

SECOND DIVISION

[G.R. No. 119359, December 10, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERT CLOUD, ACCUSED-APPELLANT.**

D E C I S I O N

REGALADO, J.:

The universal outcry and multinational campaign against child abuse can draw added impetus from this extreme case of a little boy, just barely two and a half years old, who was beaten to death by his own father. So it was alleged in an information for parricide filed against accused-appellant Robert Cloud in the Regional Trial Court, Branch 103, Quezon City.^[1]

The case for the prosecution is presented by the Solicitor general^[2] by adopting the factual findings of the trial court, with the pages of the stenographic notes being supplied by the People. Having painstakingly reviewed and analyzed the evidence of record, we find that such findings merit reproduction hereunder:

At around 11:00 o'clock in the morning on August 2, 1988 while a certain Mrs. Josephine Aguilar was at the emergency room of St. Luke's Hospital, Quezon City to have some stitches removed from her daughter's head her attention was called by a limpid boy being carried by a man followed by an old woman who was shouting hysterically. The boy is John Albert Cloud. She noticed that the face of the boy was swollen and bruised and his body covered with dry blood. A nurse commented that the little boy - not more than three years old - must have been hit by a truck (tsn, J. Aguilar, June 21, 1993, pp. 7-10, 14-15, 33).

But the words of the old woman - the lola - of the little boy, showed the cause of the injury to be otherwise for she was repeatedly saying in a potpourri of cries and tears: "Pinatay siya ng sariling ama!" The old woman told the people inside the Emergency Room that the boy's father - Robert Cloud - wouldn't allow John Albert to come with her and when the boy started to cry and wouldn't stop crying his father began to beat the boy hard, tied his hands, and made "tusok, tusok" in his body. The father continued beating the boy even when excrements were already coming out from the boy's anus (tsn. J Aguilar, June 21, 1993, pp. 12-13, 22).

The male companion of the boy said to the old woman: "Hoy, tigil ka na!" "Wag kang maingay." And told the people at E.R.: "Sira and ulo ng matanda, eh!" (tsn, J Aguilar, July 12, 1993, pp. 8-9). But the old woman wouldn't stop and continued to say: "Putang-ina ang ama niya . . . Hayop siya!"

When the doctor pronounced the boy dead the old woman knelt before him and cried like (Ix)ion (tsn, J. Aguilar, June 21, 1993, p. 10). His baptismal certificate says that John Albert was born on October 2, 1987 to Janet Villagrancia and John Robert Cloud (Exh. '3').

The ear-piercing would probably have ended there but for the fact that Mrs. Aguilar's conscience was bothered by what she saw and heard as narrated above and decided to do something about it. She approached Atty. Remedios Balbin, Chairman in Quezon City of a civil liberties organization. Atty. Balbin, after a few weeks of research found out that Robert Cloud and family left his house at No. 69 San Isidro Street, barangay Sto. Niño, Quezon City[;] the boy's body was brought to Rey Funeral Homes[;] Dr. E. Cacas certified that the cause of death of John Albert Cloud is broncho pneumonia with heart complications (exh. D-48) [;] and that the autopsy on the cadaver was waived by Natividad Calpito Cloud who claimed to be the boy's mother per her "Affidavit" dated August 3, 1988 (Exh. "D-47). Atty Balbin thereafter contacted the NBI and requested for the exhumation of the boy's cadaver (tsn, J. Aguilar, June 21, 1994, pp. 17-21, 32, 35-37, 42; R. Balbin, March 8, 1994, pp. 6, 17-21, 23, 25-27, 29-30, 36, 50, 54-55).

The exhumation was done on November 8, 1988 by the NBI at the Manila South Cemetery. The exhumation report stated the following findings:

"Upper incisor, right, missing.

Contusions; face, right side, 9.0 x 6.0 cm;

buttocks, right and left sides, 20.0 x 12.0 cm;

Knees, anterior aspect, right, 6.0 x 4.5 cm;

And left 8.0 x 5.0.;

Contused-abrasion: face, left side, 14.0 x 6.0 cm;

arm, left, postero-lateral aspect, 6.0 x 4.0 cm;

hand, right, dorsal aspect, 7.0 x 5.0 cm;

thigh, right posterior aspect,

extending to the lateral and anterior aspects 15.0 x 7.0 cm.

Hematoma - fronto-temporal region, left side 13.0 x 6.0 cm.

Hemorrhages, subdural and subarachnoidal, left cerebral hemisphere.

Heart chambers contain a small amount of embalmed blood.

Brain markedly congested and edematous.

Other visceral organs, congested.

Stomach, empty (Exhibits "E" and "E-1")

Although the crime was supposedly committed on August 2, 1988, for reasons hereinafter explained the information dated May 10, 1990 was filed on June 5, 1990. The decision of the trial court states that the accused was arrested only on April 15, 1993. That is why, with the proceedings that then had to be undertaken and the trial which had to be conducted, it was only in a decision dated November 11, 1994 that judgment was ultimately handed down, decreeing as follows:

ACCORDINGLY, judgment is hereby rendered finding herein accused ROBERT CLOUD GUILTY beyond reasonable doubt as principal of the crime of PARRICIDE for the violent death of his son JOHN ALBERT CLOUD and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and ordered to pay the heirs of the victim the sum of P50,000.00 as damages. Costs vs. the accused.^[3]

That it took more than six years to obtain a verdict for the child's death is a distressing indictment of the criminal justice system, particularly its investigative and prosecutory pillars. How the case managed to reach its logical denouement, however, is a tribute and does honor to the other component of the system - the community participation - which is the redeeming feature in this bizarre and repulsive case of barbarity to an innocent, helpless victim who was just a stage out of infancy.

