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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

JONAS PANTOJA *Y* ASTORGA,
Accused-Appellant.

G.R. No. 223114

Present:

VELASCO, JR, *J.*,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO,* *JJ.*

Promulgated:

November 29, 2017

x - x

DECISION

MARTIRES, *J.*:

On automatic review before this Court is the 20 March 2015 Decision[1] rendered by the Court of Appeals *(CA)* in CA-G.R. CR.-H.C. No. 06492, which affirmed with modification the 2 September 2013 Decision[2] of the Regional Trial Court *(RTC)* of Pasig City, Branch 163, Taguig City Station, in Criminal Case No. 143350 finding accused-appellant Jonas Astorga Pantoja *(accused-appellant)* guilty beyond reasonable doubt of the crime of murder and sentencing him to *reclusion perpetua*.

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* On leave.

1 *Rollo*, pp. 119-130; penned by Associate Justice Japar B. Dimaampao with Associate Justices Franchito N. Diamante and Carmelita Salandanan-Manahan, concurring.

2 Records, pp. 311-322; penned by Presiding Judge Leili Cruz Suarez.

THE FACTS

Accused-appellant was charged in an information[3] which reads as follows:

> That on or about the 22nd day of July 2010, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a bladed weapon *(kitchen knife),* a deadly weapon, with treachery, and taking advantage of his superior strength, did then there willfully, unlawfully, treacherously, and feloniously, attack, assault and repeatedly stab one [AAA],[4] who was 6 years of age at the time of the commission of the offense, which is an act also considered to be cruelty against children, hitting the latter on the different parts of his body; thereby inflicting upon him fatal injuries which caused his death; to the damage and prejudice of the heirs of the victim.

When arraigned on 4 April 2011, accused-appellant pleaded not guilty. Trial ensued.

Version of the Prosecution

The prosecution presented the testimonies of Cederina Pantoja *(Cederina),* mother of the accused-appellant, as hostile witness; BBB[5] father of the victim; and Dr. Voltaire P. Nulud *(Dr. Nulud),* a medico-legal officer of the Philippine National Police Southern Police District *(PNP-SPD)* Crime Laboratory.

Cederina testified that accused-appellant was admitted to the National Center for Mental Health *(NCMH)* on 8 July 2010. Prior to that, he had already exhibited signs of mental illness which started manifesting after he was mauled by several persons in an altercation when he was twenty-one (21) years old. Because of the incident, he sustained head injuries, which required stitches. No further physical examination was conducted on him, because they did not have the funds to pay for additional checkups. Further, Cederina observed that his personality had changed, and he had a hard time sleeping. There was a time when he did not sleep at all for one week, prompting Cederina to bring the accused-appellant to the psychiatric

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[3] Id at 1.

[4] In compliance with Administrative Circular No. 83-2015 (A.C. 83-2015), the complete name of the child victim in this case is hereby replaced with the fictitious initials "AAA."

[5] Per A.C. No. 83-2015, the complete names of the victim's family members or relatives who are mentioned in the court's decision or resolution should also be replaced with fictitious initials.

department of the Philippine General Hospital *(PGH)*. There, the attending physician diagnosed him with schizophrenia.[6]

Accused-appellant escaped from the hospital on 14 July 2010, at around 7:45 in the evening, and arrived at their house the day after. When Cederina inquired from accused-appellant how he was able to find his way home, accused-appellant responded that he roamed around until he remembered the correct jeepney route to their house. Cederina then informed the NCMH that the accused-appellant was in her custody, and she was advised to bring him back to the hospital. However, they were unable to do so at that time because they could not afford the transportation expenses.[7]

On 22 July 2010, at around 8:00 o'clock in the morning, Cederina and the accused-appellant were inside their house. She was washing dishes while he was sitting on the balcony. She kept an eye on him from time to time but, eventually, she noticed that accused-appellant was gone. She went outside to look for him and noticed that the front door of the house where six-year-old AAA resided was open. She found this unusual because it was normally closed. She became nervous when she heard the cry of a child coming from the house. She entered the house and, sensing that the cry emanated from upstairs, she went up.[8]

She then saw accused-appellant holding a knife and the victim sprawled on the floor, bloodied. She took the knife from him and asked him what happened. He did not respond and appeared dazed. She took him downstairs and out of the house where she called out for help for the victim. Nobody responded, until she saw Glenda, who immediately ran to their house when Cederina told her that her son AAA had been hurt.[9]

After a while, barangay officials arrived and brought the accused-appellant with them. Cederina later learned that the victim had died. She went to Glenda and asked for her forgiveness.[10]

Cederina further testified that from the time accused-appellant came home until that fateful morning of 22 July 2010, he continued to take his medications. She observed, however, that accused-appellant exhibited odd behavior, such as repeatedly going in and out of the house.[11]

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6 TSN, 31 July 2012, pp. 4-5 and 14-15.
7 Id. at 5-6 and 16.
8 Id. at 6-7.
9 Id. at 7-9.
10 Id. at 9-11.
11 Id. at 16-17.

