

## EN BANC

**[ G.R. NO. 169962 (FORMERLY G.R. NO. 157022),  
July 12, 2007 ]**

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RAUL  
CENAHONON, APPELLANT.**

### DECISION

**NACHURA, J.:**

Before us is the Decision<sup>[1]</sup> dated June 3, 2005 of the Court of Appeals (CA) and the Decision<sup>[2]</sup> dated October 20, 2001 of the Regional Trial Court (RTC) of Parañaque City, Branch 259, in Criminal Case No. 99-248, both finding accused Raul Cenahonon (Cenahonon) and Ranilo Erdaje (Erdaje) guilty of kidnapping for ransom and imposing upon them the death penalty.

The case arose from the Information<sup>[3]</sup> dated November 29, 1999, the accusatory portion of which reads:

That on or about November 25, 1999 in Parañaque City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there, by force and intimidation, and with the use of a gun, willfully, unlawfully and feloniously take, carry away and deprive KENNETH MEDINA of his liberty against his will for the purpose of extorting money as in fact a demand for money was made as a condition for his release.

CONTRARY TO LAW.

Upon arraignment, both accused pled "not guilty." Thereafter, Erdaje escaped from detention and, thus, was tried in absentia.

The facts, as established by the prosecution evidence, are as follows:

On November 25, 1999, around 9:00 a.m., Jometh Magaway (Magaway), the driver of spouses Fortunato and Daisy Medina, was driving a red Honda CRV (CRV) bearing plate number WPP 502 out of the Medina residence in BF Homes, Parañaque City, to bring the couple's four-year-old son, Kenneth, to school. A man, later identified as Erdaje, suddenly approached, poked a gun at Magaway, opened the vehicle door, and told Magaway to move over from the driver's seat. Magaway followed and sat with Kenneth at the front passenger seat. Erdaje's companion, later identified as Cenahonon, occupied the back seat. Erdaje handed the gun to Cenahonon, who poked it at Magaway from behind. Erdaje then drove the car away.<sup>[4]</sup>

The maid of the Medinas, who saw the incident, immediately reported to Fortunato, then descending from the house, what happened. Fortunato tried to intercept the

CRV at the village gate, but failed. He returned home and called Daisy at their office in Alabang, Muntinlupa City. He told her about the incident and instructed her to call the Presidential Anti-Organized Crime Task Force (PAOCTF). He, in turn, called the Parañaque City Police Department.<sup>[5]</sup>

Meanwhile, inside the CRV, both accused informed Magaway that they would call the Medina family to demand a P5 million ransom. Upon reaching Las Piñas City, the former ordered Magaway to alight.<sup>[6]</sup>

Magaway proceeded to Medina's office in Alabang and related to Daisy how Kenneth was abducted.<sup>[7]</sup> Daisy instructed Magaway to return to the Medina residence where the Parañaque Police and the PAOCTF men were waiting.<sup>[8]</sup>

Around 1:00 p.m. that day, somebody called the Medina residence and talked to Fortunato. A speaker phone was used so everyone in the house heard the telephone conversation. The caller demanded P5,000,000.00 for Kenneth's release. A PAOCTF member instructed Fortunato to negotiate. The caller made several calls that same afternoon to negotiate for the ransom.

At about 6:00 p.m., the caller agreed to reduce the ransom to P100,000.00. He instructed Fortunato to put the money in a black plastic bag and give it to Magaway who would then turn it over at Mon-El Village along Sucat Avenue near the Baliwag Lechon Manok stall, in exchange for the keys of the CRV, with Kenneth inside the car.<sup>[9]</sup>

Sr. Inspector Edgar Allan Okubo (Okubo) of the PAOCTF and his team placed the boodle money inside a black plastic bag and gave it to Magaway. Magaway proceeded to the appointed place aboard a Tamaraw FX vehicle (Tamaraw FX) of the Medinas, driven by a PAOCTF operative. Two teams were dispatched to follow the Tamaraw FX. Okubo led one team while Sr. Inspector Loreto Delelis (Delelis) led the other.<sup>[10]</sup> Both teams parked their unmarked vehicles in front of the McDonald's restaurant beside Mon-El Village. The Tamaraw FX was parked in front of the Baliwag Lechon Manok stall.<sup>[11]</sup>

