

## EN BANC

[ G.R. Nos. 137520-22, August 15, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALFREDO BAROY  
AND FELICISIMO NACIONAL, APPELLANTS.**

### R E S O L U T I O N

**PANGANIBAN, J.:**

Normally, the presentation and the initial appreciation of appellant's birth certificate should be done during the trial. In this appeal, however, due to the gravity of the offenses charged, the penalty imposed, as well as the simplicity of the verification process, we deem it prudent to allow it in the interest of speedy, substantial justice.

#### The Antecedents

In a Decision promulgated on May 9, 2002, this Court affirmed the conviction of both appellants for three counts of rape with the use of a deadly weapon. The penalty imposed upon them by the trial court was, however, reduced from death to *reclusion perpetua* for each count of rape, because aggravating circumstances had neither been alleged in the Information nor sufficiently proven during the trial.

Appellant Alfredo Baroy has since then filed a Motion<sup>[1]</sup> for a partial reconsideration of the Court's Decision. He claims that he is entitled to the privileged mitigating circumstance of minority and, hence, to a penalty two degrees lower than *reclusion perpetua*. While he presented various pieces of conflicting documentary and testimonial evidence during the trial, he now prays that this Court consider and give weight to his Birth Certificate<sup>[2]</sup> -- attached as Annex "A" of his Motion -- as the best evidence of his age. His Birth Certificate shows that he was born on January 19, 1984, while the crimes in question were committed on March 2, 1998.

In its August 30, 2002 Comment, the Office of the Solicitor General (OSG) said that it was not in a position to state whether the Certificate of Live Birth attached as Annex "A" to appellant's Motion was authentic or not. It pointed out the necessity of requiring the National Statistics Office (NSO), which appeared to have certified Annex "A" as a true copy, to comment on the existence of the document in their files. The OSG further manifested that on the basis of the NSO's comment, it is leaving to the sound discretion of the Court whether to appreciate the privileged mitigating circumstance of minority in favor of Baroy.

In its Comment,<sup>[3]</sup> the NSO confirmed that Annex "A" was a true copy of the Certificate of Live Birth of one Alfredo Gorre Baroy. It further confirmed the existence in its archives of his record of birth.

#### The Issue

In his Motion, Baroy submits that his Certificate of Live Birth sufficiently proves his minority when he committed the crimes.<sup>[4]</sup>

### **The Court's Ruling**

The Motion has merit.

#### **Sole Issue:** **Privileged Mitigating Circumstance of Minority**

At the outset, we stress that the verification of the authenticity of the birth certificate of the accused should normally be done during the trial. However, due to (1) the gravity of the penalty imposed in this case; (2) the existence in the records of weighty evidence proving Baroy's minority at the time of the commission of the crime; and (3) the simple and straightforward method of verification recommended by the OSG, the Court -- in the interest of justice -- went the extra mile to ascertain the authenticity of the evidence submitted. This move was in line with the particular zealotry of the law in criminal cases in which the transcendental matter of life or liberty of an individual is at stake.

Baroy's Birth Certificate -- the authenticity of which was confirmed by the NSO -- outweighs the other evidence submitted to prove his date of birth. "A birth certificate is the best evidence of a person's date of birth."<sup>[5]</sup>

The earlier evidence submitted by appellant during the trial did not conclusively prove his age. However, since the OSG did not object to the belated appreciation of Annex "A" and left the matter to the sound discretion of this Court, we resolve to rule in favor of the accused.

This has been the position of the Court when confronted with the same dilemma. As early as 1909, in *United States v. Barbicho*,<sup>[6]</sup> the doubt as to the age of the accused was resolved in his favor as follows:

‘In regard to the doubt as to whether the accused is over or under 18 years of age, and in the absence of proof that on the day he committed the crime he was 18 years old, he must perforce be considered as still under that age, and therefore, the mitigating circumstance mentioned in paragraph No. 2 of article 9 of the code should be applied in his favor, x x x. ’<sup>[7]</sup>

The Court took the same position in *United States v. Agadas and Sabachan*,<sup>[8]</sup> in which it held:

‘While it is true that in the instant case Rosario testified that he was 17 years of age, yet the trial court reached the conclusion, judging from the personal appearance of Rosario, that ‘he is a youth 18 or 19 years old.’ Applying the rule enunciated in the case just cited, we must conclude that there exists a reasonable doubt, at least, with reference to the question whether Rosario was, in fact, 18 years of age at the time the