

EN BANC

[G.R. No. 133695, February 28, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DANIEL MAURICIO Y PEREZ, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

DANIEL MAURICIO y Perez, accused-appellant, will elude the gallows because of a simple, although vital, omission in the Information charging him with rape. To the uninitiated in the workings of the justice system, this seeming leniency to a felon who raped his 11-year old daughter is a blatant outrage. But for those who are abreast with the law, the imposition of a lower penalty in this case is consistent with due process. The rule that saves Mauricio today from the capital punishment is not a mere technicality but a safeguard of one of the fundamental rights guaranteed by the Constitution.

Jonalyn Mauricio was born on 16 June 1986 to Daniel Mauricio and his common-law wife Emedelyn Geotina. But they separated when Jonalyn was only three (3) years old. She and her father lived in Shaw Boulevard with her paternal grandparents Alfonso and Ely Mauricio, while her mother and brothers resided in Pasay City. The grandparents owned a boarding house, a modest eatery and a commercial space which they leased out as a barber shop. Since Daniel Mauricio did not have a stable income and was always out drinking, her grandparents supported Jonalyn and sent her to school. Jonalyn would sleep with her grandparents in the room above the eatery, while Daniel stayed in the other building where the apartments and the barber shop were located. Later, Daniel took in a live-in partner and occupied one (1) room in the third floor with her, while the other room was occupied by his brother Reynaldo.

One evening in 1995 when Jonalyn was fast asleep in her room, she was awakened when she felt someone taking off her shorts and panty. It was her father, who then removed his own pants and underwear. Daniel then whispered to Jonalyn his bestial intentions, "*Maglaro tayo.*" He appeared to Jonalyn to be high on drugs. She had seen her father take drugs before and knew what it did to him. He then went on top of her as she was lying face down and inserted his penis into her vagina. "*Taas-baba 'yung ari niya sa akin, sir,*"^[1] she would later testify in court. After the painful ordeal that evening, Daniel wiped off the sap of his dastardly act, and then left without uttering a word. Jonalyn, in shock, went to a corner and cried until she fell asleep.

Jonalyn lived out this harrowing scene over and over again. She could not recall how many times her father raped her, nor the exact dates. Sometimes, he would just fondle her breasts. At one time, her father raped her when she fell asleep in her uncle's room after playing video games on his computer. Another time, Daniel

abused her when she baby-sat her half-sister at the request of his current live-in partner. As Jonalyn would later testify, "*Basta pag natutulog ako sa restaurant, he always touched me, sir.*"^[2] When asked how he did it, "*Hinahawakan po niya ang ari niya tapos pinapasok po niya sa vagina ko, sir.*"^[3]

Sometime in 1996 Jonalyn and her grandparents transferred to Welfareville Village in Pasig City. Her grandfather Alfonso eked out a living by selling ice to neighbors while her grandmother Ely worked as a manicurist doing home service for clients. As usual, Daniel was jobless and seldom sober, and continued to rape his own daughter. Jonalyn recalled one incident where she was asleep in the sofa when Daniel inserted his finger into her vagina and mashed her breasts. She also recalled another incident, which occurred sometime in July 1997, when her grandparents were out of the house. Her father Daniel laid behind her, spread her legs and inserted his penis inside her organ. All this time Jonalyn did not say a word to anyone about her father's lechery.

On 16 August 1997 Daniel committed his last act of inhumanity which prompted Jonalyn to finally to break her silence. Daniel arrived home from work at about 7:00 o'clock in the morning, apparently in his usual state of drunkenness. Only Jonalyn was in the house; she was washing dishes. Daniel suddenly grabbed her by the waist and carried her to her bed. She struggled and was able to escape Daniel momentarily, but he succeeded in grabbing her again and threw her down her bed. Daniel told her, "*Maybe, your lolo is molesting you.*" Fortunately, Daniel returned to his senses and apologized to his daughter saying, "*Pasensya ka na anak, may problema lang ako sa trabaho.*" He then told her not to tell anybody about the incident.

But his apparent repentance and pleas not to squeal on him came too late. Jonalyn, no longer able to tolerate the physical and mental torment, rushed to the house of her neighbor and classmate Myrna Marcelo. With the help of another neighbor, she called *Bantay Bata 163*. The person on the other end of the line identified himself as Elmer Chavez. She then initially narrated her ordeal to him.

The next day, she went to the house of her classmate Anna Patricia at Jose Fabella St., New Correctional Compound, Mandaluyong. There she met Elmer Chavez, the Bantay Bata staffer who answered her call, and Bella Zabala, a Bantay Bata social worker. She was interviewed by Zabala about the molestation. The two then accompanied Jonalyn to the PNP Crime Laboratory at Camp Crame for medical examination.

The examination revealed that Jonalyn had "elastic, fleshy-type hymen with shallow healed laceration at 10'clock position x x x the vaginal canal narrow with prominent rugosities," and concluded that "subject is in non-virgin state physically."^[4]

Jonalyn was brought to the ABS-CBN office in Quezon City for another interview. She was asked if she was willing to file charges for rape against her father even if it would result in him getting the death penalty, and Jonalyn answered in the affirmative. Then accompanied by Coleen Samar, another Bantay Bata staffer, Jonalyn went to the Mandaluyong Police Station to give her statement to the police.