At around 8:00 p.m., Erdaje arrived and approached the Tamaraw FX. Magaway got down and gave the bag of boodle money to him. Upon receipt, Erdaje left without turning over the keys of the CRV.<sup>[12]</sup> Okubo and the PAOCTF operatives saw Erdaje board a dark gray Gemini sedan (Gemini) parked in front of McDonald's. The PAOCTF operatives then followed the Gemini towards the Sucat Airport road. Meanwhile, Magaway and his companion returned to the Medina residence.<sup>[13]</sup>

The PAOCTF operatives pursued the Gemini to a house in *Barangay* Molino, Bacoar, Cavite. Erdaje alighted from the car and went inside the house. After a few minutes, he left and drove away. Okubo ordered Delelis' team to tail Erdaje while his team stayed and knocked at the door of the house. Elizabeth Alamag (Alamag) answered. The team introduced themselves and asked for the identity of the man who just left. Alamag replied that the man is her uncle, Ranilo Erdaje, who was looking for Cenahonon and a child. She informed the operatives that she told Erdaje that both were in Trece Martires, Cavite.<sup>[14]</sup>

Okubo informed Alamag that they were searching for kidnap victim Kenneth Medina who probably was the same child Erdaje was looking for. Okubo asked Alamag to cooperate and tell them what she knew.<sup>[15]</sup> Alamag acceded and narrated that that morning, Erdaje requested her to allow the boy to stay for some time because his friend Cenahonon, allegedly the child's father, and the latter's wife were fighting over the boy's custody. She refused but advised Erdaje to bring the boy to her mother's house in Trece Martires. When Erdaje asked her to accompany him, she obliged. On their way to Cavite, she met the boy and Cenahonon inside the car. The boy was crying and looking for his mother. At Trece Martires, Alamag sought the permission of her stepfather to allow Cenahonon and the child to stay in their house. The stepfather agreed. Thereafter, Erdaje left. Alamag went home a little later.<sup>[16]</sup>

Alamag volunteered to accompany the PAOCTF team to her mother's house.<sup>[17]</sup> When they arrived there, Delelis' team had already surrounded the area.<sup>[18]</sup> The Gemini was parked alongside the carnapped CRV nearby. The operatives then raided the house, safely rescued Kenneth, and arrested Erdaje and Cenahonon. The team took them to their office in Camp Crame, Quezon City. At about 10:30 p.m. that evening, Okubo phoned his superior, Col. Agustin, then at the Medina residence, and informed him that they had already rescued Kenneth.<sup>[19]</sup>

The next day, November 26, 1999, Magaway and Kenneth identified Erdaje and Cenahonon as their abductors in a police line-up.<sup>[20]</sup>

As sole witness for the defense, Cenahonon testified that, around 9:00 a.m. of November 25, 1999, he reported for work as a carpenter in Indang, Trece Martires, Cavite. Later, at around 11:00 a.m., he excused himself from his employer to go to the market and buy something. As he was about to leave the market, somebody tapped his shoulder, poked a gun at him, and blindfolded him. He was forced inside a vehicle and taken to an unknown place. When they arrived at their destination, the blindfold was removed and Cenahonon saw three armed men in fatigue pants. The armed men brought him to a small house. There, the men took his short pants and wallet and ordered him to take care of a child. That night, he was arrested without a warrant by the PAOCTF. The three armed men who earlier took him were nowhere at the time of the arrest. The PAOCTF brought him to Camp Crame and there he met for the first time his co-accused Erdaje.<sup>[21]</sup>

In its Decision<sup>[22]</sup> dated October 20, 2001, the trial court found Cenahonon and Erdaje guilty of kidnapping for ransom and meted to them the penalty of death by lethal injection. The dispositive portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, finding Raul Cenahonon and Ranilo Erdaje GUILTY beyond reasonable doubt of the crime of Kidnapping for Ransom as defined and penalized under Art. 267 of the Revised Penal Code as amended by RA 7659 particularly the penultimate paragraph thereof, with reference to Kidnapping committed for the purpose of extorting money from the victim or any other person, both accused are hereby sentenced to the supreme penalty of death by lethal injection and to suffer the accessory penalties provided by law specifically Art. 40 of the Revised Penal Code.

The Clerk of Court is directed to prepare the Mittimus for the immediate transfer of Raul Cenahonon to the New Bilibid Prisons, Muntinlupa City from [the] Parañaque City Jail and to prepare an alias Warrant of Arrest for Ranilo Erdaje who is now considered a fugitive from justice. The Clerk of Court is also directed to forward all the records to the Supreme Court for automatic review in accordance with Section 9, Rule 122 of the Revised Rules of Court and Art. 47 of the Revised Penal Code as amended by Section 22 of RA 7659.

