

## THIRD DIVISION

**[ G.R. No. 211721, September 20, 2017 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
WILLINGTON RODRIGUEZ Y HERMOSA, ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

We resolve Willington Rodriguez y Hermosa's (*Rodriguez*) appeal assailing the 5 December 2013 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05335. The CA affirmed Rodriguez's conviction for qualified trafficking in persons, in violation of Republic Act (R.A.) No. 9208, otherwise known as the Anti-Trafficking in Persons Act of 2003.

### THE FACTS

Rodriguez was charged before the Regional Trial Court, Branch 81 of Quezon City (*RTC*), in an information which reads:

That on or about the 8th day of August 2006, in Quezon City, Philippines, the above-named accused, did then and there willfully, unlawfully and feloniously recruit, transport, harbor, provide, introduce or match for money for the purpose of prostitution, pornography or sexual exploitation, the following trafficked persons, namely ELSINE (sic) DELA CRUZ y BEATRIZ, ASHLEY MADRIGAL y RAMOS and JOSEPHINE CRUZ y ROMAN.

The offense was committed in large scale as it was committed against three (3) or more trafficked persons, individually or as a group.<sup>[2]</sup>

During his arraignment, Rodriguez pleaded not guilty.<sup>[3]</sup>

The evidence for the prosecution is anchored solely on the testimony of Police Officer 1 Raymond Escobar (*PO1 Escobar*), on the joint sworn affidavit of the arresting officers dated 9 August 2006,<sup>[4]</sup> and on a photocopy of the pre-marked P500.00 bill.<sup>[5]</sup>

According to his testimony, at around 11:00 P.M. on 8 August 2006, PO1 Escobar was at the police station preparing for the police operation called *Oplan Bugaw* for the purpose of eliminating prostitution on Quezon Avenue in Quezon City.<sup>[6]</sup> PO1 Escobar, designated to pose as customer, was accompanied by PO2 Reynaldo Bereber (*PO2 Bereber*) as his backup, and Police Inspector Pruli James D. Lopez (*P/Insp. Lopez*).<sup>[7]</sup>

While parking their vehicles at the target area, PO1 Escobar was flagged down by Rodriguez who allegedly offered the sexual services of three (3) pickup girls.<sup>[8]</sup> PO1 Escobar readily gave Rodriguez the pre-marked P500.00 bill as payment.<sup>[9]</sup> This signaled his backup to enter the scene and aid in the arrest. PO1 Escobar then retrieved the pre-marked bill.<sup>[10]</sup>

Thereafter, the officers brought Rodriguez and the three (3) pickup girls to the police station.

In his defense, Rodriguez denied that he had offered a girl for sexual purposes to PO1 Escobar.<sup>[11]</sup> He said that he was only selling cigarettes on Quezon Avenue when he was arrested by the police officers.<sup>[12]</sup> He only found out that he was being accused of human trafficking after he was brought to the City Hall.<sup>[13]</sup>

### ***The Ruling of the Trial Court***

In its 18 October 2011 Decision,<sup>[14]</sup> the RTC found Rodriguez guilty beyond reasonable doubt of large-scale trafficking. The dispositive portion reads:

WHEREFORE, premises considered, the Court finds accused WILLINGTON RODRIGUEZ y HERMOSA guilty beyond reasonable doubt of the offense as charged [Violation of Republic Act 9208 committed in a large scale] and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P2,000,000.00.<sup>[15]</sup>

The trial court held that Rodriguez's acts of offering sex to PO1 Escobar, calling the three (3) pickup girls for him to choose from, and receiving money are clearly acts of human trafficking.<sup>[16]</sup> It gave more weight to the positive testimony of PO1 Escobar over Rodriguez's unsubstantiated denial.<sup>[17]</sup> Likewise, the trial court noted that PO1 Escobar had no improper motive to falsely testify against the accused.<sup>[18]</sup> Finally, it held that absent ill motive, the presumption of regularity in the performance of duty must prevail.<sup>[19]</sup>

The trial court explicitly said:

The acts of the accused in offering sex to PO1 Escobar, calling the three [3] pick-up girls so that he could choose from them and receiving money therefor are clearly acts of human trafficking or trafficking in persons defined and penalized under Sec. 10[c] of R.A. No. 9208.

Accused denied the charge[s] by testifying that he was in front of McDonalds Restaurant in Quezon Avenue selling cigarettes.

Where there is positive identification of the accused as the perpetrators of the crime, their defense of denial and alibi cannot be sustained.

Denial and alibi, unsubstantiated by clear and convincing evidence, are self-serving and hardly deserve greater evidentiary weight than the declaration of witnesses on affirmative defenses. (citations omitted)

Accused likewise testified that while he was selling cigarettes, PO1 Escobar grabbed him and together with his fellow police officer[s], they brought him to Police Station 2 where he was investigated and subsequently charged contrary to the testimony of PO1 Escobar that it was the accused who flagged the vehicle they were riding in and offered sex.