Dr. Nulud testified that he conducted an autopsy on the victim. His examination revealed that the victim sustained four (4) stab wounds: on his forehead, his neck, his right shoulder, and below his collar bone.[12]

BBB testified that he was working in Qatar, when his son died. He immediately returned to the Philippines, arriving on 29 July 2010. The victim was buried a week after.[13]

He further testified that the family incurred expenses for their son's funeral service and for his wake, which lasted for two (2) weeks, in the amounts of ₱32,000.00 and ₱65,244.00, respectively. The former has corresponding official receipts while the latter is evidenced by a breakdown of expenses prepared by Glenda.[14]

Version of the Defense

The defense presented the testimonies of accused-appellant and Cederina.

Accused-appellant testified that he was first confined for his mental illness at the PGH in 2003 because his mother observed that he was speaking differently and was starting to hurt people; that he had been in and out of the hospital for the same reason since then; that he would be released from confinement whenever the doctors deemed him well enough after a series of examinations and interviews; that the doctors prescribed medicine, which he had been taking from 2003 up to the time his testimony was taken; that there was never an instance when any of the doctors recommended him to stop taking his medications; that there were times when he would stop taking his medicine if he felt that he was well, which was a source of quarrel for him and his mother; that he knew the victim as his younger brother's playmate; that he could not recall what happened on the fateful morning of 22 July 2010.[15]

The RTC Ruling

The RTC found accused-appellant guilty beyond reasonable doubt of the crime of murder and sentenced him to suffer the penalty of reclusion perpetua. The dispositive portion of the decision reads:

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[12] TSN, 4 February 2013, pp. 5 and 9-10.
[13] TSN, 23 October 2012, pp. 4-6.
[14] Id. at 5-7.
[15] TSN, 8 April 2013, pp. 5-17.

> **WHEREFORE**, premises considered, Jonas Pantoja y Astorga is hereby found **GUILTY** beyond reasonable doubt of the crime of murder, defined and penalized under Article 248 of the Revised Penal Code and, there being no mitigating or aggravating circumstances, is hereby meted the penalty of *reclusion perpetua* without eligibility for parole conformably with Republic Act No. 9346.
>
> Accused is ordered to pay the heirs of [AAA] the amounts of ₱65,244.00 by way [of] actual damages, ₱75,000.00 as civil indemnity and ₱50,000.00 as moral damages. Interest at the rate of six percent (6%) per annum shall be applied to the award of all damages from the finality of the judgment until fully paid.[16]

The RTC reasoned that all the pieces of evidence proffered by the defense are insufficient to warrant a finding that accused-appellant was insane at the time immediately preceding or simultaneous with the crime. Consequently, the presumption of sanity stands.

Aggrieved, accused-appellant appealed before the CA.

The CA Ruling

The CA affirmed the conviction of the accused-appellant, with modification as to the award of damages. The dispositive portion of its decision reads as follows:

> **WHEREFORE**, the *Decision* of the Regional Trial Court of Pasig City, Branch 163, Taguig City Station, in Criminal Case No. 143350, is hereby **AFFIRMED WITH MODIFICATION** in that accused-appellant Jonas Pantoja y Astorga (JONAS) is **ORDERED** to pay actual damages in the amount of ₱35,000,00.[17]

The CA agreed with the RTC that the evidence of the defense do not prove that accused-appellant was insane at the time he committed the crime. Furthermore, while the CA acknowledged that accused-appellant has a history of mental illness which diminished the exercise of his willpower without depriving him of the consciousness of his acts, it also ruled that this mitigating circumstance could not serve to lower the penalty meted against accused-appellant because *reclusion perpetua* is a single and indivisible penalty.

Hence, this appeal.

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16 Records, p. 322.
17 *CA rollo*, p. 130.

ISSUE

This Court is tasked to determine whether accused-appellant has clearly and convincingly proven his defense of insanity to exempt him from criminal liability and, in the negative, whether his mental issues constitute diminished willpower so as to mitigate his liability and to lower the penalty.

THE COURT'S RULING

After a careful evaluation of the records, this Court sees no reason to overturn the decision of the CA, except to modify the amount of damages awarded.

