



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROGER L. GAMON,

Petitioner,

G.R. No. 269730

Present:

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,* JJ.

- versus -

PEOPLE OF THE
PHILIPPINES,

Respondent. Promulgated:
JUL 09 2025

MI-ADC-B-H

X- - - - -X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated February 10, 2022, and the Resolution³ dated March 9, 2023, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02347-MIN. In its Decision, the CA affirmed the Judgment⁴ dated January 30, 2019, of Branch 38, Regional Trial Court (RTC), Cagayan de Oro City, Misamis Oriental in Criminal Case No. CR-ORD-2015-445 R that convicted petitioner Roger

* On leave.

¹ *Rollo*, pp. 3–22.

² *Id.* at 95–110. Penned by Associate Justice Alfonso C. Ruiz II and concurred in by Associate Justices Oscar V. Badelles and Lily V. Biton of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

³ *Id.* at 23–24. Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Lily V. Biton and Anisah B. Amanodin-Umpa of the Special Former Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

⁴ *Id.* at 139–156. Penned by Judge Emmanuel P. Pasal.

L. Gamon (Roger) and his co-accused Yvonne Estenso⁵ (Yvonne) of Murder as defined and penalized under Article 248⁶ of the Revised Penal Code.

In its Resolution, the CA denied Roger's Motion for Reconsideration⁷ of the CA Decision.

The Antecedents

In the Information⁸ dated April 17, 2012, Roger and Yvonne (collectively, accused) were charged with Murder, committed as follows:

That on or about April 11, 2011 at block 11, Lot 5, Scions Subdivision, Canitoan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with [sic] one another, without any justifiable cause, did then and there willfully, unlawfully, and feloniously, with intent to kill, taking advantage of superior strength, treachery and with evident premeditation, attack, assault and use personal violence upon the person of one Danlyn Grace Cardines y Fabroa, 5 years old (minor) in the following manner, to wit: accused with the use of a hard object struck the head of the victim thereby causing blunt traumatic head injuries which was the direct and immediate cause of her untimely death to the damage and prejudice to the heirs of the victim.

Contrary to Article 248 in relation to Paragraph Nos. 13, 15 and 16 of Article 14, of the Revised Penal Code, as amended by Republic Act No. 7659.⁹

⁵ "Estenzo" in some parts of the *rollo*, pp. 140, 156.

⁶ ARTICLE 248. *Murder*. – Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

⁷ *Rollo*, pp. 25–42.

⁸ *Id.* at 139, *see* RTC Judgment.

⁹ *Id.*

Upon arraignment, the two accused entered their separate pleas of “Not Guilty” to the felony charged.¹⁰

During the pre-trial, the defense stipulated, among others, on the following:

- (1) The victim, Danlyn Grace Cardines (Danlyn), was a minor at the time of the incident;
- (2) On April 11, 2011, the two accused were present at Block 11, Lot 5, Scions Subdivision, Canitoan, Cagayan de Oro City;
- (3) Madiline Cardines (Madiline) is the mother of Danlyn;
- (4) Felix Fabroa (Felix) is the father of Madiline;
- (5) In August 2009, both accused resided at Scions together with Madiline;
- (6) Sometime in March 2010, both accused fetched Danlyn from the residence of Felix; and
- (7) On April 12, 2011,¹¹ Danlyn was buried at the Independente Filipina Iglesia (IFI)¹² public cemetery, Iponan, Cagayan de Oro City by Madiline and the two accused.¹³

Trial followed.¹⁴

Version of the Prosecution

Felix, a barangay official, and Roger, a police officer, knew each other from work. Sometime in January 2009, Roger approached Felix and asked for his help in hiding Yvonne because someone was “*hunting*” her.¹⁵ Felix allowed Roger and Yvonne to stay with him and Madiline at their house in Malanang, Opol, Misamis Oriental (Opol Residence).¹⁶

¹⁰ *Id.* at 96, CA Decision.