There is no improper motive that could be imputed to PO1 Escobar that he would falsely testify against the accused. The absence of evidence as to an improper motive entitles PO1 Escobar's testimony to full faith and credit.

The testimony of police officers carried with it the presumption of regularity in the performance of official functions.

In the absence of ill motive, the presumption of regularity in the performance of the policeman's official duty must prevail. (citations omitted)

### ***The Arguments of the Accused***

On appeal, Rodriguez anchored his defense on the failure of the prosecution to present any evidence that would establish that he recruited, transported, or transferred the alleged three (3) women for the purpose of prostitution.<sup>[20]</sup> These women, in fact, were not presented in court and neither did they execute any sworn statement.<sup>[21]</sup>

Rodriguez also faulted the prosecution for not presenting the original marked money despite the fact that it was in P/Insp. Lopez's possession.<sup>[22]</sup>

In addition, the prosecution did not present any evidence of the alleged request from the barangay officials to get rid of prostitutes in the area.<sup>[23]</sup>

Finally, Rodriguez maintained that the testimony of PO1 Escobar was not corroborated by any of his companions who allegedly took part in the operations.<sup>[24]</sup>

### ***The Assailed CA Decision***

Unmoved, the CA affirmed the trial court's decision and gave great weight to its factual findings. It likewise found no merit in the arguments raised by Rodriguez, to wit:

The non-presentation of the three women is not fatal to the prosecution. Unlike in illegal recruitment cases, where the victim will part money against the recruiter, [w]e cannot expect the three women to give something to herein accused-appellant. On the contrary, it may be accused-appellant who would have to give them their proportionate share for every successful transaction. Thus, they cannot be expected to take an active part in the case, since they are relatively not adversely affected. In other words, testifying or executing an affidavit against accused-appellant would be of no value to them. Accused-appellant

himself admitted the presence of three women when he was being cross-examined, viz:

Q: [PROS. TORRALBA]: Did he also grab the three (3) women whom you introduced to him?

A: No, sir.

With respect to the non-presentation of the request of the barangay officials, the same is not a material element of the offense. Neither should the police operation depend on it. To think otherwise would open the floodgates of abuse as law enforcers will only move if there are requests from the people. They will become passive instead of becoming proactive.

The non-presentation of the original of the marked money does not weaken the case, nor destroy the presumption of regularity of performance of duty. For one, it is also impossible that the crime of human trafficking be committed even without the money being paid, as when the potential customer did not proceed with the transaction or was not able to choose from among the girls presented to him. Secondly, PO1 Escobar is categorical in his testimony that he prepared the same and had it initialed with "R" and "E" at the forehead of Ninoy Aquino [on the P500 peso bill], the letters being the initials of his name.

PO1 Escobar positively identified accused-appellant. Neither could accused-appellant impute ill-motive against him. All that he could offer is his denial which is not corroborated by any other testimonial evidence. Following our "unbending" jurisprudence, such positive identification prevails over denial and is in fact sufficient for conviction.<sup>[25]</sup> (citations omitted)

### **OUR RULING**

The appeal is meritorious.

It is a basic rule that the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. This is premised on the constitutional presumption that the accused is innocent unless his guilt is proven beyond reasonable doubt. This standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime he is charged with.<sup>[26]</sup>

Proof beyond reasonable doubt does not, of course, mean such degree of proof as, excluding the possibility of error, to produce absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind. In other words, the conscience must be satisfied that the accused is responsible for the offense charged.<sup>[27]</sup>

Reasonable doubt does not refer to any doubt or a mere possible doubt because everything in human experience is subject to possible doubt. Rather, it is that state of the case which, after a comparison of all the evidence, does not lead the judge to

have in his mind a moral certainty of the truth of the charge. Where there is reasonable doubt as to the guilt of the accused, there must be an acquittal.<sup>[28]</sup>

Rodriguez was charged and convicted for qualified trafficking in persons under Section 4(a), in relation to Section 6(c), of R.A. No. 9208, which read:

Section 4. *Acts of Trafficking in Persons.* - It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer, harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

x x x x

Section 6. *Qualified Trafficking in Persons.* - The following are considered qualified trafficking:

x x x x

(c) *When the crime is committed by a syndicate, or in large scale.* Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;

x x x x

Section 3(a)<sup>[29]</sup> provides the elements of trafficking in persons: (1) the **act** of recruitment, transportation, transfer or harboring, or receipts of persons with or without the victim's consent or knowledge, within or across national borders; (2) the **means** used which include threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another; and (3) the **purpose** of trafficking is exploitation which includes "exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."<sup>[30]</sup>

A careful review of the records shows that the prosecution failed to prove the presence of these elements beyond reasonable doubt, nor did we find the second and third elements proven by the prosecution.

A review of emerging jurisprudence on human trafficking readily shows that a successful prosecution, to a certain extent, relies greatly on entrapment operations.<sup>[31]</sup> Thus, just like in any operation that involves capturing the perpetrator *in flagrante delicto*, the testimonies of the apprehending officers on what transpired are crucial for a conviction.