



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

G.R. No. 263603

Present:

-versus-

LEONEN, *Chairperson*,
LAZARO-JAVIER, *
M. LOPEZ,
J. LOPEZ, and
KHO, JR., *JJ*.

EUL VINCENT O. RODRIGUEZ,
Accused-appellant.

Promulgated:

OCT 09 2023

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DECISION

M. LOPEZ, J.:

In this appeal, accused-appellant Eul Vincent O. Rodriguez (Rodriguez) assails the Decision¹ dated June 17, 2021 and Resolution² dated February 22, 2022 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03154, which affirmed his conviction for qualified trafficking in persons under Section 4(a), in relation to Section 6 of Republic Act No. 9208, as amended by Republic Act No. 10364.

* On official business.

¹ *Rollo*, pp. 9–52. Penned by Associate Justice Bautista G. Corpin, Jr., with the concurrence of Associate Justices Gabriel T. Ingles and Nancy C. Rivas-Palmones of Special Eighteenth Division, Court of Appeals, Cebu City.

² *Id.* at 55–56. Penned by Associate Justice Bautista G. Corpin, Jr., with the concurrence of Associate Justices Gabriel T. Ingles and Nancy C. Rivas-Palmones of Special Eighteenth Division, Court of Appeals, Cebu City.

ANTECEDENTS

Rodriguez was charged with qualified trafficking under the following Information:

That on or about the 13th day of February 2014, at about 10:55 o'clock in the evening, and for sometime subsequent thereto, in the City of [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did and there engage in providing and transporting a minor, [AAA263603],³ for the purpose of prostitution, by acting as his procurer for a male customer, in exchange for money, profit, or any other consideration.

CONTRARY TO LAW.⁴

Upon arraignment, Rodriguez pleaded not guilty. During pre-trial, the parties stipulated: (1) on the fact of arrest; (2) that the first time the police saw Rodriguez was during his arrest; and (3) that prior to the entrapment, the procurer and the decoy communicated online. Thereafter, trial ensued.⁵

The prosecution presented the following witnesses: Police Officer 3 Jerry Gambi (PO3 Gambi), Senior Police Officer 1 Etelberto Timagos (SPO1 Timagos), Police Senior Inspector Maria Macatangay (PSI Macatangay), Police Chief Inspector Ryan Ace Sala (PCI Sala), Police Officer 1 Nestor Abasolo, Jr. (PO1 Abasolo), Katrina Jane Marie Umali (Umali), and the victim himself, AAA263603.⁶

The prosecution established that the United States Immigration and Customs Enforcement (US ICE) informed PSI Macatangay, Chief of the Regional Anti-Human Trafficking Task Force of Region 7, regarding the activities of Rodriguez. PSI Macatangay learned that a certain "Eula Rodriguez," who was later confirmed to be Rodriguez, was engaged in human trafficking through the use of Facebook and other media communications. The US ICE gave PSI Macatangay a printout of the Skype Account of "Eula Rodriguez" which indicated the account holder's Skype name as "eula.rodriguez56," as well as the account holder's birth date, gender, and photo.⁷ Thus, on November 15, 2013, PSI Macatangay assigned PO3 Gambi to investigate and validate the information received from the US ICE.⁸

In compliance, PO3 Gambi created a decoy Facebook account using the name "Tristan James." He then searched for Rodriguez's Facebook account, and was able to find it under the name "Bbyeuhan Rodriguez." It used an account photo resembling the photo shown to him by PSI Macatangay. PO3 Gambi sent a friend request and a message saying "hi."⁹

³ Initials were used in place of the victim's name pursuant to Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁴ *Id.* at 10.

⁵ *Id.*

⁶ *Id.* at 59-68. Penned by Presiding Judge Ester M. Veloso.

⁷ TSN, PSI Maria Macatangay, December 1, 2015, pp. 4-5.

⁸ *Id.* at 8.

⁹ *Rollo*, p. 11.

Sometime in November 2013, PO3 Gambi conducted a physical surveillance of Rodriguez's house in [REDACTED], which was at the back of the Tita Gwapa Supermarket and beside the old [REDACTED] Public Market. During his cross-examination, PO3 Gambi prepared a sketch of the vicinity of the area that he surveyed. He claimed that he saw Rodriguez but decided not to approach him. PO3 Gambi also testified that he asked an old lady in the area if there was a person named "Eula Rodriguez" living nearby. The old lady pointed to Rodriguez's house.¹⁰

In January 2014, Rodriguez eventually accepted PO3 Gambi's friend request on Facebook and they started communicating. In the course of their conversations, Rodriguez asked PO3 Gambi to chat with the account "sofia.negra" on Skype. In Skype, Rodriguez, using the account "sofia.negra" asked for monetary help and offered a nude show involving three girls in exchange. PO3 Gambi informed Rodriguez that he was a businessman residing in Guam, but he could send the money to Rodriguez through a friend in Zamboanga City. PO3 Gambi then sought the assistance of another agent in Zamboanga City, who sent PHP 1,000.00 to a certain Windolyn Ceden (Ceden) via Western Union per Rodriguez's instructions. Despite having received the money, Rodriguez refused to present the nude show. He explained that the police were "very hot" about nude shows involving minors. After their correspondence, PO3 Gambi saved and printed their chat logs.¹¹

