

## THIRD DIVISION

[ G.R. No. 227777, June 15, 2020 ]

**OMAR VILLARBA, PETITIONER, VS. COURT OF APPEALS AND  
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

A formal amendment does not change the crime charged or affect the accused's theory or defense. It adds nothing crucial for a conviction as to deprive the accused of the opportunity to meet the new information. When an amendment only rectifies something that was already included in the original information, it is but a formal amendment. A second arraignment, therefore, is no longer necessary.<sup>[1]</sup>

Moreover, the information need not reproduce the law verbatim in alleging the acts or omissions that constitute the offense. If its language is understood, the constitutional right to be informed of the nature and cause of the accusation against the accused stands unviolated.<sup>[2]</sup>

This Court resolves a Petition for Review on Certiorari<sup>[3]</sup> assailing the Decision<sup>[4]</sup> and Resolution<sup>[5]</sup> of the Court of Appeals, which affirmed Omar Villarba's (Villarba) conviction<sup>[6]</sup> for the violation of Republic Act No. 8049, otherwise known as the Anti-Hazing Act of 1995.

Villarba was among the members<sup>[7]</sup> of the Junior Order of Kalantiao, a fraternity based in the Central Philippine University in Iloilo City,<sup>[8]</sup> who were all charged in 2003 with violating the Anti-Hazing Act for their acts against Wilson Dordas III (Dordas).

The accusatory portion of the original Information reads:

That on or about the 15<sup>th</sup> day of September 2001, in the City of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused, members and officers of the Junior Order of Kalantiao, a fraternity, conspiring and confederating with each other, working together and helping one another, did then and there willfully, unlawfully and criminally subject one **Wilson Dordas** to hazing or initiation by placing **Wilson Dordas**, the recruit, in some embarrassing or humiliating situation such as forcing him to do physical activity or subjecting him to physical or psychological suffering or injury which resulted to his confinement and operation and prevented him from engaging in his habitual work for more than ninety (90) days.

CONTRARY TO LAW.<sup>[9]</sup> (Emphasis supplied)

All the accused were arraigned under the original Information, and they accordingly pleaded not guilty to the crime charged.<sup>[10]</sup> Subsequently, the Information was amended<sup>[11]</sup> by adding the suffix 'III' to the name 'Wilson Dordas' to correct his name. Pre-trial and trial ensued without arraignment on the amended Information.<sup>[12]</sup>

During trial, the prosecution presented Dordas as witness. He testified that he learned about the Junior Order of Kalantiao through Villarba, his classmate and then fraternity chairperson. In August 2001, Villarba recruited Dordas to join the fraternity, assuring him that the membership would help him in his studies, and that no physical harm would be involved in the application process.<sup>[13]</sup>

Dordas agreed. Yet, after attending meetings and taking a written examination,<sup>[14]</sup> Dordas and his co-applicants were made to perform various tasks in the campus, many of them humiliating and foolish stunts. They were ordered to act as models, perform yoga and karate, and shout while running around the flagpole. They were also made to jog around the campus with their feet tied and, at times, to sing in front of strangers.<sup>[15]</sup>

On September 15, 2001, Dordas and his co-applicants were brought to Racrap Beach Resort in Calaparan, Arevalo, Iloilo City for the final rites. Upon arrival that evening, they were told to eat a mix of rice, canned goods, and hot peppers. When they failed to finish the meal, Villarba told them to chew hot peppers as punishment. Dordas ate about five of them.<sup>[16]</sup>

Afterward, the applicants passed through a series of stations where they were asked, among others, to recite the organization's preamble. Whenever they failed to perform the tasks, they suffered different forms of punishment. Dordas was instructed to jog and crawl around the resort, and cling and lift himself on scaffoldings. He was made to climb a coconut tree and shout that he was a gecko. His right hand was used as an ashtray. Hot peppers were squeezed on his lips and left eye. He was slapped in the face for three to five times.<sup>[17]</sup>

