



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 26, 2023** which reads as follows:*

**“G.R. No. 260853 (PEOPLE OF THE PHILIPPINES, Plaintiff-appellee v. JIMMY MARTIN PESIGAN, Accused-appellant).** — This Court resolves an Appeal<sup>1</sup> assailing the Decision<sup>2</sup> of the Court of Appeals, which affirmed the conviction of Jimmy Martin Pesigan (Jimmy) for the crime of kidnapping with homicide.

In 2014, Jimmy, Sherwin Platon (Sherwin), and Ruben Platon (Ruben) were charged with kidnapping with homicide.<sup>3</sup> The Amended Information reads:

That on or about the 8<sup>th</sup> day of January, 2014, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above[-]named accused, being then a private individuals [sic], conspiring and confederating together with JOHN DOE whose identity and present whereabouts is [sic] still unknown and all of them mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously and for the purpose of killing BENEDICT COMIGHOD [y] ABLA, kidnap, carry away, and deprive said BENEDICT COMIGHOD [y] ABLA of his liberty without authority of law, against his will and consent; that on occasion of kidnapping and to enable them to carry out their purpose, the said accused, in pursuance of their conspiracy, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one BENEDICT COMIGHOD [y] ABLA, by then and there strangling his neck, thereby inflicting upon him fatal injury which directly caused his death.

CONTRARY TO LAW.<sup>4</sup>

All accused pleaded not guilty. Trial then ensued.<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 3–5. The October 28, 2020 Appeal in CA-G.R. CR-HC No. 12172.

<sup>2</sup> *Id.* at 9–27. The October 5, 2020 Decision in CA-G.R. CR-H.C. No. 12172 was penned by Associate Justice Myra V. Garcia-Fernandez and concurred by Associate Justice Ruben Reynaldo G. Roxas and Associate Justice Alfredo D. Ampuan of the Court of Appeals, Seventeenth Division, Manila.

<sup>3</sup> *Id.* at 29.

<sup>4</sup> *Id.*

The following witnesses testified for the prosecution: Bryan Comighod (Bryan), Police Officer III Edwin Sabbun (PO3 Sabbun), Police Inspector Arnold Alabastro (PINSP Alabastro), and Senior Police Officer I Joren Lorenzo (SPO1 Lorenzo).<sup>6</sup>

Bryan narrated that Jimmy and his sister Ivy Comighod (Ivy) used to live together,<sup>7</sup> but sometime in December 2013, Ivy left Jimmy and went into hiding.<sup>8</sup> Distraught, Jimmy abducted Bryan to pressure Ivy to return. Bryan's older brother, Benedict Comighod (Benedict), and their mother called Jimmy, who was later convinced to release him.<sup>9</sup>

On January 8, 2014, Jimmy called Bryan and informed him that he was holding Benedict hostage.<sup>10</sup> Jimmy threatened Bryan that if Ivy will not call him within three hours, he will kill Benedict.<sup>11</sup> For a while, Benedict was replying to Bryan but when he stopped responding, Jimmy said that his brother can no longer reply because he was holding the phone ("*di ba hindi siya nag-te-text ngayon, hawak ko kasi cell phone ni Benedict*").<sup>12</sup> In their exchanges, Jimmy warned that he will not let Benedict go if Ivy will not talk to him.<sup>13</sup>

The following day, Bryan and his family coordinated with the Las Piñas Police and learned that Benedict was found dead.<sup>14</sup> Benedict was strangled to death.<sup>15</sup>

Bryan went to Jimmy's house, together with the police and Sherlyn Rosales (Sherlyn), the live-in partner of Benedict.<sup>16</sup> There, they found Sherwin.<sup>17</sup> After Sherlyn pointed at him, Sherwin ran away but he was later arrested.<sup>18</sup> The police retrieved a phone and read messages stating that Ruben killed Benedict.<sup>19</sup>

During Benedict's wake, Jimmy surrendered to the police and executed a *Sinumpaang Salaysay*.<sup>20</sup>

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 29–30.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

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

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

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 31.

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

<sup>14</sup> *Id.* at 30.

<sup>15</sup> *Id.* at 10.

<sup>16</sup> *Id.* at 31.

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

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 30.