Thereafter, on February 5, 2014, Rodriguez again contacted PO3 Gambi through a Skype video call, this time using the name "Windolyn Ceden" through the account "cassandra.labajo". PO3 Gambi recognized that it was Rodriguez because the Skype account used the same pictures as the previous account, "sofia.negra". Moreover, he was able to see Rodriguez's face during their Skype video call while he refused to show his face, reasoning that there was something wrong with his camera.¹²

During their video call, Rodriguez offered a nude show for USD 50.00. PO3 Gambi asked his confidential decoy in the United States to send money according to Rodriguez's instructions. However, when Rodriguez received the money, he again refused to follow through with the nude show since he was at an internet café. Instead, he showed the faces of two young girls, ages 16 and 17 years old. PO3 Gambi took a video recording of their interaction and stored it in a USB. He also printed their chat logs.¹³

Finally, on February 10, 2014, Rodriguez, using the Skype account "sofia.negra", reached out to PO3 Gambi. He informed PO3 Gambi that he was ready to present a nude show with his 16-year-old and 17-year-old cousins. Rodriguez first moved the conversation to the Skype account

¹⁰ *Id.*

¹¹ *Id.* at 11-12.

¹² *Id.* at 12.

¹³ *Id.*

J

“cassandra.labajo”. He then presented the two minors and ordered them to remove their upper garments and lick each other. At that point, PO3 Gambi stopped the show to prevent further damage to the victims. He explained that he needed to go to work. The entire online interaction was again recorded by PO3 Gambi.¹⁴

PO3 Gambi provided the report of his surveillance to PSI Macatangay, who in turn instructed him to prepare an entrapment operation against Rodriguez.¹⁵

Thus, on February 13, 2014, PO3 Gambi, through Skype, reached out to the “cassandra.labajo” Skype account. He told Rodriguez that he had a foreign friend, Kyle Edwards, who was staying at the Waterfront Hotel in [REDACTED]. Rodriguez offered to meet with Kyle Edwards and bring AAA263603, also known as “Tosip,” to do a nude show in person. Rodriguez also proposed that PO3 Gambi’s friend could have sex with him and Tosip. He requested USD 75.00 for their fare, and a part of it will be given to Tosip’s parents.¹⁶ PO3 Gambi, through his agent in Zamboanga, sent PHP 2,500.00 to Cedenon via Western Union. Rodriguez confirmed receipt of the money.¹⁷

Thereafter, PSI Macatangay set up a team for the entrapment operation. During their briefing, the team agreed to use fluorescent powder-dusted marked money consisting of ten PHP 1,000.00 bills. SPO1 Timagos was assigned to act as the police decoy. He would accompany the confidential informant (CI), who would act as “Kyle Edwards.” The plan was for SPO1 Timagos to act as the CI’s driver and the one who would hand over the marked money to Rodriguez.¹⁸

On the same day, at 6:00 p.m., the team proceeded to the Waterfront Hotel and booked Room 1137 where the CI stayed while waiting for Rodriguez. The rest of the team, on the other hand, positioned themselves in the lobby of the hotel. At around 9:30 p.m., Rodriguez arrived at the Waterfront Hotel with AAA263603. After 15 minutes, SPO1 Timagos received a call from the CI asking SPO1 Timagos to bring the marked money to Room 1137. When SPO1 Timagos entered the room, he saw Rodriguez seated on the bed. The CI then introduced SPO1 Timagos as his driver and asked the latter to hand over the money to Rodriguez. However, Rodriguez refused to accept the money and asked SPO1 Timagos to leave it on the table. SPO1 Timagos noticed that he had not yet seen the minor child; hence, he asked to use the bathroom. However, Rodriguez stopped him and said that somebody was using it so SPO1 Timagos should use the comfort room in the lobby.¹⁹

¹⁴ *Id.* at 13.

¹⁵ *Id.*

¹⁶ *CA rollo*, p. 89.

¹⁷ *Rollo*, p. 13.

¹⁸ *Id.* at 13–14.

¹⁹ *Id.* at 14.

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SPO1 Timagos asked permission to leave the room. When SPO1 Timagos was about to leave, the CI picked up the money from the table and handed it over to Rodriguez, who received it. SPO1 Timagos, upon seeing Rodriguez accept the marked money, texted the team to inform them that the transaction had been consummated. Afterwards, SPO1 Timagos arrested Rodriguez and the team arrived shortly after. They recovered from Rodriguez the marked money, a bag, a camera, a sex toy, a cellphone, sim cards, and various money transfer receipts.²⁰ AAA263603 was turned over to the care of the Department of Social Welfare and Development (DSWD).²¹

Upon inspection, the dorsal and palmar aspects of both hands of Rodriguez were found positive for the presence of bright orange ultra-violet fluorescent powder.²²

The sim cards and the cellphone retrieved were examined by forensic analyst PO1 Abasolo. He testified that Rodriguez was communicating with contacts named "Afam Kyle" and "Taxi Nash" on the day of the entrapment operation. Some of the text messages sent by Rodriguez are reproduced below:

1. Down town now kyle. . hang on there your hard cock. . hehe. . lols.
2. So wish u are happy to met me kyle.is this your first time meeting up with a young boy and ladyboy?
3. Wow!its remarkable for me to fulfill your long time wants. . yeah. . u like big cocks?just let us have the idea on your desire to know how to please you
4. Let us know kyle if youll be the one to give or u wanted to experience receiving our cocks?hmmp. .²³

As for the victim, AAA263603 was born on September 10, 1999,²⁴ and was only 14 years old at the time of the incident. His father was deceased, and he was living with his mother, a laundry woman.