¹¹ Erroneously indicated as “April 12, 2012” in the RTC Judgment, *id.* at 140. The actual date of the burial was April 12, 2011, *id.* at 143 and 148.

¹² *Id.* at 148, RTC Judgment.

¹³ *Id.* at 140, RTC Judgment.

¹⁴ *Id.* at 141, RTC Judgment.

¹⁵ *Id.* at 164–165 (TSN, Madiline F. Cardines, November 21, 2012, pp. 5–6).

¹⁶ *Id.* at 141–142, RTC Judgment; *id.* at 168 (TSN, Madiline F. Cardines, November 21, 2012, p. 9).

According to the prosecution, the accused were devotees of a religious group (Group). They were always talking about their Group's "mission," which Felix initially did not understand. However, when flashflood struck their house, Yvonne collapsed and changed her voice to that of a man. Amazed after seeing an "exorcism" event, Felix, Madiline, and her husband Danny Cardines (Danny), became devotees of the Group. Felix's family would pray *novena* together with the two accused,¹⁷ who stayed at the Opol Residence from January to August 2009.¹⁸

In September 2009, Madiline assisted the two accused in looking for a place to rent at Scions Subdivision (Scions), Cagayan de Oro City.¹⁹ Eventually, the two accused changed their residence to a house at Scions. As members of the Group, Madiline, Danny, and their daughter Danlyn resided at Scions together with the two accused.²⁰

In January 2010, the accused instructed Madiline to live with her husband and in-laws in Pangatucan, Bukidnon. Later, they directed Madiline to move back to Cagayan de Oro City, but then instructed her to stay at the house of a certain Boyet Abragan, Jr. (Boyet). Around this time, the accused had taken custody of Danlyn, who had been living with them at Scions. As for Danny, he left Madiline after their relationship soured.

Thereafter, on June 23, 2010, Madiline started her employment as a stay-in worker at the Cebu Royale Bakery and Fastfood (Cebu Royale) at Macasandig, Cagayan de Oro City.²¹ The accused often visited her at her workplace, but they seldom brought Danlyn with them.²² To Madiline's recollection, there were only five instances when the two accused brought Danlyn with them to Cebu Royale.²³ During these visits, Madiline noticed that Danlyn was afraid of Yvonne and was visibly shaking in her presence. When Madiline asked Yvonne about her observation, Yvonne stated that she (Yvonne) was disciplining Danlyn.²⁴

¹⁷ *Id.* at 141–142, RTC Judgment; *id.* at 165–167 (TSN, Madiline F. Cardines, November 21, 2012, pp. 6–8).

¹⁸ *Id.* at 166–167 (TSN, Madiline F. Cardines, November 21, 2012, pp. 7–8).

¹⁹ *Id.* at 167–168 (TSN, Madiline F. Cardines, November 21, 2012, pp. 8–9).

²⁰ *Id.* at 141–142, RTC Judgment; *id.* at 168 (TSN, Madiline F. Cardines, November 21, 2012, p. 9).

²¹ *Id.* at 170–172 (TSN, Madiline F. Cardines, November 21, 2012, pp. 11–13).

²² *Id.* at 97, CA Decision.

²³ *Id.* at 172 (TSN, Madiline F. Cardines, November 21, 2012, p. 13).

²⁴ *Id.* at 97, CA Decision.

Sometime in the first week of April 2011,²⁵ Madiline went to Scions and saw swelling and hematoma or “black eye”²⁶ in Danlyn’s left eye. When she asked Danlyn about the matter, the child said that Roger, whom she referred to as “Tito Gamon,” punched her.²⁷ Thus, Madiline confronted the accused. Yvonne told Madiline, “*What are you looking for, you will not work until one of you will be gone.*”²⁸ Madiline responded that their Group’s “mission” involved only her and Felix, that Danlyn had no part in the matter,²⁹ and that the child should be excluded from the “mission.”³⁰ In response, Yvonne instructed Roger to slap and punch Madiline. Roger then slapped and punched Madiline in front of Danlyn.³¹

