

EN BANC

[G. R. Nos. 136286-89, September 11, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN G. DE TAZA,
APPELLANT.**

DECISION

CARPIO MORALES, J.:

On automatic appeal is the October 27, 1998 Joint Decision^[1] of Branch 88 of the Regional Trial Court of Cavite City finding appellant Efren G. De Taza guilty of four counts of rape in Criminal Case Nos. 249-97, 250-97, 251-97 and 252-97 and imposing on him the death penalty in each.

The accusatory portions of the complaints against appellant read as follows:

Criminal Case No. 249-97

That on or about May 15, 1993, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 13 years of age, without consent and against her will.^[2]

Criminal Case No. 250-97

That on or about August 20, 1995, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 15 years of age, without consent and against her will.^[3]

Criminal Case No. 251-97

That on or about May 21, 1996, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 16 years of age, without consent and against her will.^[4]

Criminal Case No. 252-97

That on or about April 28, 1996, in the City of Cavite, Republic of the

Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then being the stepfather of the undersigned complainant, by means of force, violence and intimidation, did, then and there, wil[l]fully, unlawfully and feloniously have carnal knowledge of the latter, a minor, 17 years of age, without consent and against her will.^[5]

From the evidence for the prosecution, the following are established:

Complainant Jocelyn S. Fructuoso is one of two children of former live-in partners Philippine Air Force (PAF) Sergeant Jimmy Fructuoso and Magdalena Silos.^[6] When the couple parted ways, Jocelyn and her older brother Judan lived with their mother.

While Jocelyn and Judan were in grade school, they took up music lessons with appellant, a member of the airbase squadron and band instrumentalist of the PAF.^[7] As music teacher, appellant became close to the children as well as to their mother. Romance in fact blossomed between appellant and Magdalena who are said to have eventually contracted marriage on August 21, 1991.^[8]

Appellant and Magdalena, together with Jocelyn and Judan, resided in Mascardo St., San Antonio, Cavite City.^[9]

On May 15, 1993, Jocelyn, then 13 years old, along with her best friend Norielyn Tome, attended the fiesta at Narvaez, Baylen, now General Emilio Aguinaldo, Cavite. Jocelyn returned home with Norielyn at around 6:00 p.m. of the same day^[10] at which time only appellant and Judan were at home, Magdalena having gone to "*Luksuhin*." Infuriated as Jocelyn did not ask his permission to attend the fiesta, appellant instructed Judan to get the *sisilan*, a piece of wood used for washing clothes.^[11] Judan did as instructed and Jocelyn repaired to her bedroom, one of three^[12] in the house, the other being her brother's, and the third appellant's and her mother. Appellant followed her, bringing with him the *sisilan*.^[13] Appellant then told Jocelyn to lie face down and to pull down her shorts and panty.^[14] As Jocelyn obliged, appellant hit her several times with the *sisilan*,^[15] drawing her to cry.^[16] Appellant then went out of her room and instructed Norielyn to go home.^[17]

That same night, after taking her supper, Jocelyn went to her room.^[18] Soon after, Arnold, Norielyn's brother, arrived and was outside the jalousie-covered window of Jocelyn's room^[19] when appellant asked him to leave.^[20]

Still on the same night, while Judan was already asleep, appellant went inside Jocelyn's bedroom, locked the door and asked her why Arnold was there, to which she replied that her mother had instructed that Arnold "accompany" them.^[21] This drew the ire of appellant who thought that Arnold was her boyfriend.^[22]

Appellant then told Jocelyn to stand up and take off her clothes.^[23] When she refused, he punched her on the abdomen.^[24] She held on to the waistband of her shorts but he threw her on her bed and succeeded in removing her shorts and panty.^[25] He then started kissing her vagina^[26] even while she tried to keep her thighs together and pleaded him to stop.^[27] He, however, forced her to spread her

legs^[28] and then stood up and removed his shorts.