After a while, Dordas and his co-applicants were brought inside a big cottage, where the members blindfolded them. After being asked to turn and walk for a few meters, two members held his hands while another punched him in his right waist. Startled, Dordas struggled to remove his blindfold and was able to see some members, including Villarba and another member who then each threw a punch in his stomach. Dordas was later made to lie face down on a table and recite the preamble while the members dripped hot wax on his body. Soon after this ordeal, Dordas officially became a member of the fraternity.<sup>[18]</sup>

When Dordas went home the morning after, he complained of an intense pain in his abdomen. His family then brought him to St. Paul's Hospital, where he underwent surgery due to liver damage.<sup>[19]</sup>

For its part, the defense presented several witnesses, among them Villarba. Villarba admitted that he was a member of the fraternity and that he recruited Dordas. He confirmed that Dordas took a written test along with psychological and physical examinations, and underwent final rites at the same beach resort that Dordas

identified. However, Villarba testified that their recruits only had to do sit-ups, push-ups, or jogging,<sup>[20]</sup> insisting that "no physical harm was inflicted on the recruits."<sup>[21]</sup>

In its November 14, 2006 Decision,<sup>[22]</sup> the Regional Trial Court found all the accused guilty of the crime charged. The relevant part of the dispositive portion reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Finding accused OMAR VILLARBA [and co-accused] Guilty beyond reasonable doubt of violation of Republic Act No. 8049 and sentencing them to suffer an indeterminate penalty of imprisonment ranging from Ten (10) Years and One (1) Day of *Prision Mayor*, as minimum to Twelve (12) Years as maximum.

. . . .

4. Ordering accused OMAR VILLARBA [and co-accused] to jointly and severally pay private complainant Wilson Dordas III the sum of Seventy Seven Thousand Three Hundred Five Pesos and Forty-Four Centavos (P77,305.44) as compensatory damages;

5. Ordering accused OMAR VILLARBA [and co-accused] to jointly and severally pay private complainant Wilson Dordas III the sum of Two Hundred Thousand Pesos (P200,000.00), as moral damages for the pain and suffering they inflicted upon said complainant;

. . . .

7. Ordering accused OMAR VILLARBA [and the other accused] to jointly and severally pay private complainant Wilson Dordas III the sum of One Hundred Two Thousand Two Hundred Eighty Pesos (P102,280.00[]) as attorney's fees and expenses for litigation.

SO ORDERED.<sup>[23]</sup>

The trial court held that the prosecution provided a clear account of the hazing through the credible testimony of Dordas, who identified all the accused and pinpointed their specific acts.<sup>[24]</sup> It gave little faith to the accused, whose defense of denial was not substantiated by evidence, and whose testimonies were conflicting on significant points.<sup>[25]</sup> It further observed that none of them fully accounted for the activities prior to the final rites, intentionally evading the topic instead.<sup>[26]</sup>

The trial court was convinced that the injuries and humiliation suffered by Dordas were caused by Villarba and the other accused as part of the initiation rites.<sup>[27]</sup> It held that they violated the Anti-Hazing Act when they punched Dordas and inflicted abdominal injury on him.<sup>[28]</sup>

Villarba appealed along with his co-accused, mainly averring that the Information charged against him was invalid. He argued that the phrase "as a prerequisite for

admission into membership in a fraternity, sorority or organization"[29] was an essential element of hazing, which should have been alleged in the Information. He also found fault in not being arraigned under the amended Information, which added 'III' to the victim's name.[30]

Additionally, Villarba alleged that Dordas's sworn statement before the university for administrative investigation conflicted with the one he gave before the National Bureau of Investigation.[31]

Nonetheless, the Court of Appeals upheld Villarba's conviction. In its December 21, 2012 Decision,[32] it disposed, thus:

**WHEREFORE**, in view of the foregoing, the instant appeal is hereby **DENIED**. The Decision dated 16 (*sic*) November 2006 rendered by Branch 36 of the Regional Trial Court of Iloilo finding the accused-appellants Omar Villarba and [co-accused] guilty beyond reasonable doubt of violation of Republic Act No. 8049 and sentencing them to suffer an indeterminate penalty of imprisonment ranging from ten (10) years and one (1) day of *prision mayor* as minimum to twelve (12) years as maximum is hereby **SUSTAINED** and **AFFIRMED**.