On April 10, 2011, Madiline had to bring medicine to Scions for a wound on Danlyn’s feet.³² When she visited Danlyn at an earlier date, she found her child’s feet bound with a rope, which caused the injury on Danlyn’s feet.³³ When Madiline talked to Danlyn, the latter stated that the accused, whom she referred to as “Tito Gamon” and “Tita Yvonne,”³⁴ bound her feet with a rope.³⁵

On April 11, 2011, at 11:00 a.m., while Madiline was at her workplace, Yvonne called her and told her to go to Scions due to an emergency. Madiline immediately left her place of work and proceeded to Scions.³⁶ When she got there, Roger opened the door and told her to look for Danlyn at the *bodega*. There, she saw Yvonne sitting on a sack of sand, with Danlyn in her lap and leaning against Yvonne’s chest. Danlyn looked pale, limp, and lifeless.³⁷ Yvonne was massaging Danlyn and was trying to revive the child. Roger told Yvonne to try to look for a pulse at the child’s neck area, but Madiline believed that Danlyn had already been dead for about two hours.³⁸

²⁵ *Id.* at 150, RTC Judgment. Roger denied the allegation that he punched Danlyn a week before her death, or sometime in the first week of April 2011.

²⁶ *Id.* at 154, RTC Judgment.

²⁷ *Id.* at 108, CA Decision; *id.* at 143, RTC Judgment.

²⁸ *Id.* at 173 (TSN, Madiline F. Cardines, November 21, 2012, p. 14).

²⁹ *Id.* at 172 (TSN, Madiline F. Cardines, November 21, 2012, p. 13).

³⁰ *Id.* at 173–174 (TSN, Madiline F. Cardines, November 21, 2012, pp. 14–15).

³¹ *Id.* at 143, RTC Judgment.

³² *Id.* at 221 (TSN, Madiline F. Cardines, November 29, 2012, p. 40).

³³ *Id.* at 231 (TSN, Madiline, November 29, 2012, p. 40).

³⁴ *Id.* at 108, CA Decision.

³⁵ *Id.* at 231 (TSN, Madiline F. Cardines, November 29, 2012, p. 50).

³⁶ *Id.* at 175–176 (TSN, Madiline F. Cardines, November 21, 2012, pp. 16–17).

³⁷ *Id.* at 143, RTC Judgment.

³⁸ *Id.* at 177 (TSN, Madiline F. Cardines, November 21, 2012, p. 18).

Roger then asked Madiline, “*Now what will you do?*” Yvonne thereafter placed Danlyn’s body on the floor, stood up, and with a strange male voice, uttered: “*What is your plan now that your daughter is dead; it is you who’s to be blamed for her death.*” The voice speaking through Yvonne told Madiline that she should bury Danlyn.³⁹

The accused then left together to look for a multicab. At around 4:00 a.m. of April 12, 2011, they returned to Scions with a box and a black garbage bag. They instructed Madiline to put Danlyn’s body inside the garbage bag. Out of fear that she will be mauled by Roger, Madiline complied. Roger and Madiline then proceeded to put the lifeless body of Danlyn inside the box in a fetal position; Yvonne acted as a lookout.⁴⁰

The accused and Madiline then boarded the multicab and proceeded to a cemetery at Indahag. However, the cemetery was crowded. The accused angrily reproached Madiline for not thinking of a better place. Thus, they transferred to the cemetery at Iponan. Roger and Yvonne then borrowed a shovel, which they used to dig a grave where they buried Danlyn.⁴¹

Out of fear, confusion, and belief that she was still on her “mission” for the Group, Madiline did not immediately tell anyone about Danlyn’s death. On February 4, 2012, Madiline finally decided to tell her father, Felix, about the matter. Felix and Madiline then went to the police station to report the child’s death.⁴²

On February 9, 2012, with the assistance of the police, they exhumed Danlyn’s body from the IFI cemetery.⁴³ On February 12, 2012, Dr. Christian Karl⁴⁴ Terence L. Caballes (Dr. Caballes), a medico-legal officer of the Region 10 Office of the Philippine National Police (PNP),⁴⁵ performed an autopsy on Danlyn’s corpse.⁴⁶ The Autopsy Report of Dr. Caballes relevantly reads:

³⁹ *Id.* at 178 (TSN, Madiline F. Cardines, November 21, 2012, p. 19).