A year after his testimony, Bryan filed an affidavit of desistance.<sup>21</sup> He explained that the case was a mere speculation of Sherlyn.<sup>22</sup> He stated that his testimony that Jimmy took Benedict was only relayed to him by Sherlyn, he did not witness Benedict's death, and he never talked to any eyewitness.<sup>23</sup> His mother and Sherlyn's testimonies were also recanted.<sup>24</sup>

Bryan added that they went to Jimmy's house because he was the last person who Benedict was with. Sherwin and Ruben were implicated in the case merely because he knew that they were Jimmy's friends.<sup>25</sup>

PO3 Sabbun testified that he is one of the police officers who went to Jimmy's house after Sherlyn reported the incident.<sup>26</sup> When they arrived, they saw and arrested Sherwin.<sup>27</sup> They retrieved a blue Alcatel cellphone from Sherwin, which he gave to his team leader, PINSP Alabastro.<sup>28</sup> Thereafter, they also saw and arrested Ruben.<sup>29</sup>

PO3 Sabbun admitted that they did not have a warrant of arrest or a search warrant and the operation was only based on the verbal report of Sherlyn.<sup>30</sup> However, he reasoned that the operation was a hot pursuit, so they did not need an arrest or search warrant.<sup>31</sup>

PINSP Alabastro corroborated PO3 Sabbun's testimony.<sup>32</sup> He testified that the team of police officers were formed based on the complaint for abduction as evidenced by Sherlyn and Bryan's sworn statements.<sup>33</sup> SPO1 Lorenzo's testimony was dispensed with.<sup>34</sup>

On the other hand, the defense presented the following witnesses: Ruben, Gloria Maiquiz (Maiquiz), Rex Allan Pulmitan<sup>35</sup> (Pulmitan), Krishna Ramos (Ramos), Pablo Tenorio (Tenorio), and Juanita Natividad Nafra (Nafra).<sup>36</sup>

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<sup>21</sup> *Id.* at 31–32.

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

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 32–34.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 34–35.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 35.

<sup>35</sup> Also spelled as Paulmitan in some part of the records.

<sup>36</sup> *Id.* at 35.

Ruben denied the charges against him.<sup>37</sup> He disclosed that Jimmy and Sherwin are his relatives but he claimed that he was not involved in the crime.<sup>38</sup> On the date of the incident, he was at home helping his mother sell food.<sup>39</sup> The following day, he was selling food to Sherwin and nearby saw police officers raiding Jimmy's house.<sup>40</sup> Shortly after, the police officers arrested and frisked Sherwin.<sup>41</sup> They confiscated a phone from Sherwin and after reading some messages, they also arrested him.<sup>42</sup>

Ruben added that around a week before the incident, he saw Jimmy in his house with Sherlyn and Bryan. He came to know Bryan at that time.<sup>43</sup>

Maiquiz, Pulmitan, Ramos, Tenorio, and Nafra testified for Sherwin.<sup>44</sup>

Maiquiz owns a car wash and small repair shop.<sup>45</sup> She narrated that at around 11:00 a.m. on January 8, 2014, she saw Sherwin in her shop as he had his vehicle cleaned.<sup>46</sup> As proof, she submitted printouts of the CCTV footage showing Sherwin in the shop until 12:00 noon.<sup>47</sup>

Pulmitan recounted that he was with Sherwin at around 6:00 p.m. on January 8, 2014 at a basketball court.<sup>48</sup> He saw Sherwin watch a tryout but Pulmitan admitted that he did not know where Sherwin was before he arrived at the basketball court.<sup>49</sup>

Ramos testified that she and Sherwin worked for a city councilor.<sup>50</sup> Sherwin worked as a driver, clerk, and security officer.<sup>51</sup> On January 8, 2014, Sherwin left the office at 11:00 a.m. to conduct a visitation.<sup>52</sup> She saw him return to the office at 2:00 p.m. and clock out at 5:50 p.m.<sup>53</sup>

Tenorio, a farmer and a *barangay* councilor,<sup>54</sup> recalled that on the day of the incident, Sherwin arrived at around 12:00 noon in the *barangay* hall.<sup>55</sup> Sherwin stayed until 1:00 p.m. after he inspected a farm-to-market road

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<sup>37</sup> *Id.* at 36–37.

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

<sup>39</sup> *Id.* at 37.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

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

<sup>44</sup> *Id.* at 35–39.

