

SPECIAL SEVENTEENTH DIVISION

[CA-G.R. CR NO. 35108, May 28, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHRISTOPHER FRIAS Y BIEN, ACCUSED-APPELLANT.**

D E C I S I O N

BATO, JR., J.:

This is an appeal from the Decision^[1] dated September 27, 2010 of the Regional Trial Court of Naga City, Branch 20, in Criminal Case No. RTC 2008-0007, the dispositive portion of which reads:

“WHEREFORE, the Court finds Christopher Frias y Bien GUILTY beyond reasonable doubt of Violation of Section 3, subsection (b), par. 2, Article I and Section 10 of Republic Act 7610 and hereby sentences him to suffer the penalty of Prision Mayor in its minimum period and to pay the offended party the amount of Fifty Thousand (P50,000.00) Pesos as moral damages.

SO ORDERED.”^[2]

The factual antecedents:

Christopher Frias y Bien [herein accused-appellant] was charged before the Regional Trial Court [Branch 20, Naga City; hereafter court a quo], with the crime of child abuse defined and penalized under Sections 3 (b) (2) and 10 of Republic Act No. 7610^[3]. The accusatory portion of the Amended Information states:

“That on or about 7:45 in the morning of 02 January 2008, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and feloniously commit acts of child abuse against AAA, an eleven (11)-year old minor, by forcibly taking her to a grassy place beside the Sabang Elementary School, Naga City and thereat forcibly removed her worn shorts and tried to remove her panty though unsuccessfully as the private complainant fought him hardly, thus subjecting her to emotional maltreatment, psychological and physical abuse and which deeds have debased, degraded and demeaned her intrinsic worth and dignity as a child and human being to the damage and prejudice of AAA.

CONTRARY TO LAW.”^[4]

Upon arraignment, accused-appellant pleaded “not guilty” to the charge.^[5] Trial on the merits ensued.

During the trial, the prosecution presented the following witnesses, namely: AAA, Emerinciano Hernandez, Evangeline Reyes, Melvin Aben, and Rodrigo Cardona. The

testimony of AAA, who was eleven (11) years old at the time of the incident, was summarized by the court *a quo* as follows:

"x x x on January 2, 2008 at about 7:45 o'clock in the morning, while she was sitting inside a 'padyak' parked along the road of Felix Plazo, Naga City, accused Christopher Frias approached and offered her money in the amount of P3.00 just to go with him but when she declined the offer, the latter pulled her left hand and dragged her towards the gate of the Sabang Elementary School. Accused, again offered her money and asked her to kneel and when she did not heed the command of the accused, the latter pushed her down. While accused was in a kneeling position, he asked her to remove her shorts but when she refused him, the former lowered her shorts up to her knees. She fought him by pushing his face and stomach and at the same time lambasted him by saying the word 'hamag'."^[6]

Around that time, Evangeline Reyes [Reyes] and Melvin Aben [Aben] were on duty as security guards at the Sabang Elementary School. They went out of the school to buy food when they chanced upon AAA and accused-appellant at the lot beside the school. They saw that AAA was crying while pushing the accused-appellant. They also noticed that her shorts was lowered down to her knees. When Reyes asked accused-appellant what he was doing and ran towards him, the latter ran away and left behind coins amounting to P4.00. AAA likewise ran away and went home. Subsequently, accused-appellant returned to the school and looked for his money. Aben arrested the accused-appellant and turned him over to a certain Jojo who was a security guard at the Sabang High School. Reyes and Aben were advised to report the incident to the barangay outpost of Barangay Igualdad. Reyes proceeded thereto and reported the incident to Chief Tanod Rodrigo Cardona [Cardona]. Cardona and his companions went to Sabang Elementary School and brought accused-appellant to AAA's house. Reyes informed AAA's father about the incident. Accused-appellant was brought to the barangay outpost where the incident was recorded in the blotter. He was thereafter brought to the Naga City Police Substation 3 in Tabuco and was investigated by SP04 Celestino Obina.

Accused-appellant denied the accusations against him. He testified that in the morning of January 2, 2008, he went to the public market to use the comfort room and passed by Sabang Elementary School. He saw AAA sitting at the lot beside the school and she suddenly pulled her shorts up when she saw him. He proceeded to the public market and went home. On cross-examination, he claimed that he was actually on his way home when he saw AAA. On the other hand, his mother, Meden Frias, testified that her son did not commit the crime charged against him and that when they were at the police station, AAA told her father that she was not molested by the accused-appellant. Upon inquiry from the court *a quo*, Meden admitted that her son was arrested while he was at the Sabang Elementary School.

On September 27, 2010, the court *a quo* rendered the assailed Decision. Hence, this appeal by the accused-appellant raising this sole assignment of error:

"I.

THE LOWER COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."^[7]

In his brief, the accused-appellant argued that the prosecution failed to present proof beyond reasonable doubt of his guilt. He claimed that it is unlikely for him to harass AAA early in the morning as it is unimaginable for a malefactor to execute his evil motive under circumstances that would not afford him impunity. He likewise assailed the testimonial evidence of the prosecution in view of the following circumstances, *viz.*: (a) the testimony of Reyes that accused-appellant went back to look for his coins is unthinkable as one who committed a crime would necessarily avoid apprehension; (b) the testimonies of the victim's father and tanod Cardona do not prove his guilt since they have no personal knowledge of the incident; and (c) there was an inconsistency in the testimony of Reyes as to who arrested accused-appellant. In fine, accused-appellant argued that his conviction cannot be sustained in view of the inherent defects of the prosecution's evidence.

We deny the appeal.

Prefatorily, it bears stressing that at the time of the unfortunate incident, AAA was only eleven (11) years old,^[8] thus, entitled to the mantle of protection afforded by R.A. No. 7610. Section 10(a) of R.A. No. 7610 provides:

SECTION 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. —

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

In relation thereto, Subsection (b), Section 3 of R.A. No. 7610, defines child abuse as the maltreatment of a child, whether habitual or not, which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

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X X X

In the present case, the court *a quo* correctly found that the prosecution had established by proof beyond reasonable doubt that the accused-appellant had committed acts of child abuse punishable under Section 10(a) of R.A. No. 7610. The testimony of AAA proved that she was sitting at a *padyak* near the Sabang Elementary School when the accused-appellant approached her and persuaded her to go with him in exchange for P3.00. Despite her protestation, accused-appellant dragged her on her left wrist and pulled her towards the lot beside the school. Accused-appellant then asked her to kneel and when she refused, he forced her to kneel by pushing her shoulders and accused-appellant told her that he would give her P3.00. Accused-appellant kneeled and pulled down her shorts to her knees while she relentlessly fought by pushing him away.^[9] She tried to shout but no voice came out from her mouth. At that juncture, Reyes arrived and shouted at accused-