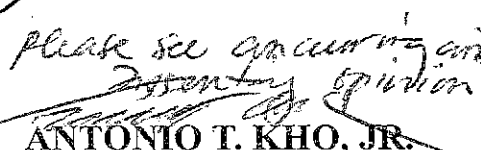
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**SAMUEL H. GAERLAN**  
 Associate Justice

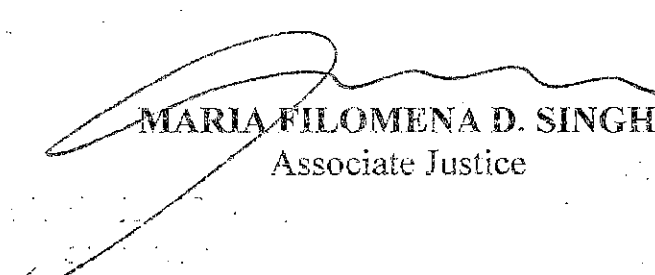
  
**RICARDO R. ROSARIO**  
 Associate Justice

*Pls. see separate concurring opinion*  
  
**JHOSEPY. LOPEZ**  
 Associate Justice

  
**JAPAR B. DIMAAMPAO**  
 Associate Justice

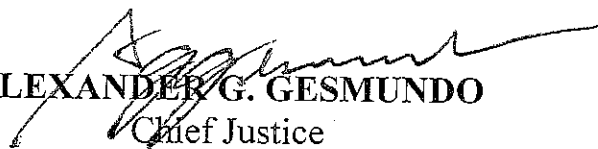
*Midas*  
  
**JOSE MIDAS P. MARQUEZ**  
 Associate Justice

*Please see concurring and dissenting opinion*  
  
**ANTONIO T. KHO, JR.**  
 Associate Justice

  
**MARIA FILOMENA D. SINGH**  
 Associate Justice

**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**  
Chief Justice