<sup>45</sup> *Id.* at 35–36.

<sup>46</sup> *Id.* at 36.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

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

<sup>50</sup> *Id.* at 37–38.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 38.

<sup>55</sup> *Id.*

project.<sup>56</sup>

Lastly, Nafra,<sup>57</sup> a human resource employee in the city hall, confirmed that Sherwin was their employee.<sup>58</sup>

The trial court held that the prosecution had sufficiently proven that Jimmy kidnapped the victim, who was later found dead.<sup>59</sup> It highlighted Bryan's testimony which identified Jimmy as the person who abducted and threatened to kill his brother.<sup>60</sup> Bryan told the court that the day before Benedict died, he was able to converse with him.<sup>61</sup> Soon after, Jimmy told him that Benedict could no longer reply because he had taken his phone.<sup>62</sup>

While there are no eyewitnesses to the killing, this testimony established circumstantial evidence which points to Jimmy as the perpetrator.<sup>63</sup> The trial court further stressed that Jimmy failed to rebut all these accusations because he never testified in court.<sup>64</sup> It also disregarded the recantation of testimonies as it was done more than a year after the case was filed.<sup>65</sup>

As for Sherwin and Ruben, the trial court ruled that there is no direct or circumstantial evidence that would prove their guilt.<sup>66</sup> Sherwin was arrested simply because he was seen near Jimmy's house while Ruben was implicated due to allegations that he was the one who killed the victim, but there is no other evidence proving this.<sup>67</sup>

The trial court found Jimmy guilty of the charge and acquitted Sherwin and Ruben.<sup>68</sup> Thus:

**WHEREFORE**, premises considered, the court finds accused JIMMY MARTIN PESIGAN **GUILTY** beyond reasonable doubt of the crime of Kidnapping with Homicide and sentences him to suffer the penalty of *reclusion perpetua*.

Accused JIMMY MARTIN PESIGAN is also ordered to indemnify the heirs of deceased-victim Benedict Comighod [y] Abila the amount of Php75,000.00, another amount of Php75,000.00 as moral damages, and Php25,000.00 as temperate damages. All monetary damages shall earn

<sup>56</sup> *Id.*

<sup>57</sup> Also spelled as Mafra in some part of the records

<sup>58</sup> *Id.* at 38–39.

<sup>59</sup> *Id.* at 42.

<sup>60</sup> *Id.* at 43.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 46.

<sup>64</sup> *Id.* at 47.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 48.

<sup>67</sup> *Id.* at 48.

<sup>68</sup> *Id.* at 48

6% interest per annum from the finality of this Decision until full payment.

On ground of reasonable doubts, the court **ACQUITS** accused SHERWIN PLATON [y] GURA @ “WEN”, and RUBEN PLATON [y] TAPIA @ “BEN”, of the crime charged against them.

**SO ORDERED.**<sup>69</sup>

Jimmy filed an appeal but his conviction was affirmed with modification.<sup>70</sup> Thus:

**WHEREFORE**, the appeal is **DENIED**. The decision of the Regional Trial Court of Las Piñas City Branch 197 dated May 4, 2018 in Crim. Case No. 14-0083 which found accused-appellant Jimmy Martin Pesigan guilty beyond reasonable doubt of the special complex crime of Kidnapping with Homicide is **AFFIRMED with MODIFICATION**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and ordered to pay the heirs of Benedict Comighod the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,00.00 as exemplary damages. All amounts due as damages shall earn legal interest of six percent (6%) *per annum* from the date of the finality of this decision until full satisfaction thereof.

**SO ORDERED.**<sup>71</sup>

The Court of Appeals ruled that the circumstantial evidence proved that Jimmy kidnapped and killed Benedict.<sup>72</sup> Bryan testified that prior to the incident, he was also abducted by Jimmy to demand Ivy’s return.<sup>73</sup> He was returned to his family, but not long after Jimmy called him to inform him that he had abducted Benedict.<sup>74</sup> Bryan narrated that Jimmy messaged him from 2:00 p.m. on January 8, 2014 until 1:38 p.m. the following day to negotiate Benedict’s release.<sup>75</sup> This is consistent with PO3 Sabbun’s narration that Sherlyn reported Benedict’s abduction and requested the police’s assistance.<sup>76</sup> Soon after, they learned that Benedict was already dead.<sup>77</sup>

Further, the Court of Appeals did not rely on the recantation of Bryan’s testimony as a recantation of a witness does not necessarily merit the dismissal of a criminal case.<sup>78</sup> It stressed that Bryan renounced his testimony after he completed most of his direct examination and more than a

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

<sup>70</sup> *Id.* at 9–27.