AAA263603 testified that he first met Rodriguez, whom he calls Eula, in 2012. In 2013, he and Rodriguez started stripping naked in front of the internet. Before each "show," Rodriguez would chat with the foreigners. After the show, Rodriguez would receive money from their American customers, either through Western Union or Lhuillier. AAA263603 averred that he had performed 20 shows for Rodriguez. While he never knew how much was being remitted to Rodriguez, he narrated that his share would be between PHP 100.00 to PHP 600.00.²⁵

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 25.

²⁴ *Id.* at 15.

²⁵ *Id.* at 64.

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With respect to the incident on February 13, 2014, AAA263603 testified that he was watching television at home when Rodriguez informed him not to go anywhere since they would be going to the Waterfront Hotel to meet with an American and eat some pizza. At around 9:00 p.m., they rode a taxi to the hotel. They then headed to a hotel room where they sat down and had pizza with an American.²⁶

Meanwhile, AAA263603 went to the toilet. After relieving himself, he recalled seeing a Filipino man in the hotel room who asked him to go to the parking area so they could talk. He was then brought to the DSWD.²⁷

Umali testified regarding the psychological makeup of AAA263603. She worked in the Women and Children Protection Center and was tasked with conducting trauma assessment and psychological evaluation.²⁸ In her testimony, she noted that AAA263603 did not exhibit any trauma indicators, but added that it was still possible for the symptoms to manifest later in life. Further, she admitted that she was not a licensed psychologist.²⁹

For the defense, Rodriguez was presented as its lone witness. Rodriguez filed his Judicial Affidavit in lieu of direct testimony in open court.³⁰

Rodriguez denied the accusations against him. He denied involving AAA263603 in nude shows and asserted that he only brought AAA263603 to the Waterfront Hotel to eat pizza with the foreigner, and nothing more.³¹ In fact, he intended to go there alone. But since he sensed that the foreigner had good intentions, he decided to bring AAA263603 because it would be "merrier"³² if they had more people with them during Valentine's Day.³³ Further, he asserted that AAA263603 was coached by the DSWD and International Justice Mission (IJM), a global organization that assisted in the prosecution of the case.³⁴

Rodriguez raised legal issues in his testimony. Specifically, he argued that his right to due process was violated when the chat logs and videos of his conversation with PO3 Gambi were presented, as these were not related to the incident alleged in the Information filed against him. Moreover, he posited that these pieces of evidence were an intrusion of his constitutional right to privacy of communication and in violation of Republic Act No. 4200. At any rate, he alleged that he did not receive the money, but that it was forced onto him. This was evidenced by the fluorescent powder found in both the palmar and dorsal sides of his hands. Rodriguez also argued that his arrest was illegal

²⁶ *Id.* at 16.

²⁷ *Id.*

²⁸ TSN, Katrina Jane Marie Umali, May 16, 2017, p. 13.

²⁹ *Rollo*, p. 16.

³⁰ *Id.* at 68.

³¹ *Id.* at 68-69.

³² *Id.* at 70.

³³ *Id.*

³⁴ *Id.* at 68.

and that his personal belongings were inadmissible for being “fruits of the poisonous tree.” He denied owning the sex toy.³⁵

In its Judgment,³⁶ the Regional Trial Court (RTC) found Rodriguez guilty of qualified trafficking. It found that the witnesses for the prosecution were credible, significantly corroborative on material points, and unstained by any improper motive.³⁷ It rejected Rodriguez’s defense of denial and ruled that the evidence showed Rodriguez’s ill intentions when he brought AAA263603 to the Waterfront Hotel.³⁸ The dispositive portion of the judgment reads:

WHEREFORE, the court finds the accused EUL VINCENT ONDOY RODRIGUEZ GUILTY beyond reasonable doubt of the crime of Violation of Sec. 4(a) in relation to Sec. 6, of [Republic Act No.] 9208, as amended by [Republic Act No.] 10364, and sentence him to suffer the penalty of life imprisonment without eligibility for parole, and to pay a fine of [PHP] 2,000,000.00. He is further ordered to pay the offended party AAA moral damages of [PHP] 500,000.00 and exemplary damages of [PHP] 100,000.00 with interest of six percent (6%) *per annum* on all monetary awards for damages, from the date of the finality of this decision until fully paid.

SO ORDERED.³⁹

Rodriguez filed his appeal before the CA. In his Brief⁴⁰ and Reply-Brief,⁴¹ he argued that the trial court erred in appreciating the pieces of evidence seized from him, which were inadmissible since he was arrested without a warrant. He likewise alleged that the Information filed against him was only in relation to the incident on February 13, 2014; thus the trial court should not have relied on his prior acts. He claimed that he was instigated by the police officers. He also raised alleged errors in PO3 Gambi’s testimony regarding the location of Rodriguez’s house and the sketch of the neighborhood where Rodriguez resided.