As stated earlier, the events that later became the subject of testimonial evidence for the prosecution unfolded before the eyes of prosecution witness Josephine Aguilar who was then inside the emergency room of the hospital having stitches removed from her daughter's head. Although she was a perfect stranger to the family involved, but haunted by the sight and memory of the lifeless and battered child, she sought the help of Atty. Remedios Balbin, chairperson of a civil liberties organization in Quezon City. It was through their joint, unrelenting and selfless efforts that this case eventually wound up in the court *a quo* for judicial action.

Atty. Balbin conducted an investigative research which enabled her to coordinate with the National Bureau of Investigations (NBI). Her efforts led to the discovery of the following facts: (1) Robert Cloud and his family left their house at No. 69 San Isidro Street, barangay Sto, Niño, Quezon City immediately after the death of John Albert;^[4] (2) John Albert's body was brought from the hospital to the Rey Funeral Homes;^[5] (3) a certain Dr. E. Gacas certified that the cause of the death of John Albert was broncho pneumonia with heart complications;^[6] and (4) the autopsy of the cadaver was waived by a certain Natividad Calpito Cloud who falsely claimed to be the mother of John Albert.^[7] Incidentally, despite her active participation in various aspects of this case, she was never called upon by appellant to testify and corroborate his assertions therein.

Atty. Balbin thereafter requested for the exhumation of the body of the little boy for purposes of autopsy. The exhumation was made on November 8, 1988, almost three months after the burial of John Albert. The exhumation report, which has been quoted by the People in its brief and is set out in full at the start of this

opinion, revealed the grave and fatal injuries, internal and external, which caused the boy's death and could have resulted only from violence or strong physical force. On the strength of that report of the NBI, the sworn statement of Josephine Aguilar and the evidence gathered by Atty. Balbin, an information for parricide was eventually filed against herein appellant.

A warrant for the arrest of Robert Cloud was issued on June 11, 1990 which was returned unserved. Alias warrants were issued on June 29, 1992 and September 22, 1992 and finally on April 15, 1993. Appellant was arrested by the police at No. 22 Lourdes Castillo Street, Galas, Quezon City and was thereafter committed to jail. On April 26, 1993, duly assisted by counsel, he was arraigned and he pleaded not guilty to the charge.

The prosecution built up its case on the basis of a sworn affidavit and testimony in open court of its principal witness, Josephine Aguilar. For a clearer appreciation of what she actually witnessed and overheard inside the emergency room of St. Luke's Hospital, we quote her testimony:

FISCAL PONFERRADA:

Q Madam witness, do you recall where were you on August 2, 1998 at around 11:00 in the morning, madam witness?

A I was in the emergency room of St. Luke's Hospital in Quezon City, sir."

x x x

Q While you were there after a couple of minutes, what happened? Do you recall any unusual incident, madam witness?

A An old woman came with a boy of dried blood, sir.

Q You said old lady with a little boy, what happened after that, madam witness?

A Well she came in and she was crying, I heard the old woman, I heard the doctor ask the old lady what happened and the old lady told the doctor that it's the father who bit (sic) him up again and the old lady put the kid on the table and I saw the kid died, sir.

Q What happened next, what else did the old lady say, madam witness?

A The doctor told the old lady "wala na" then the old lady sit down (sic) on the floor crying and crying hysterically, sir.

Q Did you come to know the old woman, madam witness?

A No, sir.

Q How about the boy, did you come to know the name of the boy who died, madam witness?

A Albert Cloud, sir.

Q What happened after the boy died, madam witness?

A The lola started shouting telling everybody there how it happened, to the nurses and to the doctors.

Q You said the lola started telling the doctor what actually happened, did you hear these what the lola tell (sic)

madam witness?

A Yes, sir.

Q Please narrate before this Honorable Court what you hear(d) as narrated by the lola, madam witness?

A Yes, sir.

COURT:

Q What did you hear when she tells (sic) everybody?

A The father of the boy who died has burned in the skin, he was tie(d) and thrown against the wall, punch(ed) the boy, sir.

FISCAL PONFERRADA:

Q Did you have any occasion to see whether there are marks in the hands or the body of the boy, madam witness?

A At that time the boy was full of dried blood, sir.

Q After that?

A I see (interrupted)

Q What did you see, madam witness?

A He had dried blood here. The boy had dried blood in the forehead, sir.

COURT:

Q What else did you see?

A He has bruises, blood inside the skin, "mga pasa".

Q At that time?

A I only saw full of dried blood, sir.

Q Did you see the condition of the body of the boy?

A No, I only saw dried blood from head to foot, sir.

FISCAL PONFERRADA:

Q So at that time in the hospital you did not see the boy, madam witness?

A Only dried blood, sir.^[8]

The defense, on the other hand, argues that at the time of the commission of the alleged crime, appellant was not in his house and that the boy, John Albert, must have fallen from the stairs leading to the second floor of the house. The defense presented appellant and he testified that he left the house on the day in question and only learned upon his return that his son was already dead, thus:

Q Do you know how your son died, Mr. Witness?

A I don't know, sir.

Q By the way where were you on August 2, 1988 in the morning, Mr. Witness.

A I was at home, sir.

Q Did you leave that house on that day, August 2, 1988, Mr. Witness?

A Yes, sir.