<sup>71</sup> *Id.* at 26.

<sup>72</sup> *Id.* at 22.

<sup>73</sup> *Id.* at 22–23.

<sup>74</sup> *Id.* at 23

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

year after he issued his affidavit.<sup>79</sup> Moreover, in Bryan's *Pag-uurong ng Sakdal at Salaysay*, he did not disown the exchanges of messages between him and Jimmy.<sup>80</sup>

Accused-appellant then filed his Notice of Appeal and the records were forwarded to this Court.<sup>81</sup> This Court required both parties to file their supplemental briefs.<sup>82</sup> Both parties filed manifestations in lieu of supplemental briefs.<sup>83</sup> Accused-appellant adopted all the arguments he raised in his brief before the Court of Appeals.<sup>84</sup>

In his brief, accused-appellant first argues that the trial court erred in finding guilt based on mere circumstantial evidence.<sup>85</sup> Second, that the evidence presented by the prosecution does not form a chain of events which establishes that he kidnapped and subsequently killed the victim.<sup>86</sup>

Accused-appellant questions the credibility of Bryan's testimony.<sup>87</sup> He posits that it is highly contradictory to human experience that Bryan did not file a complaint when he allegedly abducted him.<sup>88</sup> Moreover, Bryan had no personal knowledge that he was with the victim before the latter died.<sup>89</sup>

Further, accused-appellant points out that there is no proof that the phone number which was used to text Bryan belonged to him.<sup>90</sup> There is no call history from Bryan logged on the phone.<sup>91</sup> He also avers that the phone retrieved from Sherwin is inadmissible because there was no arrest and search warrant.<sup>92</sup>

Moreover, accused-appellant stresses that Bryan himself admitted that they had no strong evidence against him and that the complaint was filed based on Sherlyn's mere speculation.<sup>93</sup> Moreover, he banks on the recantations of Bryan, his mother, and Sherlyn.<sup>94</sup> In any case, he argues that even if the testimonies are taken into account, the prosecution allegedly still failed to prove his guilt beyond reasonable doubt.<sup>95</sup>

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<sup>79</sup> *Id.* at 24.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 49.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 51, 57.

<sup>84</sup> *Id.* at 57.

<sup>85</sup> *CA rollo*, p. 67.

<sup>86</sup> *Id.* at 68.

<sup>87</sup> *Id.* at 69.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 70.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.* at 72.

<sup>94</sup> *Id.* at 72.

<sup>95</sup> *Id.* at 73.

On the other hand, plaintiff-appellee asserts that the elements of the crime were all established by the prosecution.<sup>96</sup> The series of events lead to a reasonable conclusion that accused-appellant abducted and killed the victim.<sup>97</sup> Accused-appellant was distraught because his partner, Ivy, left him. This drove him to abduct Bryan, confessing to the latter that he only abducted him to force Ivy to show up.<sup>98</sup> A week later, on January 8, 2014, they learned that accused-appellant was with Benedict and used the latter's phone to message Bryan.<sup>99</sup> The police found Benedict's dead body that night.<sup>100</sup> During Benedict's wake, accused-appellant surrendered to the police and admitted that he and Benedict were together until the night of January 8, 2014.<sup>101</sup>

This string of events leads to the reasonable conclusion that it is accused-appellant who killed Benedict out of vengeance and frustration towards Ivy.<sup>102</sup>

Plaintiff-appellee argues that there is positive identification even if Bryan failed to show accused-appellant's phone call log in open court.<sup>103</sup> Accused-appellant himself admitted that he saw Benedict on the night of January 8, 2014, the same night when Benedict's corpse was found.<sup>104</sup> This is a positive identification of accused-appellant.<sup>105</sup>

Further, plaintiff-appellee argues that accused-appellant had the strongest motive to kill Benedict.<sup>106</sup> It adds that the abduction of Bryan and Benedict are similar such that they were done to force Ivy to return, they happened in the same vicinity, and their freedom was negotiated through calls and messages.<sup>107</sup> While motive is not an element of the crime, it becomes relevant when the evidence available is circumstantial.<sup>108</sup>

Moreover, plaintiff-appellee asserts that Bryan's failure to file a complaint in relation to his abduction does not affect the abduction case of Benedict.<sup>109</sup> It adds that Bryan's lack of personal knowledge that accused and Benedict were together on the night the latter was found dead is likewise irrelevant,<sup>110</sup> considering that accused-appellant himself admitted in his

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<sup>96</sup> *Id.* at 119.