The defense of insanity is in the nature of a confession and avoidance, requiring defendant to prove it with clear and convincing evidence.

The RTC and the CA both found that all the elements constituting murder exist in the case at bar, with accused-appellant as the perpetrator. The accused-appellant did not present evidence controverting such findings. However, accused-appellant raises the defense of insanity in claiming that he should not be found criminally liable.

Insanity is one of the exempting circumstances enumerated in Article 12 of the Revised Penal Code, *viz*:

> Art. 12. Circumstances which exempt from criminal liability. – The following are exempt from criminal liability:
>
> 1. An imbecile or an insane person, unless the latter has acted during a lucid interval.
>
> x x x x

Strictly speaking, a person acting under any of the exempting circumstances commits a crime but cannot be held criminally liable therefor. The exemption from punishment stems from the complete absence of intelligence or free will in performing the act.[18]

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[18] Luis B. Reyes, *The Revised Penal Code: Criminal Law: Book One*, (19th Edition, 2017).

The defense of insanity is thus in the nature of a confession or avoidance. The defendant who asserts it is, in effect, admitting to the commission of the crime. Consequently, the burden of proof shifts to defendant, who must prove his defense with clear and convincing evidence.[19]

In *People v. Madarang*,[20] the Court ruled that a more stringent standard in appreciating insanity as an exempting circumstance has been established, *viz*:

> In the Philippines, the courts have established a **more stringent criterion** for insanity to be exempting as **it is required that there must be a complete deprivation of intelligence in committing the act**, i.e., the accused is deprived of reason; he acted without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of the will. **Mere abnormality of the mental faculties will not exclude imputability**. (emphasis supplied)

Moreover, the evidence of the defense must establish that such insanity constituting complete deprivation of intelligence existed immediately preceding or simultaneous to the commission of the crime.[21]

Thus, for the defense of insanity to prosper, two (2) elements must concur: (1) that defendant's insanity constitutes a complete deprivation of intelligence, reason, or discernment; and (2) that such insanity existed at the time of, or immediately preceding, the commission of the crime.

Since no man can know what goes on in the mind of another, one's behavior and outward acts can only be determined and judged by proof. Such proof may take the form of opinion testimony by a witness who is intimately acquainted with the accused; by a witness who has rational basis to conclude that the accused was insane based on the witness' own perception of the accused; or by a witness who is qualified as an expert, such as a psychiatrist.[22]

The proof proffered by accused-appellant is insufficient to sustain his defense of insanity.

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19 *People v. Tibon*, 636 Phil. 521, 530 (2010).
20 387 Phil. 847, 859 (2000).
21 *People v. Roa*, G.R. No. 225599, 22 March 2017.
22 *Verdadero v. People*, G.R. No. 216021, 2 March 2016, 785 SCRA 490, 503, citing *People v. Opuran*, 469 Phil. 698, 713 (2004).

To prove its assertion, the defense presented the testimonies of accused-appellant and Cederina. It also offered in evidence a (1) letter from the NCMH addressed to Cederina; (2) accused-appellant's patient identification cards from the NCMH and the PGH; (3) accused-appellant's clinical record; and (4) doctor's prescriptions.

A scrutiny of the evidence presented by accused-appellant unfortunately fails to establish that he was completely bereft of reason or discernment and freedom of will when he fatally stabbed the victim. The paucity in accused-appellant's proof is shown by the following circumstances:

First, the testimony of Cederina tends to show that accused-appellant exhibited signs of mental illness only after being injured in an altercation in 2003; that she observed changes in his personality and knew he had difficulty sleeping since then; that accused-appellant was confined in the hospital a few times over the years for his mental issues; and that he was confined at the NCMH on 8 July 2010 from where he subsequently escaped. Nothing in her testimony pointed to any behavior of the accused-appellant at the time of the incident in question, or in the days and hours before the incident, which could establish that he was insane when he committed the offense, as seen from the following exchange during trial:

> Prosecutor
>
> (to Cederina)
>
> Q. And where were you on July 22, 2010 at around past 8:00 in the morning?
> A. At our house, sir.
>
> Q. So when you were at your house, what happened?
> A. **My son at that time was seated at our balcony of our house while I was washing the dishes. And I was looking at him from there, then later on, I noticed that he was gone, sir.**
>
> Q. And when you noticed that your son was no longer at the place where you saw him last, what happened next?
> A. I went outside and looked for him, sir.
>
> Q. And what happened when you were looking for him?
> A. I saw the front door of the house of Glenda open and I heard the cry of the child, sir.
>
> Q. So when you heard the cry of the child, what did you do next?
> A. *Kinabahan po ako, kasi po bukas po yung pinto ng bahay nila, dahil hindi naman po dating bukas 'yon dahil laging sarado. Tapos po, kinabahan ako. Inano ko po, pinakinggan ko yung iyak ng bata. Pumasok po ako, kasi nga, parang kinabahan ako. Tapos po, pag-ano, walang tao po, sa*

bahay po nila (the voice of the witness starts to tremble), *tapos po, pinakinggan ko po yung iyak. Nasa taas po yung iyak. Umakyat po ako.* (The witness is teary-eyed.)