Rodriguez argued that the prosecution failed to establish that there was a transaction between him and the CI. Based on the testimony of SPO1 Timagos, he only heard the CI offer money to Rodriguez.⁴² Hence, the prosecution had no proof that the CI and Rodriguez agreed on the price or even the gender of the alleged child victim.⁴³ According to Rodriguez, the prosecution was only able to establish that he and the CI agreed to meet, but not that the CI agreed to meet with AAA263603.⁴⁴

³⁵ *Id.* at 69.

³⁶ *Id.* at 58–73. The July 11, 2018 Decision in Crim. Case No. CBU-102742. Penned by Presiding Judge Ester M. Veloso of the Regional Trial Court of ██████ City, Branch 6.

³⁷ *Id.* at 17.

³⁸ *Id.*

³⁹ *Id.* at 17–18.

⁴⁰ CA *rollo*, pp. 36–62.

⁴¹ *Id.* at 102–116.

⁴² *Id.* at 57.

⁴³ *Id.* at 56.

⁴⁴ *Id.* at 59.

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Rodriguez also asserted that AAA263603 was coached, since AAA263603 testified that he knew that the case was for trafficking but could not explain what trafficking was. He makes much of the fact that AAA263603's mother refused to cooperate with the prosecution since she was allegedly aware that AAA263603 merely went to the Waterfront Hotel to eat pizza. Further, Umali has not found any alarming results from the psychological makeup of the victim.⁴⁵

Finally, Rodriguez contended that the prosecution also cannot rely on the chat logs and videos between Rodriguez and PO3 Gambi as these are inadmissible for being violative of the Constitution and Republic Act No. 4200.⁴⁶

The appellate court affirmed Rodriguez's conviction. It ruled that Rodriguez's arrest was lawful, being one made *in flagrante delicto*; hence, the pieces of evidence recovered from Rodriguez were admissible.⁴⁷ It likewise held that the police conducted a legitimate entrapment operation, not an instigation.⁴⁸ It found that the arguments against the surveillance conducted by PO3 Gambi are inconsequential because prior surveillance is not a condition for the validity of an entrapment operation.⁴⁹ It was also immaterial that none of the witnesses heard the conversation between the CI and Rodriguez since the transaction had already been discussed at length before the meeting at the Waterfront Hotel.⁵⁰

With respect to the chat logs and videos, the appellate court found these relevant because they were offered as evidence of Rodriguez's intent, knowledge, identity, plan, system, scheme, and predisposition.⁵¹ There was also no evidence presented to show that AAA263603 was unduly influenced by the IJM and DSWD.⁵²

The appellate court also found PCI Sala's explanation sufficient with respect to the placement of the fluorescent powder in both the dorsal and palmar portions of Rodriguez's hands. According to PCI Sala, this can occur in most cases depending on the way the accused was handled by the police given that ultraviolet powder is a highly transferrable substance.⁵³

Ultimately, the CA found that there was proof beyond reasonable doubt that Rodriguez committed the crime charged.⁵⁴ The assailed CA Decision disposed:

⁴⁵ *Id.* at 19–22.

⁴⁶ *Id.* at 114–115.

⁴⁷ *Rollo*, pp. 22–23.

⁴⁸ *Id.* at 23.

⁴⁹ *Id.* at 29.

⁵⁰ *Id.* at 31.

⁵¹ *Id.* at 32–35.

⁵² *Id.* at 35–39.

⁵³ *Id.* at 49–50.

⁵⁴ *Id.* at 39–48.

WHEREFORE, premises considered, the appeal is **DENIED**. The Judgment dated July 11, 2018 of the Regional Trial Court, Branch 6, [REDACTED] in Crim. Case No. CBU-02742, is **AFFIRMED**.

SO ORDERED.⁵⁵

The appellate court denied Rodriguez's Motion for Reconsideration⁵⁶ which only reiterated the arguments already raised.

Hence, this appeal.

Both the People,⁵⁷ through the Office of the Solicitor General, and Rodriguez⁵⁸ manifested that they would adopt the arguments they raised in their briefs before the CA.

In summary, Rodriguez raises three main arguments against his conviction. *First*, his arrest was illegal because it was an instigation, not an entrapment. Consequently, the pieces of evidence recovered from him are inadmissible in evidence. *Second*, the trial court erred in relying on the chat logs as these are "extraneous evidence" and a violation of his constitutional right to privacy. *Third*, the prosecution failed to prove the elements of the crime of qualified trafficking since none of the prosecution's witnesses had personal knowledge of the conversation between the CI and Rodriguez.

RULING

Upon judicious review of the records of the case, the Court adopts the factual findings of the RTC, as affirmed by the CA. The Court upholds the ruling of the courts *a quo* that Rodriguez's guilt for the offense of qualified trafficking against AAA263603 was proven beyond reasonable doubt.