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

This case was elevated for automatic review to this Court and originally docketed as G.R. No. 157022. The Public Attorney's Office (PAO) filed an appellants' brief for both Cenahonon and Erdaje.<sup>[24]</sup> The Office of the Solicitor General (OSG), representing the People of the Philippines, filed the corresponding appellee's brief.<sup>[25]</sup> Accused-appellants, thru the PAO, filed their reply brief.<sup>[26]</sup>

In a Resolution<sup>[27]</sup> dated October 12, 2004, this Court transferred the records of the case to the CA for appropriate action and disposition pursuant to *People of the Philippines v. Efren Mateo*<sup>[28]</sup> which modified Sections 3 and 10 of Rule 122, Section 13 of Rule 124, and Section 3 of Rule 125, all of the Revised Rules on Criminal Procedure, and allowed intermediate review by the Court of Appeals.

Upon review, the CA rendered its Decision<sup>[29]</sup> dated June 3, 2005, affirming *in toto* the decision of the trial court, the dispositive portion of which reads:

WHEREFORE, the Decision dated October 20, 2001 of the Regional Trial Court of the City of Parañaque, Branch 259, in Criminal Case No. 99-248, finding accused-appellants Raul Cenahonon and Ranilo Erdaje guilty beyond reasonable doubt of the crime of kidnapping for ransom and imposing upon them the death penalty is AFFIRMED.

SO ORDERED.<sup>[30]</sup>

Upon elevation of this case back to this Court, now docketed as G.R. No. 169962, the parties were directed to file their respective supplemental briefs within thirty (30) days from notice, if they so desired.<sup>[31]</sup> The People, thru the OSG, moved that its brief already filed be adopted as its supplemental brief.<sup>[32]</sup> However, only Cenahonon, thru the PAO, prayed that appellants' brief filed earlier be adopted as his supplemental brief.<sup>[33]</sup>

It must be remembered that Erdaje escaped from jail after his arraignment. The trial court tried him *in absentia*, found him guilty of the crime charged together with Cenahonon, and likewise sentenced him to death. While it appears that Cenahonon is the lone appellant in this case, this Court, in line with its ruling in *People v. Esparas*<sup>[34]</sup> and in subsequent similar cases,<sup>[35]</sup> is mandated by law to automatically review the conviction and the death sentence imposed on both Cenahonon and Erdaje, and promulgate the appropriate judgment. As the brief drafted by the PAO was initially filed for both accused, the Court will also consider the same with respect to Erdaje. Further, as the entire case is thrown open for

scrutiny, it is the duty of this Court to correct any error, if any, that may be found in the judgment under review, whether or not an appeal brief is filed, and if there is, whether or not such error is assigned.

Thus, for review is the following assignment of errors:

I.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II.

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THERE WAS CONSPIRACY IN THE CASE AT BAR.

Cenahonon assails the credibility of prosecution witnesses Jometh Magaway and Elizabeth Alamag. He points to certain inconsistencies which, according to him, discredit their testimony.

Firstly, Cenahonon claims that Magaway, on direct examination pointed to him as the person who approached him, poked a gun at him, demanded that he transfer to the front passenger seat, and drove the CRV away from the Medina residence; but, on cross-examination, testified that it was Erdaje, the person who collected the money from him, who poked the gun at him, demanded his transfer, and drove the vehicle with the boy.

Secondly, Cenahonon points out that Alamag testified that she voluntarily accompanied him and the boy to her mother's house and was not threatened by her uncle, Erdaje, but she also affirmed the contents of her affidavit wherein she stated that her uncle threatened her.

The argument does not persuade.

As correctly observed by the OSG and as found by the CA, the alleged inconsistencies in the testimony of Magaway are more apparent than real. Indeed, Magaway committed a mistake in identifying the person who poked the gun at him and drove the CRV away with the child. Noteworthy is that, on re-direct examination, he was able to explain the apparent inconsistency, and correct the mistake in this wise:

Q: Mr. witness, in your answer in this transcript of stenographic notes dated June 8, 2000 on page 8 thereof, you said that the one who directed you to transfer to the right portion of the car, in the front side, and also the one who drove the car was one of the accused named Raul Cenahonon. In the transcript, you said that. Now when you were asked by the defense counsel who directed you to transfer to the right portion of the front seat of the car and the one who drove the car, your answer was the person who is not present here in court, or that it was not Raul Cenahonon. My question is, why did you say in your statement here made on June 8, 2000 that it was Raul Cenahonon who drove the car and the one who also ordered you to transfer to the right portion of the car?