x x x x

Q. **And when you went up, what did you see? If any.**
A. **Nakita ko po, yung anak ko po, may hawak pong kutsilyo, sir.**

Q. **And what else did you see?**
A. **I saw Evo bloodied and sprawled on the floor, sir.** (emphasis supplied)

x x x x

Defense attorney

(to Cederina)

Q. Now, on July 22, 2010, you said that you were inside your house while Jonas was out on the terrace.
A. Yes, ma'am.

Q. Were (sic) he still on medication?
A. Yes, ma'am.

Q. And when he was in your house, I'd like withdraw that, Your Honor. When he was under your custody, did he take his pills?
A. Yes, ma'am.

Q. Now, **what did you observe of him when he was still in your custody?**
A. ***Para naman po siyang ano, magaling, tapos balisa po sya nag-ikot po siya ng ikot pag gabi, ma'am.***

Q. **You said, "ikot siya ng ikot." What do you mean?**
A. ***Lalabas po sya ng bahay tapos po papasok. Labas-pasok po siya ng bahay, ma'am.***

Q. Okay, did you ask him if he was religiously taking his medicines?
A. I'm the one giving him his medicines, ma'am.

Q. Now, did you ask him why he was acting that way?
A. Yes, ma'am.

Q. And what was his reply?
A. *Ang sabi po niya, bumili lang daw po siya ng sigarilyo, ma'am.*

Q. At that point of time, did he also take drugs?
A. I don't know, ma'am.

Q. You did not ask him if he took drugs?

A. *No, ma'am, hindi ko naman po sya nakikita na nagda-drugs.*[23]
(emphasis and underlining supplied)

The foregoing narration does not attribute to accused-appellant any behavior indicative of insanity at the time of, or immediately preceding, the incident. His seemingly odd behaviour of repeatedly going in and out of the house in the days prior to the incident does not, in any way, demonstrate his insanity.

In *People v. Florendo*,[24] the Court held that "the prevalent meaning of the word 'crazy' is not synonymous with the legal terms 'insane,' '*non compos mentis*,' 'unsound mind,' 'idiot,' or 'lunatic.' The popular conception of the word 'crazy' is being used to describe a person or an act unnatural or out of the ordinary. A man may behave in a crazy manner but it does not necessarily and conclusively prove that he is legally so." Not every aberration of the mind or mental deficiency constitutes insanity.[25]

For purposes of exemption from criminal liability, mere behavioral oddities cannot support a finding of insanity unless the totality of such behavior indubitably shows a total absence of reason, discernment, or free will at the time the crime was committed.

As admitted by Cederina, prior to the incident, there were moments when she observed that accused-appellant appeared well. On the day in question and immediately preceding the incident, no improper, violent or aberrant behavior was observed of accused-appellant, as he was merely sitting on the balcony before he suddenly disappeared to go to the victim's house. During the commission of the crime itself, there were no eyewitnesses who could relay the behavior of accused-appellant, as even Cederina happened upon the accused-appellant and the victim only after the stabbing incident.

Second, accused-appellant testified that he was admitted to the hospital for his mental illness several times prior to the incident, which is corroborated by the testimony of his mother and in a report[26] on his mental condition issued by the NCMH on 21 February 2011. This fact, however, does not also prove that he was insane at the time he committed the crime. Prior confinement at a mental institution does not, by itself, constitute proof of insanity at the time of the commission of the crime.[27] Even accused-appellant admitted during trial that he was released from confinement from

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[23] TSN, 31 July 2012, pp. 6-8 and 16-17.
[24] 459 Phil. 470, 479 (2003).
[25] Id.
[26] Records, pp. 40-42.
[27] *People v. Opuran*, 469 Phil. 698, 716 (2004).

time to time, which resulted after doctors deemed him well after a series of examinations and interviews, to wit:

> Defense attorney
>
> (to accused-appellant)
>
> Q. Are you an out-patient of the Mental Hospital or an in-patient?
> A. **I'm being released whenever I'm fine and well**.
>
> Q. And what are the conditions before you are released, what are the conditions asked by your doctor?
> A. **We were examined and interviewed many times and also given tests before we can be declared mentally fit to be released**.[28]
> (emphasis and underlining supplied)

Thus, even assuming accused-appellant was insane, such insanity was clearly not continuous, as he had lucid intervals. Consequently, it is presumed that he was sane, or was in a lucid interval, at the time he committed the crime.