We stress that factual findings of the trial court, including its assessment of the credibility of witnesses, and the probative weight of their testimonies, as well as of the documentary evidence, are accorded great weight and respect, especially when the same are affirmed by the CA.⁵⁹

Here, Rodriguez was charged and convicted for qualified trafficking under Section 4 (a), in relation to Section 6 (a) of Republic Act No. 9208, as amended by Republic Act No. 10364:

Section 4. Acts of Trafficking in Persons.—It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

- (a) To recruit, transport, transfer, harbor, provide, or receive a person by any means, including those done under the pretext of domestic or

⁵⁵ *Id.* at 52.

⁵⁶ CA *rollo*, p. 168–191.

⁵⁷ *Rollo*, p. 77.

⁵⁸ Temporary *rollo*.

⁵⁹ *People v. Amurao*, 878 Phil. 306, 323 (2020) [Per J. Caguioa, First Division].

overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

....

Section 6. Qualified Trafficking in Persons.—The following are considered as qualified trafficking:

(a) When the trafficked person is a child[.]

In *People v. Casio*,⁶⁰ the Court defined the elements of trafficking in persons:

(1) The *act* of “recruitment, transportation, transfer or harbouring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders”;

(2) The *means* used include “threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another”; and

(3) The *purpose* of trafficking is exploitation which includes “exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.”⁶¹ (Emphasis in the original)

The crime is qualified when the trafficked person is a “child” which is defined as any “person below 18 years of age or one who is over 18 but is unable to fully take care of or protect themselves from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.”⁶² In such cases, the recruitment, transportation, transfer, harboring, or receipt of a child for the purpose of exploitation shall also be considered as “trafficking in persons” **regardless** of the means used.⁶³ More importantly, the minor’s consent to the sexual transaction is **irrelevant** to the commission of the crime as victims who are minors cannot validly give their consent.⁶⁴

In this case, the presence of all the elements of qualified trafficking was duly established by the prosecution. The prosecution’s testimonial and documentary evidence had established beyond reasonable doubt that Rodriguez transported AAA263603 to Waterfront Hotel on February 13, 2014 for the purpose of sexual exploitation. Based on AAA263603’s Certificate of Live Birth,⁶⁵ he was born on September 10, 1999; hence, was only 14 years old at the time of the incident.

⁶⁰ 749 Phil. 458 (2014) [Per J. Leonen, Second Division].

⁶¹ *Id.* at 470. Citations omitted.

⁶² Republic Act No. 9208 (2003), as amended by Republic Act No. 10364 (2012), sec. 3(b).

⁶³ Republic Act No. 9208 (2003), as amended by Republic Act No. 10364 (2012), sec. 3(b).

⁶⁴ 749 Phil. 458, 475–476 (2014) [Per J. Leonen, Second Division].

⁶⁵ CA rollo, p. 72.

On this point, Rodriguez argues that the prosecution failed to prove all the elements of the crime because: (1) none of the prosecution witnesses heard the conversation between him and the CI; hence, there was no proof of the illegal transaction;⁶⁶ and (2) AAA263603 did not suffer any psychological trauma.⁶⁷ These arguments are untenable.

It is immaterial that none of the witnesses heard the conversation between Rodriguez and the CI. Evidence on record clearly shows that Rodriguez and the CI already agreed on the criminal transaction before the meeting at the hotel. Text messages that were sent by Rodriguez to a contact named "Afam Kyle," referring to the CI "Kyle Edwards," on the night of February 13, 2014 show that the sexual exploitation of AAA263603 was already agreed upon:

2. So wish u are happy to meet kyle. Is this your first time meeting up with a young boy [and] ladyboy?

3. Wow!its remarkable for me to fulfill your long time wants. . yeah. . u like big cocks?just let us have the idea on your desires.to know how to please you.⁶⁸

Moreover, we find no reason to depart from the findings of the trial court, as affirmed by the appellate court, that it is possible for AAA263603 to manifest symptoms of trauma later in his life.⁶⁹ At any rate, finding trauma is not an element of qualified trafficking in persons.

Neither do the legal issues raised by the accused convince us to rule otherwise.

Rodriguez was not instigated to commit human trafficking. His arrest was made after a valid entrapment operation

In *People v. Mendoza*,⁷⁰ the Court clarified the distinctions between instigation and entrapment, viz.:

... Instigation means luring the accused into a crime that he, otherwise, had no intention to commit, in order to prosecute him. On the other hand, entrapment is the employment of ways and means in order to trap or capture a lawbreaker. Instigation presupposes that the criminal intent to commit an offense originated from the inducer and not the accused who had no intention to commit the crime and would not have committed it were it not for the initiatives by the inducer. In entrapment, the criminal intent or design

⁶⁶ CA rollo, p. 48.

⁶⁷ Id. at 60.

⁶⁸ Rollo, p. 25.

⁶⁹ Id. at 51.