Upon finality, let the entire records of this case be remanded to the court *a quo* for the execution of the judgment.

Costs against the accused-appellants.

**SO ORDERED**. [33] (Emphasis in the original)

To the Court of Appeals, the element of initiation activities as a prerequisite for admission to the fraternity was not an essential part of the Information. Instead, the essential element was the "infliction of physical or psychological suffering or injury which resulted from the hazing or initiation rites of the recruit, neophyte or applicant." [34] Since initiation activities are required for membership in the fraternity, they already formed part of the definition of hazing, the Court of Appeals explained. In any case, the omission did "not make the accused ignorant of the crime they were being charged with, and what defenses they needed to prepare for trial." [35]

As to the amendment in the victim's name, the Court of Appeals held that Villarba did not need to be rearraigned. It explained that the amendment was merely a formal one, which did not change the nature of the charge, affect the essence of the offense, or deprive the accused of the opportunity to meet the averment. It also deemed a re-arraignment unnecessary since Villarba, who recruited Dordas, would have certainly known the victim's identity. [36]

The Court of Appeals also brushed aside the supposed conflicts in Dordas's sworn statements. [37] It noted that although Dordas did not tell in his statement before the university that Villarba punched him, he did so during trial anyway. In any event, the Court of Appeals gave respect to the trial court's finding that Dordas's testimony was credible. [38]

Villarba moved for reconsideration, but the Motion was denied in the Court of Appeals' August 30, 2016 Resolution.<sup>[39]</sup> Subsequently, Villarba filed this Petition for Review on Certiorari<sup>[40]</sup> before this Court.

Similar to his arguments before the Court of Appeals, petitioner mainly assigns fault to the Information charged, arguing that his right to due process under Article III, Section 14 of the Constitution was violated.<sup>[41]</sup> He avers that his right "to be informed of the nature and cause of the accusation against him"<sup>[42]</sup> was violated when he was not rearraigned after the Information had been amended.<sup>[43]</sup>

Petitioner insists that the correction of the victim's name is a substantial amendment because it will alter his defense. He zeroes in on Rule 110, Section 6 of the Rules of Court, which states that an Information must contain the offended party's name.<sup>[44]</sup>

Citing the same provision, petitioner also claims that the Information's failure to state that "the acts or omission complained of were committed as pre-requisites to the victim's membership to the fraternity"<sup>[45]</sup> was fatal to the case. He reasons that without this element, it is possible to argue that the acts resulting in physical injuries did not violate the Anti-Hazing Act.<sup>[46]</sup>

In its Comment,<sup>[47]</sup> the Office of the Solicitor General counters that adding the suffix 'III' in the victim's name was not a substantial change, because it did not involve a "recital of facts constituting the offense charged or the jurisdiction of the court"<sup>[48]</sup> and nor would it change petitioner's defense. It also echoed the Court of Appeals' ruling that a rearraignment was unnecessary because petitioner is obviously aware of the victim's identity.<sup>[49]</sup>

Moreover, the Office of the Solicitor General asserts that petitioner was "sufficiently informed of the nature and cause of the accusation against him."<sup>[50]</sup> It claims that the Information clearly describes the acts constituting the crime charged—that the accused were members of the fraternity and that Dordas was a recruit who was subjected to hazing.<sup>[51]</sup> Thus, it asserts, the phrase "the physical or mental suffering or injury was inflicted as a prerequisite for admission to a fraternity, sorority or organization" is not necessary in the Information.<sup>[52]</sup>

In his Reply,<sup>[53]</sup> petitioner adds that the testimony of Dordas is insufficient to convict him of the crime. As such, he argues that the prosecution failed to prove that there was a hazing or an initiation rite that transpired on September 15, 2001.<sup>[54]</sup>

He asserts that Dordas's testimony was bare and self-serving, which must fail against the defense's straightforward and corroborated narration. He cites the testimony of the resort owner who stated that she did not notice any unusual activity when the fraternity rented the place.<sup>[55]</sup>

Moreover, petitioner insists that Dordas's statements were conflicting.<sup>[56]</sup> He points