<sup>97</sup> *Id.* at 120.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 120-121.

<sup>100</sup> *Id.* at 121.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 123.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.* at 124.

<sup>108</sup> *Id.* at 123.

<sup>109</sup> *Id.* at 127.

<sup>110</sup> *Id.*



affidavit that he was with Benedict in the morning of January 8, 2014 until later that night.<sup>111</sup>

With respect to the recantation of testimonies, plaintiff-appellee contends that this does not weaken the prosecution's case.<sup>112</sup> First, the affidavits were filed more than a year after the case was filed and after Bryan gave his testimony in court.<sup>113</sup> Second, an eyewitness is not required for positive identification of accused-appellant.<sup>114</sup> Third, mere recantation of a witness does not necessarily affect the prosecution if the testimony is credible.<sup>115</sup> Lastly, the reason and motives behind the recantation does not cast doubt on the testimony's truthfulness.<sup>116</sup>

The issue for this Court's resolution is whether the prosecution proved accused-appellant's guilt beyond reasonable doubt.

Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659 states:

Article 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 penalty 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.<sup>117</sup>

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<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 130.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* at 130–131.

<sup>115</sup> *Id.* at 131.

<sup>116</sup> *Id.* at 132–133.

<sup>117</sup> REV. PEN. CODE, art. 267.

The crime of kidnapping is proven when the following elements are established:

- (1) the offender is a private individual;
- (2) he kidnaps or detains another, or in any manner deprives the latter of his liberty;
- (3) the act of detention or kidnapping is 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) 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 officer.<sup>118</sup> (Citations omitted)

The special complex crime of kidnapping with murder or homicide is committed when the victim of kidnapping was killed or died “in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought.”<sup>119</sup> Article 267, as amended, effectively eliminated the flawed distinction between cases where the killing was deliberate and cases where killing was an afterthought.<sup>120</sup>

Here, the elements of kidnapping with homicide are established by the prosecution. First, the accused is a private individual. Second, he kidnapped Benedict. Third, the detention is illegal, and lastly, the victim died during the course of the detention.

Accused-appellant questions his conviction by arguing that it is merely based on circumstantial evidence. He asserts that the prosecution failed to present a chain of events which proves that he kidnapped and killed Benedict. He further casts doubt on the testimony of Bryan, who admitted that he had no strong evidence against the accused and who later recanted his testimony along with his mother and Sherlyn.

These arguments fail.

In criminal cases, direct evidence is not the only measure to conclude a conviction.<sup>121</sup> Convictions may be based on circumstantial evidence if the following elements concur: “(a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.”<sup>122</sup> *People v. Solangon* explained:

Circumstantial evidence is of a nature identically the same with direct

<sup>118</sup> *People v. Reyes*, 600 Phil. 738, 785 (2009) [Per J. Chico-Nazario, Third Division].

<sup>119</sup> *People v. Montanir*, 662 Phil. 535, 548 (2011) [Per J. Peralta, Second Division].

<sup>120</sup> *People v. Ramos*, 358 Phil. 261, 286 (1998) [Per Curiam, En Banc].

<sup>121</sup> *People v. Solangon*, 563 Phil. 316, 325 (2007) [Per J. Ynares-Santiago, En Banc].

<sup>122</sup> *Id.*

evidence. It is equally direct evidence of minor facts of such a nature that the mind is led intuitively or by a conscious process of reasoning to the conviction that from them some other fact may be inferred. No greater degree of certainty is required when the evidence is circumstantial than when it is direct. In either case, what is required is that there be proof beyond reasonable doubt that the crime was committed and that the accused committed the crime.<sup>123</sup>

As determined by the trial and appellate courts, the evidence presented by the prosecution prove that the accused-appellant kidnapped and killed Benedict. While there is no eyewitness to the kidnapping and killing of Benedict, the events surrounding the incident point to the accused-appellant as the perpetrator.