⁷⁰ 814 Phil. 31 (2017) [Per J. Peralta, Second Division], citing *People v. Dansico*, 659 Phil. 216, 225–226 (2011) [Per J. Peralta, Second Division].

to commit the offense charged originates in the mind of the accused; the law enforcement officials merely facilitate the apprehension of the criminal by employing ruses and schemes. In instigation, the law enforcers act as active co-principals. Instigation leads to the acquittal of the accused, while entrapment does not bar prosecution and conviction.⁷¹

Further, in *People v. Doria*,⁷² the Court explained the litmus test to determine the validity of an entrapment operation, to *wit*:

Initially, an accused has the burden of providing sufficient evidence that the government induced him to commit the offense. Once established, the burden shifts to the government to show otherwise. **When entrapment is raised as a defense, American federal courts and a majority of state courts use the “subjective” or “origin of intent” test laid down in *Sorrells v. United States* to determine whether entrapment actually occurred. The focus of the inquiry is on the accused’s predisposition to commit the offense charged, his state of mind[,] and inclination before his initial exposure to government agents.** All relevant facts such as the accused’s mental and character traits, his past offenses, activities, his eagerness in committing the crime, his reputation, etc., are considered to assess his state of mind before the crime. The predisposition test emphasizes the accused’s propensity to commit the offense rather than the officer’s misconduct and reflects an attempt to draw a line between a “trap for the unwary innocent and the trap for the unwary criminal.” ... **Some states, however, have adopted the “objective” test. This test was first authoritatively laid down in the case of *Grossman v. State* rendered by the Supreme Court of Alaska. Several other states have subsequently adopted the test by judicial pronouncement or legislation. Here, the court considers the nature of the police activity involved and the propriety of police conduct.** The inquiry is focused on the inducements used by government agents, on police conduct, not on the accused and his predisposition to commit the crime. For the goal of the defense is to deter unlawful police conduct. The test of entrapment is whether the conduct of the law enforcement agent was likely to induce a normally law-abiding person, other than one who is ready and willing to commit the offense; for purposes of this test, it is presumed that a law-abiding person would normally resist the temptation to commit a crime that is presented by the simple opportunity to act unlawfully.⁷³ (Italics in the original, citations omitted, emphasis supplied)

Using both tests, the Court finds that the police operatives conducted a valid entrapment operation.

For the subjective test, the testimonies offered by the prosecution clearly showed that Rodriguez was predisposed to commit the offense even before PO3 Gambi informed him of the presence of “Kyle Edwards.” AAA263603’s testimony that he performed at least 20 nude shows, under the instruction of Rodriguez, readily shows that Rodriguez had a history of engaging in human trafficking and exploiting minors:

⁷¹ *Id.* at 42, citing *People v. Dansico*, 659 Phil. 216, 225–226 (2011) [Per J. Peralta, Second Division].

⁷² 361 Phil. 595 (1999) [Per J. Puno, *En Banc*].

⁷³ *Id.* Citations omitted.

Atty. Guico

Q: Can you describe before this Honorable Court what usually happened when you do a show before the internet?

A: Stripped naked.

....

Q: Before you do the show what usually happened?

A: Eul Vincent will chat with an American.

....

Q: Can you still remember how many times the accused made a show through the internet?

A: Twenty times.⁷⁴

Rodriguez's predisposition to commit the crime is further bolstered by the conversations of PO3 Gambi and Rodriguez even before February 13, 2014. It must be stressed that Rodriguez himself offered the nude shows to PO3 Gambi involving other minors.

For the objective test, PO3 Gambi's testimony sufficiently establishes that he neither induced nor persuaded Rodriguez to bring or offer AAA263603 to his "foreigner friend." At most, he only informed Rodriguez that his "foreigner friend" would be staying at the Waterfront Hotel:

Atty. Guico (Priv. Prosec)

Q: Can you tell us what [was] your conversation during that time?

A: As part of the preparation of entrapment operation I told him that I have a foreigner friend, my confidential decoy, who happens to be a businessman who happens to be in [REDACTED] staying at the Waterfront Hotel in [REDACTED].

Q: After you told [Rodriguez] that you have a foreigner friend staying in Waterfront Hotel, [REDACTED], what happened next?

A: He offered to meet my business partner and he will bring with him the 16 years old found out to be [AAA263603] and a 14 years old and they will be together to go to Waterfront Hotel to perform and actual nude show [that] they had performed in the video.

Q: What was your reply?

A: I said, what show, what can you offer?

Q: What was [Rodriguez's] reply if any?

A: He said, they can be naked and actually they can fuck with my friend, my decoy friend.⁷⁵

Indeed, PO3 Gambi remained steadfast in his narration even during his cross-examination:

Atty. Salva

Q: And in fact, it was also you who advised the accused to bring minors?

⁷⁴ *Rollo*, pp. 40-41.

⁷⁵ *Id.* at 43.

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A: No, I'm not the one. He offered to bring minors, the one that was shown by him to me on Skype on February 5. He offered to bring the two (2) minors with him for the sexual exploitation of my confidential decoy.⁷⁶

Undeniably, the criminal intent originated from Rodriguez himself. The idea and resolve to commit the crime came from him.⁷⁷ There was no illicit inducement on the part of the police for Rodriguez to commit the crime. Verily, the incident on February 13, 2014 was an entrapment operation, not an instigation. It is settled that entrapment operations have been sanctioned as a means of arresting offenders who traffic persons.⁷⁸ Thus, Rodriguez was validly arrested, rendering the search and seizure incidental to his arrest valid.⁷⁹

With respect to the issues raised regarding surveillance, suffice it to say that surveillance is not a precondition for a valid entrapment.⁸⁰ Hence, the Court finds no reason to discuss this at length. Besides the issues raised regarding the surveillance (i.e., address of the accused and distances between landmarks) are not relevant to the entrapment conducted nor to the elements of the crime charged.