Third, the documents offered in evidence by the defense do not categorically state that accused-appellant was insane; nor do they show when he became insane; whether such insanity constituted absolute deprivation of reason, intelligence, and discernment; and whether such insanity existed at the time he committed the crime. No expert testimony was also presented to testify on such.

As correctly held by the RTC, the letter from the NCMH merely informed Cederina of the accused-appellant's escape on 14 July 2010; but the fact that he was able to escape unnoticed from the institution and to return home by himself is indicative of reasonable intelligence and free will merely a week before the commission of the crime. The patient's identification cards[29] issued by the NCMH and the PGH are only indicative of accused-appellant's admission therein, which is not disputed, and nothing else. The clinical abstract[30] issued by PGH, while diagnosing accused-appellant with paranoid schizophrenia, appears to have been issued on 18 February 2007, years before the commission of the crime and could not serve as basis to rule that he was insane when he committed it. Finally, the doctor's prescription slips only contain the medications prescribed, but do not show the specific illness targeted by the medicine.

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[28] TSN, 8 April 2013, p. 11.
[29] Records, p. 261.
[30] Id. at 263.

A consideration of all the foregoing pieces of evidence clearly does not point to accused-appellant's insanity at the time he committed the crime.

Since the victim was a child of tender years, treachery was properly appreciated against accused-appellant.

The RTC properly considered the killing as murder qualified by treachery, thereby warranting the imposition of reclusion perpetua.

Well-settled is the rule that treachery exists when the prosecution has sufficiently proven the concurrence of the following elements: (1) the accused employs means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the means of execution was deliberate or consciously adopted.[31]

This Court has held that the killing of a child is characterized by treachery even if the manner of the assault is not shown because the weakness of the victim due to his tender age results in the absence of any danger to the accused.[32]

Considering that the victim in this case was only six (6) years old, treachery attended his murder.

Even if the mitigating circumstance of diminished willpower were to be considered in accused-appellant's favor, it cannot be a basis for changing the nature of the crime nor for imposing a penalty lower than that prescribed by law.

Accused-appellant contends that even assuming his insanity was not sufficiently proven, the Court should convict him of homicide only because the defense has proven that he has an illness which diminishes the exercise of his willpower without, however, depriving him of the consciousness of his acts.

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[31] *People v. Umawid,* 735 Phil. 737, 746 (2014).
[32] Id.

This contention is without merit. At the outset, the presence of mitigating circumstances does not change the nature of the crime. It can only affect the imposable penalty, depending on the kind of penalty and the number of attendant mitigating circumstances.

While the evidence of accused-appellant does not show that he was completely deprived of intelligence or consciousness of his acts when he committed the crime, there is sufficient indication that he was suffering from some impairment of his mental faculties; thus, he may be credited with the mitigating circumstance of diminished willpower.

Under Art. 248 of the Revised Penal Code, as amended by R.A. No. 7659, murder shall be punishable by the penalty of reclusion perpetua to death. It is composed of two indivisible penalties, warranting the application of Article 63 of the Revised Penal Code, *viz*:

> Article 63. *Rules for the Application of Indivisible Penalties.* — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.
>
> **In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed** in the application thereof:
>
> 1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
>
> 2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.
>
> 3. **When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied**.
>
> 4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation. (emphasis supplied)

Clearly, the RTC properly imposed the penalty of reclusion perpetua.

The amount of damages must be modified.

Present jurisprudence holds that when the circumstances surrounding the crime call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the proper amounts for damages should be ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, regardless of the number of qualifying aggravating circumstances present.[33] In conformity thereto, the Court awards the foregoing damages in the instant case.

WHEREFORE, the Court finds accused-appellant Jonas Pantoja y Astorga **GUILTY** beyond reasonable doubt of murder under Article 248 of the Revised Penal Code, as amended, and is sentenced to *reclusion perpetua.* The 20 March 2015 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 06492 is **AFFIRMED with MODIFICATION** in that the heirs of the victim are entitled to ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. The award of damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of the judgment until fully paid.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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[33] *People v. Jugueta,* G.R. No. 202124, 5 April 2016, 788 SCRA 331, 373.

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

(On leave)
ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest 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's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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's Division.

MARIA LOURDES P. A. SERENO
Chief Justice

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