On 8 September 1997 two (2) Informations were filed by the City Prosecutor's Office

of Mandaluyong City, one alleging that in August 1997, or prior thereto, with force and intimidation, the accused Daniel Mauricio willfully and feloniously had carnal knowledge of Jonalyn Mauricio y Geotina, a girl eleven (11) years of age. The other Information alleged that on or about 16 August 1997 Daniel Mauricio, with lewd designs and by means of force and intimidation, willfully and feloniously attempted to have carnal knowledge of his daughter Jonalyn Mauricio Y Geotina, a girl eleven (11) years of age, thus commencing the commission of rape directly by overt acts but did not produce the crime by reason of cause or causes other than his own spontaneous desistance, i.e., she was able to flee from the accused.

The prosecution presented as witnesses Ma. Luisa Capili of the Mandaluyong Police Station Women's Desk who took the statement of the victim, Jonalyn's grandfather Alfonso Mauricio, Jonalyn Mauricio herself, Coleen Samar, Elmer Chavez and Dr. Dennis D. Belin, the medico-legal officer of the PNP Crime Laboratory who examined Jonalyn.

Dr. Belin found a laceration in Jonalyn's hymen in the 1:00 o'clock position and concluded that she was in a non-virgin state. The doctor determined the degree of resistance of Jonalyn's vagina by introducing his finger into her organ and found her resistance to be strong, which meant that "the subject had limited sexual experience." The width of the vaginal canal, which he found to be narrow, indicated that the subject had had limited sexual experience, or not more than three (3) times. He also opined that the "sexual experience" could have been caused by a finger or any instrument other than the male sex organ. He further stated that only one (1) laceration was found but that it was possible for a single laceration to manifest even when there were several intercourses. He concluded that based on the condition of the wound it was inflicted at least two (2) weeks before the examination. He also said that the laceration might have been caused by other "stressful activities" since the laceration was less shallow and had less parameters than one normally caused by rape.

Daniel Mauricio denied he raped Jonalyn. He claimed that in their old house in Shaw Boulevard, Jonalyn slept in the *sala* where the waitresses of the eatery also slept. Thus, according to him, it was impossible for him to have committed rape because the waitresses were always in the *sala* at night. He insisted that he could not possibly have raped Jonalyn in his brother Reynaldo's room because Reynaldo always came home from work at 5:00 o'clock in the afternoon, and that it was very unlikely that his live-in partner would ask Jonalyn to baby-sit for her because the two (2) were not in good terms. According to Daniel, Jonalyn was jealous of his live-in partner and wanted her own parents to reconcile.

The trial court^[5] sustained the prosecution evidence, found Daniel Mauricio guilty of rape and sentenced him to death. He was also found guilty of attempted rape in the other case, and sentenced to seventeen (17) years, four (4) months, and one (1) day to twenty (20) years of *reclusion temporal* maximum. He was further ordered to pay complaining witness Jonalyn Mauricio P50,000.00 as moral damages and P30,000.00 as exemplary damages.

We sustain the conviction of Daniel Mauricio for rape. His barefaced, uncorroborated denials cannot prevail over the positive testimony of his victim. When a rape victim's testimony is straightforward and candid, unshaken by rigid cross-examination and unflawed by inconsistencies or contradictions in its material points, the same must

be given full faith and credit.^[6] Thus the trial court observed of the testimony of Jonalyn -

She gave a very straight-forward and spontaneous account of her horrible experience she encountered from the hands of her father but sometimes interrupted by her sobbing and by the tears dropping from her eyes probably reminding her of the dark and sad episode in the early chapter of her life authored by no less than her father x x x x

To the mind of this Court these feelings of anger and emotional outbursts of the victim is (sic) but a normal and ordinary behavior of a human being against a satyr whose beastliness was the cause of her loss of virginity at a tender age especially so if he is the person who brought her to this world.

We find no reason to reverse the trial court. Factual findings of trial courts, particularly the assessment of the credibility of witnesses, are accorded much weight and the highest respect on appeal. Trial courts have the opportunity to observe first hand the demeanor and conduct of witnesses and examine other proofs as well, thus they are better situated to form accurate impressions and conclusions.

^[7] The emotion and tears displayed by the victim convinced the trial court of the genuineness of her testimony. Indeed, it is very difficult if not impossible to feign such a convincing demeanor. We find it hard to imagine how a girl of tender age could give so vivid a depiction of such acts of bestiality if such acts were not inflicted on her. The revelation of an innocent child whose chastity was abused deserves full credit.^[8]

The credibility of Jonalyn is not diminished by the fact that it took her two (2) years from the time she was first violated to come forth and break her silence. In *People v. Narido* we said that considering that the complainant was a child of tender years, effectively under the control of the appellant, it was not difficult to understand why even after she was abused she stayed on and did not complain. Indeed, a daughter raped by her very own father must have been overwhelmed by fear and confusion as to why the very person that gave life to her could be capable of such a detestable act.

Neither is Jonalyn's credibility affected by her failure to recall the exact dates of the commission of the offense. Such lapse is a minor matter and can be expected when a witness is recounting the details of a humiliating experience which are painful and difficult to recall in open court and in the presence of other people.^[9] The failure of complainant to remember some details of the crime, instead of suggesting prevarication, precisely indicates spontaneity and is to be expected from a witness who is of tender age and unaccustomed to court proceedings.^[10]

Coupled with the strong corroborative testimony of the medico-legal officer who verified that the victim had prior sexual experience, Jonalyn's testimony is sufficient to overthrow the presumption of innocence in favor of accused-appellant.

We reject the contention of accused-appellant that it was impossible for him to have committed the crime because Jonalyn was always accompanied by the waitresses in the eatery. It is well-nigh impossible for one person to be accompanied by some