Since the entrapment was a valid police operation, the defense of denial is unavailing to Rodriguez

Rodriguez denies committing the crime. He attempts to paint a picture that he and AAA263603 only went to the Waterfront Hotel "to have an acquittance [*sic*] with the American and to eat pizza."⁸¹ He errs.

It is settled that instigation is a *positive* defense. It is in the nature of a confession and avoidance. The accused effectively admits that he performed the crime charged, only that the criminal intent did not originate from him. Thus, instigation is incompatible with the defense of denial:

Furthermore, when Legaspi testified in court, her defense was one of denial and not instigation. While instigation is a positive defense, it partakes of the nature of a confession and avoidance. In instigation, the crime is actually performed by the accused, except that the intent originates from the mind of the inducer. **Thus, it is incompatible with the defense of denial, where the theory is that the accused did not commit the offense at all. Instigation and denial, therefore, cannot be present concurrently.**⁸² (Emphasis supplied)

⁷⁶ CA rollo, 46.

⁷⁷ *People v. Valencia*, 904 Phil. 518 (2021) [Per J. Leonen, Third Division].

⁷⁸ *Id.*

⁷⁹ *Teodosio v. Court of Appeals*, 475 Phil. 80, 96 (2004) [Per J. Corona, Third Division].

⁸⁰ *See People v. Casio*, 749 Phil. 458, 478 (2014) [Per J. Leonen, Second Division].

⁸¹ *Id.*

⁸² *People v. Legaspi*, 677 Phil. 181, 193–194 (2011) [Per J. Leonardo-De Castro, First Division].

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In this case, by raising the defense of instigation, Rodriguez admitted to committing the crime of qualified trafficking. Thus, he has the burden of providing sufficient evidence that the government induced him to commit the offense.⁸³ However, we have exhaustively discussed that Rodriguez was not instigated, and that the operations conducted on February 13, 2014 were a valid entrapment operation. Consequently, Rodriguez has voluntarily admitted to the commission of the offense. He cannot now be allowed to argue that he and AAA263603 only met with the CI to “eat pizza.” We need not belabor his defense of denial.

The chat logs and videos are admissible in evidence and do not violate Rodriguez’s right to privacy

We reject Rodriguez’s contentions that the recorded chat logs and videos are inadmissible in evidence for violation of his right to privacy. Republic Act No. 10173, also known as the Data Privacy Act of 2012, allows the processing of sensitive personal information when it relates to the determination of criminal liability of a data subject⁸⁴ and when necessary for the protection of lawful rights and interests of persons in court proceedings.⁸⁵

Thus, in the case of *Cadajas v. People*,⁸⁶ we rejected the accused’s argument that the photographs and conversations in the Facebook Messages between him and the minor victim cannot be used against him, *viz*:

In this case, the photographs and conversations in the Facebook Messenger account that were obtained and used as evidence against petitioner, which he considers as fruit of the poisonous tree, were not obtained through the efforts of the police officers or any agent of the State. Rather, these were obtained by a private individual. Indeed, the rule governing the admissibility of an evidence under Article III of the Constitution must affect only those pieces of evidence obtained by the State through its agents. It is these individuals who can flex government muscles and use government resources for a possible abuse. However, where private individuals are involved, for which their relationship is governed by the New Civil Code, the admissibility of an evidence cannot be determined by the provisions of the Bill of Rights.

Here, the pieces of evidence presented by the prosecution were properly authenticated when AAA identified them in open court. As further pointed out by Associate Justice Rodil V. Zalameda during the deliberations of this case, the DPA allows the processing of data and sensitive personal information where it relates to the determination of criminal liability of a data subject, such as a violation of [Republic Act] No. 10175 in relation to [Republic Act] No. 9775 and when necessary for the protection of lawful rights and interests of persons in court proceedings, as in this case where the communications and photos

⁸³ *People v. Doria*, 361 Phil. 595 (1999) [Per J. Puno, *En Banc*].

⁸⁴ Data Privacy Act (2012), sec. 19.

⁸⁵ Data Privacy Act (2012), sec. 13.

⁸⁶ 915 Phil. 220 (2021) [Per J. J. Lopez, *En Banc*].

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sought to be excluded were submitted in evidence to establish AAA's legal claims before the prosecutor's office and the courts.⁸⁷ (Emphasis supplied)

Similarly, the communications, photos, and videos sought to be excluded by Rodriguez were submitted in evidence to prosecute him for violation of qualified trafficking and to establish AAA263603's legal claims. Thus, there is no violation of the right to privacy.

Neither can Rodriguez rely on Republic Act No. 4200, or the Anti-Wire Tapping Law. In *Gaanán v. Intermediate Appellate Court*,⁸⁸ we have clarified that the prohibition therein only applies to instruments used for tapping the main line of a telephone:

An extension telephone cannot be placed in the same category as a dictaphone, dictagraph or the other devices enumerated in Section 1 of [Republic Act] No. 4200 as the use thereof cannot be considered as "tapping" the wire or cable of a telephone line. The telephone extension in this case was not installed for that purpose. It just happened to be there for ordinary office use. It is a rule in statutory construction that in order to determine the true intent of the legislature, the particular clauses and phrases of the statute should not be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts.

