

SPECIAL ELEVENTH DIVISION

[CA-G.R. CR No. 35931, November 25, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO BAYONA Y CADUCOY, ACCUSED-APPELLANT.**

C O R R E C T E D D E C I S I O N^[1]

DICDICAN, J.:

Before this Court is an appeal^[2] seeking the reversal of the Decision dated July 5, 2013^[3] rendered by the Regional Trial Court (RTC) of Taguig City, Branch 163, in Criminal Case No. 14-6863, finding accused-appellant Rogelio C. Bayona guilty beyond reasonable doubt of violation of Section 10 (a) of Republic Act No. 7610 which defines and penalizes child abuse.

The facts, as found by the trial court, are as follows:

At 6:00 o'clock in the evening of December 25, 2011, twelve years old^[4] AAA played in front of his house with his friends in Taguig City. Two hours later, he went home and was approached and slapped by accused-appellant Rogelio C. Bayona, his grandfather. When AAA was already inside the house, accused-appellant hit both of the child's legs. Accused-appellant also hit AAA's nape with the use of a slipper and kicked the side of said minor child's body so that he may be shoved towards a room in the house. AAA fell to the ground, face down. When he turned his back, accused-appellant kicked him again.

AAA thereafter ran outside the house and went to the barangay hall of Western Bicutan, Taguig City where he reported the incident and sought the help of a barangay security force member. The accused-appellant later arrived at the barangay hall where he was subsequently detained. AAA's mother, ABC, then arrived at the barangay hall where she saw her minor child sleeping with a bloodied t-shirt. When she asked her son regarding what had transpired, she was told by the minor that accused-appellant had mauled him. The barangay officials then brought the accused-appellant and AAA to a hospital for medical examination and thereafter to a police station for further investigation.

Accused-appellant was eventually indicted for violation of Section 10 (a) of Republic Act No. 7610, under an Information, dated, December 27, 2011. The accusatory portion of the Information reads:

"That on or about the 25th day of December 2011, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, biological grandfather, did, then and there, willfully, unlawfully and feloniously commit acts of child abuse and cruelty upon

one **AAA**, twelve (12) years of age, a minor, that is, by then and there mauling victim thereby subjecting him to fear, mental anguish and other conditions prejudicial to his development as a normal human being.

CONTRARY TO LAW."^[5]

When arraigned, accused-appellant, with the assistance of a counsel *de officio*, entered a plea of not guilty to the charge.^[6]

After pre-trial^[7], trial on the merits ensued. The prosecution presented AAA^[8], ABC^[9] and Angel Sabandal^[10]. The minor child, AAA, shed light on the reason why he was beaten up by accused-appellant by stating that the latter had become angry and mad because accused-appellant was earlier looking for him and could not find him. ABC, accused-appellant's daughter, explained that, despite the fact that accused-appellant had been taking care of her children, she still decided to push through with the case because she did not want her children growing up in fear as the accused-appellant had already hurt him and other family members several times prior to the incident complained of. Meanwhile, Angel Sabandal testified that he was the arresting officer in the instant case. The three prosecution witnesses also identified the accused-appellant in open court. The testimony of Esperanza Fernandez^[11], the officer-in-charge of the medical records section of the Taguig Pateros District Hospital, where AAA was examined on the night of the incident, was dispensed with as the parties agreed to stipulate that Esperanza Fernandez brought with her the Medico-Legal Certificate and Emergency Room Record of AAA. The said Medico-Legal Certificate^[12] shows that the minor victim was examined and treated on December 25, 2011, and was diagnosed with "slight physical injuries secondary to mauling". The said certificate further reads as follows:

"DESCRIPTION OF INJURIES

Laceration, Upper Lip
Soft tissue swelling left knee
xxxxx Nothing Follows xxxxx

xxx xxx

DURATION: Less than 9 days."

The accused-appellant, for his part, adduced in evidence his own testimony. He insisted that, on the night in question, he had told his grandson not to leave the house but the latter, instead of complying, repeatedly answered him back, thus prompting him to hit his grandson's buttocks with slippers. He likewise narrated how he had been standing as the guardian of his grandson AAA.

Finding for the prosecution, the trial court, in the assailed Decision dated July 5, 2013, found accused-appellant guilty beyond reasonable doubt of violation of Section 10 (a) of RA 7610. The trial court found the prosecution witnesses to be credible and accorded their testimonies with great evidentiary weight. Moreover, the court *a quo* ruled that accused-appellant can be convicted under Section 10 (a) of

RA 7610 notwithstanding the failure of the prosecution to prove that, as a result of the accused-appellant's abusive conduct, AAA suffered fear, mental anguish and other conditions prejudicial to his growth and development as a normal human being. The decretal portion of the said Decision reads as follows:

"**WHEREFORE**, premises considered, the Court finds Rogello Bayona y Caduco **GUILTY** beyond reasonable doubt of the crime of child abuse defined and penalized under Section 10 (a) of RA 7610 and there being no mitigating or aggravating circumstance, is hereby meted the indeterminate penalty of imprisonment of six (6) years and one (1) day of *prison mayor*, as minimum, to eight years of *prison mayor*, as maximum.

He is ordered to pay P20,000.00 by way of moral damages and to pay the costs.

SO ORDERED."^[13]

Not satisfied with the decision, accused-appellant now comes to this Court *via* this instant appeal and assigns a lone error for our resolution, to wit:

THE COURT A *QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Accused-appellant contends that his acts do not constitute child abuse within the purview of the law because the prosecution failed to establish beyond reasonable doubt that he had intended to debase AAA's "intrinsic worth and dignity" as a human being, or that he had intended to humiliate or embarrass him. Accused-appellant further justified his acts as merely a way of disciplining his grandson because the latter repeatedly and disrespectfully answered him back. Lastly, accused-appellant opined that, considering that AAA's physical injury required only one (1) day of medical attention, the accused-appellant may be held liable only for the crime of slight physical injuries under Article 266 (1) of the Revised Penal Code and not for violation of Section 10 (a) of RA 7610.

The instant appeal was opposed by the People through the Office of the Solicitor General (OSG). In its Brief for the Appellee^[14], the OSG argued that accused-appellant's acts may not be considered as a manner of enforcing discipline upon a minor. On the contrary, accused-appellant's maltreatment of AAA borders more on severe physical abuse and cruelty as it has been proven to have been done several times in the past, thus depicting the habitual character of the abuses inflicted upon the minor victim by the accused-appellant. The OSG further stated that the accused-appellant may not be convicted merely of slight physical injury because his victim is a twelve-year old minor who is entitled to the protection extended by RA 7610.

After a judicious study and scrutiny of the case, we find the appeal to be wanting in