As Jocelyn tried to stand up, appellant went on top of her and inserted his penis into her vagina.^[29] Despite her pleas for appellant to stop, he, while holding a kitchen knife, told her to keep quiet^[30] and went on to satisfy his lust with a warning against telling anyone about what transpired, otherwise he would kill her mother.^[31]

Upon Magdalena's return in the afternoon of the following day or on May 16, 1993, Jocelyn told her what appellant did to her.^[32] Magdalena thus confronted appellant inside Jocelyn's bedroom. When appellant came out of the bedroom, he gave Jocelyn a dagger look. On the same day, appellant left their residence.^[33]

On May 27, 1993, Magdalena, along with another woman, brought Jocelyn to the National Bureau of Investigation (NBI) in Manila^[34] where she was examined by Dr. Valentin Bernales, Medico-Legal Officer. Dr. Bernales came up with the following findings:

1. No evident sign of extragenital physical injuries noted on the subject at the time of the examination.
2. **Hymen, intact and its orifice small (1.5 cm. in diameter) as to preclude complete penetration by an average-sized, adult, Filipino male organ in full erection without producing genital injury.**^[35] (Emphasis and underscoring supplied)

By Jocelyn's account, no case was filed against appellant, Magdalena having concluded that "*[w]ala naman palang nangyari.*"^[36]

On May 1, 1995, Magdalena and her children transferred to another residence in Melrose St., also in San Antonio, Cavite City.^[37] In July of that same year, appellant lived with them again.^[38]

In late evening of August 20, 1995, while Jocelyn was sleeping in her room, she felt someone beside her.^[39] She soon realized that it was appellant who told her not to make any noise and that he was going to sleep there.^[40] Jocelyn covered herself with a blanket but appellant pulled it and asked her to remove her shorts.^[41] She tried to shout but appellant choked her and told her not to cry because her mother, who was sleeping in their bedroom, might be awakened.^[42] He then took off his shorts, forcibly took off Jocelyn's shorts and panty and went on top of her.^[43] When she tried to struggle, appellant got a decorative wineglass on top of her bed and threatened to hit her with it if she made any noise,^[44] leaving her no choice but to keep quiet. Appellant then inserted his penis into her vagina,^[45] after which he put on his shorts and warned her not to tell anyone for, as nobody believed her the first time she complained, no one would believe her if she did the second time.^[46] Appellant then left Jocelyn's bedroom.

After the second incident, as Jocelyn pondered that her mother would not believe her anyway, she did not bother to tell her about it.^[47] She instead left their house

and proceeded to the house of her aunt Roda Doctor in Sangley Point.^[48] Jocelyn, however, did not reveal to her aunt what appellant did to her.^[49]

Magdalena later fetched Jocelyn, telling her that appellant no longer lived with them.^[50] Two weeks after Jocelyn went back home, however, appellant lived with them again.^[51]

On March 20, 1996, appellant got mad at Jocelyn because she came home late. As punishment, he locked her inside her room.^[52] The following morning, or on March 21, 1996, she begged that she be allowed to go out of the room, but to no avail.^[53] At that time, both her mother and brother had left.^[54]

When Jocelyn sensed that appellant was about to leave for work, she went up her dresser and jumped over to the room of her brother with the intention of escaping.^[55] As she was about to go out of her brother's room, appellant, telling her that she could not leave,^[56] pulled her to his and her mother's room.^[57] While she tried to free herself from him, he pushed her towards the bed.^[58] She then warned him that if he would sexually assault her again, she would report him to police authorities.^[59] He countered, however, that before she could report, he would kill her.^[60] He then removed his pants and told Jocelyn to remove her shorts and panty.^[61] While she was crying, she obliged, albeit^[62] she tried to push him but felt something pointed at the side of her neck.^[63] Appellant then inserted his penis into her vagina^[64] after which, he asked her if she would still have the courage to report to the police because if she had, he would kill her. She told him that she would not report to the police as all she wanted was to go to school.^[65] Jocelyn then took a bath and put on her school uniform.^[66] He thereafter brought her to school. Afraid of him and thinking that no one would believe her anyway, she did not report the incident to anyone.^[67]

On April 28, 1996, around noon, Jocelyn asked permission from her mother to attend a fiesta. Magdalena, however, told her to ask permission from appellant which she did.^[68] Appellant consented. In the meantime, as Magdalena was having a siesta on the sofa, appellant asked Jocelyn to go to her bedroom so that she could massage him. When she refused, appellant told him that she could not leave for the fiesta.^[69] And indeed she was not able to.^[70]

Around 6:00 p.m. of that same day of April 28, 1996, while Jocelyn was inside her bedroom, appellant went inside, locked the door,^[71] and asked her to lie down but she refused. Appellant thus removed her short pants^[72] after which he pushed her towards the bed, warning her not to make any noise. He then took off his shorts, removed Jocelyn's panty, and went on top of her as he inserted his penis into her vagina.^[73] Jocelyn could only cry "silently" as his hands were on her throat and he did not want her mother to hear her crying.^[74] While appellant was on top of her, Magdalena knocked on the door and called Jocelyn's name. Appellant ordered her not to respond. He, however, told Magdalena to wait as they were just talking.^[75] Appellant then put on his shorts and warned her not to tell her mother what transpired.^[76]

The following morning, Jocelyn reported the incident the day before (the fourth) to her mother who did not believe her, however. Jocelyn then asked her to make a choice — whether she (Jocelyn) would leave or ask appellant to leave. Magdalena chose the first.^[77]

Jocelyn thus went to her best friend Norielyn's house and stayed there until around 8:00 p.m. of April 29, 1996 when her aunt Roda fetched her and brought her to her aunt Sylvia Lagula's house at Padre Pio St., Cavite City^[78] where she stayed until May 10, 1996. On May 11, 1996, she was sent to her grandfather's house in Asingan, Pangasinan, where she stayed for a year.^[79]

On April 2, 1997, Jocelyn was examined by Dr. Gloria A. Liberato, Medical Officer III of the Medicare Community Hospital of Asingan. The results of her examination, which were incorporated in a Medico-Legal Certification,^[80] revealed the following:

1. Healed hymenal laceration at 9:00, 3:00, 7:00 and 5:00 o'clock (sic) position.

2. Hymenal orifice admits 2 fingers with slight difficulty.
(Emphasis supplied)

By Dr. Liberato's account, the "ages" of the hymenal lacerations in Jocelyn are consistent with the dates of the alleged sexual assaults on her.^[81]

Appellant denied the charges against him,^[82] he surmising that the filing of the cases against him could have been spawned by the beatings and humiliations Jocelyn received from him.

Claiming that he lived in a boarding house in Quezon City from April 1995 to November 1995, it was impossible for him to have raped Jocelyn in Cavite in August 1995 (subject of the second information).^[83]

He proffered, however, that he had a close relationship with Jocelyn, more than that of a stepfather with his stepdaughter — "it's like having a mutual understanding x x x and that [they] care for each other,"^[84] to a point that they had sexual relationship,^[85] in support of which he showed before the court a photocopy of Jocelyn's photograph^[86] which he claims she gave to him.^[87]

Finding for the prosecution, the trial court, which noted Jocelyn to be crying while testifying,^[88] as did the prosecution,^[89] rendered the joint decision on review, the dispositive portion of which reads:

WHEREFORE, all the foregoing premises considered, we find the accused Efren G. de Taza guilty of raping his own stepdaughter on four separate occasions, accordingly hereby sentences him to suffer the supreme penalty of death in each of the four (4) cases, and is hereby ordered to pay the victim the amount of P50,000.00 as civil indemnity in each case; P50,000.00 as moral damages in each case; and P50,000.00 as exemplary damages in each case; or a total of P600,000.00.