....

Hence, the phrase "device or arrangement" in Section 1 of [Republic Act] No. 4200, although not exclusive to that enumerated therein, should be construed to comprehend instruments of the same or similar nature, that is, instruments the use of which would be tantamount to tapping the main line of a telephone. It refers to instruments whose installation or presence cannot be presumed by the party or parties being overheard because, by their very nature, they are not of common usage and their purpose is precisely for tapping, intercepting or recording a telephone conversation.⁸⁹ (Emphasis supplied)

By no stretch of the imagination can the recording of Skype conversations and pictures be of the same nature as "tapping the main line of a telephone." Thus, the trial court properly admitted and appreciated these pieces of evidence.

Moreover, as aptly held by the appellate court, these items are evidence of Rodriguez's "identity, plan, system, scheme, or habit" under Rule 130, Section 34 of the Rules of Evidence. Here, the videos and chat logs were *not offered to prove* the existence of the crime charged in the Information. Rather, it was only to show the *modus operandi* of Rodriguez in reaching out to

⁸⁷ *Id.*

⁸⁸ 229 Phil. 139 (1986) [Per J. Gutierrez, Jr., Second Division].

⁸⁹ *Id.*

foreigners via Skype or Facebook and offering minors for sexual exploitation.⁹⁰

Penalty and Damages

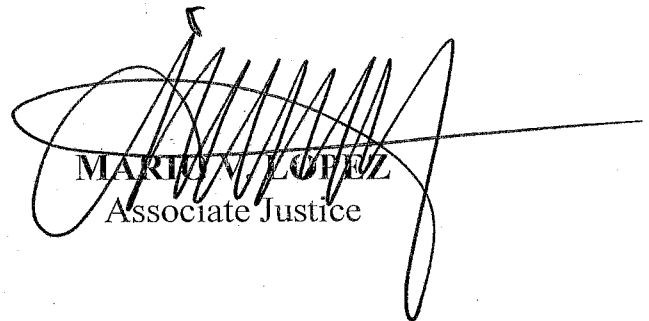
The Court affirms the imposition of the penalty of life imprisonment and fine in the amount of PHP 2,000,000.00 as provided under Section 10(e) of Republic Act No. 9208, as amended by Republic Act No. 10364.⁹¹ However, the phrase “without eligibility of parole” should be removed. Pursuant to A.M. No. 15-08-02-SC,⁹² the qualification of “without eligibility for parole” shall only be used to emphasize that the accused should have been sentenced to suffer the death penalty had not been for Republic Act No. 9346.

We likewise affirm the award of PHP 500,000.00 as moral damages and PHP 100,000.00 as exemplary damages, with legal interest of 6% per annum from finality of judgment until full payment, pursuant to our pronouncement in *People v. Estonilo, Sr.*⁹³

ACCORDINGLY, the appeal is **DISMISSED**. The Decision dated June 17, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 03154 convicting accused-appellant Eul Vincent O. Rodriguez of violation of qualified trafficking in persons under Section 4(a), in relation to Section 6 of Republic Act No. 9208, as amended by Republic Act No. 10364 is **AFFIRMED with MODIFICATION**. Accused-appellant is sentenced to life imprisonment and ordered to **PAY** a fine of PHP 2,000,000.00, moral damages of PHP 500,000.00, and exemplary damages amounting to PHP 100,000.00.

All monetary amounts shall earn legal interest at the rate of 6% per annum from the finality of this Decision until full payment.

SO ORDERED.


MARIO V. LOPEZ
Associate Justice

⁹⁰ See *People v. Magpayo*, 297 Phil. 13 (1993) [Per J. Bidin, Third Division].

⁹¹ Republic Act No. 9208 (2003), as amended by Republic Act No. 10364 (2012), sec. 10(e) states:

Section 10. *Penalties and Sanctions*.—The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

....

(e) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two Million Pesos ([PHP] 2,000,000.00) but not more than Five Million Pesos ([PHP] 5,000,000.00);

⁹² Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties dated August 4, 2015.

⁹³ 745 Phil. 331, 356 (2014) [Per J. Leonardo-De Castro, First Division].

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

(on official business)
AMY C. LAZARO-JAVIER
Associate Justice



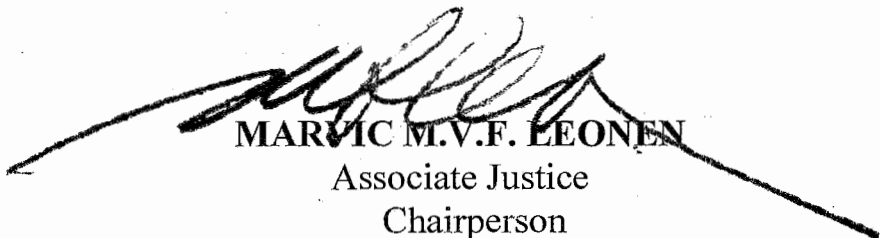
JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

A T T E S T A T I O N

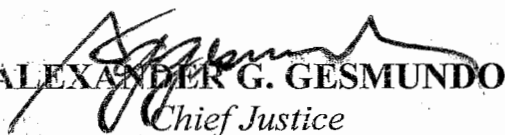
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice