

EN BANC

[G.R. No. 133436, April 14, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CONRADO AYUMAN, APPELLANT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For automatic review is the Decision^[1] dated March 4, 1998 of the Regional Trial Court, Branch 19, Cagayan de Oro City in Criminal Case No. 97-1040 finding Conrado Ayuman, appellant, guilty beyond reasonable doubt of parricide and imposing upon him the supreme penalty of death. He was also adjudged to pay the heirs of the victim P50,000.00 as civil indemnity.

The Information charging appellant with parricide reads:

“That on or about April 22, 1997, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there willfully and feloniously, with intent to kill and taking advantage of superior strength and ascendancy over Sugar Ray Ayuman, his legitimate son, maul, maltreat and kill the latter by slapping and hitting the latter on his head, stomach and other parts of the latter’s young and tender body thereby inflicting upon the latter traumatic abdominal injuries, which are fatal injuries and which caused the latter’s death shortly thereafter, to the damage and prejudice of the said Sugar Ray Ayuman and his legal heirs.”

Upon arraignment, appellant, with the assistance of counsel, pleaded not guilty to the crime charged.

The version of the prosecution was established through the testimonies of Dr. Tammy Uy, Marino Jalalo, SPO1 Salome Catulong, Ederico Mariano, Angelito Roluna, Grace Songcuya and SPO1 Medel Makalino.

On April 22, 1997 at around 10:15 in the morning, Ermita Ayuman, appellant’s wife, rushed her five-year old son Sugar Ray to the Emergency Room of the Northern Mindanao Medical Center (NMMC). When Ederico Mariano, a nurse, took the child’s vital signs, it appeared that he was dead on arrival. Ederico then asked Ermita what happened to the child. She answered that he was mauled by his father. Ermita’s statement was noted in the emergency room record.^[2]

At about 10:45 in the morning of the same day, SPO1 Salome Catulong of Police Precinct No. 1 of Cagayan de Oro City, received a phone call from the NMMC informing her that a child died because he was assaulted by his father. Being in charge of cases involving women and children, she immediately proceeded to the

hospital. Angelito Roluna, a newspaper reporter of the Sun Star, was with her. Ermita refused to answer any query from SPO1 Catulong regarding the death of her son. But when Roluna asked her what happened, she told him that Sugar Ray was mauled by his father.^[3] This interview could only be finished the following day when Ermita admitted to him that appellant used to hurt the child every time the latter left the house or made mistake; that before he died, appellant kicked him; and that the child informed her he was in pain and vomiting. Roluna reported this interview in the "Sun Star."

Also on that same day, April 22, 1997, at about 8:00 o'clock in the evening, SPO1 Catulong went to the Ayuman residence. That was the start of the wake for Sugar Ray. When SPO1 Catulong interviewed Ermita, she stated that appellant maltreated the boy in order to discipline him and that appellant started to hit him at the age of four. Upon suggestion of SPO1 Catulong, Ermita agreed that the body of the child be autopsied.^[4]

On April 23, 1997, Dr. Tomas L. Uy of the NBI, Region 10, Cagayan de Oro City, performed the autopsy on the body of Sugar Ray. Prior thereto, he learned from Ermita that the child was maltreated by appellant in their house on April 22, 1997 at about 10:30 in the morning.^[5]

Dr. Uy's Autopsy Report contains the following findings:

"Pallor, generalized. Rigor mortis, lower extremities. Livor mortis, generalized, back, buttocks, posterior aspects of the neck and extremities. Areas of post-mortem greenish discolorations of the abdomen and inferior aspects of the chest are noted.

ABRASIONS: 0.2X0.4 cms. And 0.3X0.6 cm., lower thoracic region of the back, mid-aspect; 3X2 cms., right iliac region, lateral aspect.

HEMATOMAS, violaceous: 2.2X1 cms. Forehead, right side; 1.5X2 cms., 2.5X2 cms., 1.2X1.6 cms., and 3X0.8 cms., left side of the face; (page 2-A, record) 1.8X1.2 cms., right elbow region; 4X2.5 cms., dorsum of right hand; 2.4X1.2 cms., left forearm, dorsal aspect, dista third; 2.5X2.2 cms., lower sternal region of the chest; 6X3 cms., epigastric region of the abdomen.

HEMATOMA, 6X2 cms., surface of the pericardium, anterior aspect, beneath the sternum.

HEMATOMA, stomach, 5X2 cms., lesser curvature region, anterior aspect.

LACERATED WOUND, 1.5 cms. long, with irregular edges, right lobe of the liver, medial aspect, overlying the gall bladder, surrounded by a HEMATOMA of 4X3 cms.

RUPTURE, small intestine, ileal region/portion; with irregular edges.

PERITONITIS, generalized, aero-purulent; with extensive intestinal and mesenteric adhesions; serosal surfaces of the small and large intestines

are markedly congested and covered with patches of foul-smelling yellowish purulent exudates. Peritoneal fluid is heavily contaminated with fecal matter.

Heart chambers, contain small amount of dark fluid and clotted blood.

Stomach, contains about 1 tbsp. of yellowish-green bilious substance.

Brain, markedly congested.

Other visceral organs, congested.

CAUSE OF DEATH: Traumatic abdominal injuries."

On April 23, 1997, Sugar Ray was buried. Appellant was nowhere to be found. Neither did he report for work from April 23 to May 21, 1997.^[6] During the burial, Ermita cried and shouted, "*Dong, forgive your father. Dong, don't leave us.*" Afterwards, upon invitation of SPO1 Catulong, Ermita, with her two children, went to the former's office and executed the following statement quoted as follows:

"01.

Q - Do you swear to tell the truth and nothing but the whole truth in your statement now?

A - Yes, I will swear.

02.

Q - Please state your name, age, address and other personal circumstances?

A - I am Ermita Ayuman y Mayuela, 36 years of age, married, presently residing at Pilgrim Compound, Del Pilar/ Magsaysay Street, Cagayan de Oro City and originated from Manuikan, Zamboanga del Norte, a mother of 3 children, 2 girls and one boy.

03.

Q - Why are you here at the

police Station at
OKK Police
Precinct No. 1?
A - I am here to
file a criminal
complaint
against my own
husband PO3
Conrado
Ayuman an
active member
of Cagayan de
Oro Central Fire
Station, for
killing our only
son Sugar Ray
Ayuman, 5 yrs.
Old, Kinder 2 at
Faith Tabernacle
situated at Del
Pilar/Magsaysay,
Cagayan de Oro
City.

04.

Q - When and
where did this
happen?

A - This
happened on
April 22, 1997
at 10:30 in the
morning more
or less from our
house at Del
Pilar/Magsaysay
going to
Northern
Mindanao
Medical Center
but died on
arrival at the
hospital and the
mauling which
was done by his
father happened
in our house
and this the
cause of the
death of my
son.

05.

Q - Please
narrate shortly
the incident.

A - The father of

Sugar Ray
started mauling
him when he
was then 4
years old until
the age of 5. His
father would
kick, box, slap,
and beat him
even if he just
committed slight
mistakes. If
Sugar Ray
would go out
from our room
to watch TV at
our neighbor's
place his father
would be furious
and would beat
him. And on
Monday, April
21, 1997, at
10:00 a.m.,
more or less,
my husband
came home
from office to
get something.
He called Ray
because that
time Ray went
out from our
room, and
immediately
slapped him and
the head of Ray
bumped on the
wall. He let Ray
get inside our
room, slapped
him again and I
saw my
husband kick
Ray many times
hitting his
abdomen. I
tried to stop him
but he would
not listen and
instead kicked
Ray several
times because
as what he said
'I must