Based on Bryan's testimony, he had a conversation with the accused-appellant through his brother Benedict's phone. Accused-appellant even confirmed that Benedict could no longer reply to Bryan because he had taken the phone. The accused was the last person with Benedict when he had gone missing.

To add, this is not the first time the accused-appellant committed an abduction involving Benedict's family. The accused-appellant also abducted Bryan to demand Ivy's return. More importantly, the accused-appellant surrendered to the police during Benedict's wake and executed an affidavit admitting his guilt.

Further, Bryan and his family's recantation of testimonies do not exculpate the accused-appellant.

Recantation of testimonies are viewed unfavorably by the courts and they do not necessarily invalidate an earlier declaration.<sup>124</sup> They are unreliable because it is always possible that the recantation may later on be repudiated.<sup>125</sup> Moreover, recantations may be easily acquired from witnesses through intimidation or monetary considerations.<sup>126</sup> *People v. Davatos*<sup>127</sup> further explained:

A recantation does not necessarily cancel an earlier declaration. Like any other testimony, it is subject to the test of credibility based on the relevant circumstances and especially the demeanor of the witness on the stand. Moreover, it should be received with caution as otherwise it could "make solemn trial a mockery and place the investigation of truth at the mercy of unscrupulous witnesses."<sup>128</sup>

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<sup>123</sup> *Id.*

<sup>124</sup> *People v. Ceniza*, 458 Phil. 150, 162 (2003) [Per J. Puno, Third Division].

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> 299 Phil. 691 (1994) [Per J. Cruz, First Division].

<sup>128</sup> *Id.* at 696.

In this case, the recantation of Bryan and his family's testimonies cannot overturn the conviction. As explained by the appellate court, the recantation happened over a year after the filing of the case. The reason for Bryan's recantation, which is the lack of strong evidence against accused-appellant, is not a reliable basis to disregard his testimony. In any case, accused himself admitted in his affidavit that he was with Benedict when the latter went missing, on the same night his corpse was found.

In all, the string of events is circumstantial evidence which form a strong basis to convict the accused-appellant. Thus, there is no error in the findings of the trial and appellate court.

With respect to the penalty, the special complex crime of kidnapping with homicide carries the penalty of death. However, in review of the suspension of the imposition of death penalty, the imposable penalty is *reclusion perpetua* without eligibility for parole.<sup>129</sup> As for damages, this Court grants PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages to the heirs of Benedict in accordance with the ruling in *People v. Jugueta*.<sup>130</sup>

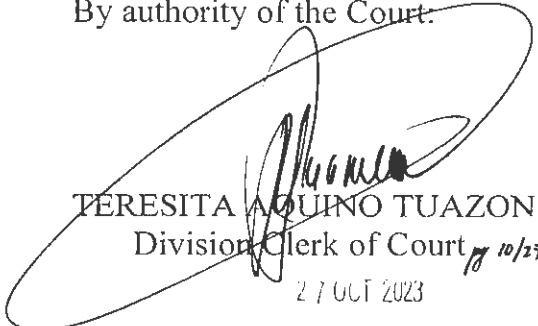
**ACCORDINGLY**, the Appeal is **DISMISSED**. The October 5, 2020 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 12172 is **AFFIRMED**.

Accused-appellant Jimmy Pesigan is found **GUILTY** beyond reasonable doubt of kidnapping with homicide punished under Article 267 of the Revised Penal Code. He is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and ordered to pay the heirs of Benedict Comighod PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages.

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

**SO ORDERED."**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court *per* 10/27  
27 OCT 2023

<sup>129</sup> Republic Act No. 9346 (2006).

<sup>130</sup> 783 Phil. 806, 854 (2016) [Per J. Peralta, En Banc].

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JIMMY MARTIN PESIGAN (reg)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 197  
1740 Las Piñas City  
(Crim. Case No. 14-0083)

JUDGMENT DIVISION (x)  
Supreme Court, Manila

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PHILIPPINE JUDICIAL ACADEMY (x)  
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COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CR-HC No. 12172

\*For this resolution only  
*Please notify the Court of any change in your address.*  
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