⁴⁰ *Id.* at 143–144, RTC Judgment.

⁴¹ *Id.* at 143–144, RTC Judgment; *id.* at 186–188 (TSN, Madiline F. Cardines, November 29, 2012, pp. 5–7).

⁴² *Id.* at 144, RTC Judgment.

⁴³ *Id.* at 98, CA Decision.

⁴⁴ “Klark” in some parts of the *rollo*, *id.* at 146.

⁴⁵ *Id.* at 105, CA Decision; *id.* at 146, RTC Judgment.

⁴⁶ *Id.* at 146, RTC Judgment.

HEAD:

1. Linear fracture, occipital bone, measuring 8 cm in length, bisected by the PML, with secondary linear fracture, 5 cm in length.
2. Suture line fracture, right temporal bone, measuring 6 cm in length.⁴⁷

Dr. Caballes explained that he did not find any external injuries on Danlyn's cadaver.⁴⁸ However, he found an extended crack or fracture at the back of Danlyn's head measuring eight centimeters and a secondary crack of five centimeters that could result in instantaneous death.⁴⁹ He also noted a blood clot on the left and right side of Danlyn's skull.⁵⁰

Dr. Caballes concluded that Danlyn's death was caused by a blunt traumatic injury to the head which he translated to "*bukol*."⁵¹ He stated that such injury was normally caused by hitting a person's head with a blunt object, such as wood.⁵² He opined that the injury was inflicted while Danlyn was still alive because there was discoloration and hematoma or rupture of the blood vessels around the area, which cannot occur if the damage was sustained after death.⁵³

Boyet also testified for the prosecution. He stated that on several occasions, he accompanied Danlyn to Canitoan Day Care Center, her kindergarten school; however, Roger was usually the one who walks Danlyn to school. Whenever he fetched Danlyn, the accused would wait for the child at a nearby food store. According to Boyet, Danlyn appeared to be rattled and sweating in the presence of Roger and Yvonne. At one point, he noticed swelling in Danlyn's cheek, but when he asked the child about the matter, the latter did not say anything.⁵⁴

Version of the Defense

The accused denied the charges against them. Although they admitted that they lived in Scions together with Danlyn, they averred that

⁴⁷ *Id.* at 106, CA Decision.

⁴⁸ *Id.* at 146, RTC Judgment.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 146, 154, RTC Judgment.

⁵² *Id.* at 98–99, CA Decision; *id.* at 146, RTC Judgment.

⁵³ *Id.* at 106–107, CA Decision.

⁵⁴ *Id.* at 147, RTC Judgment.

Danlyn was like a baby to their family and that they never mistreated her.⁵⁵

According to the accused, on April 11, 2011, Yvonne was in Scions cleaning the house, while Roger was reading a book. Yvonne then noticed that Danlyn looked pale and eventually fainted. In response, Yvonne instructed Roger to bring lukewarm water. When the water arrived, Yvonne sponged-bath Danlyn with it and rubbed scented oil on the child's body. Yvonne then decided to call Madiline to rush to Scions due to Danlyn's condition.⁵⁶

Yvonne asserted that there was nothing unusual before Danlyn's fainting incident; however, on April 8, 2011, she saw Madiline feeding Danlyn. At that time, Madiline seemed irate because she was already late for work. Out of annoyance, she hit Danlyn's head with a piece of wood that she was using to feed the child. During that time, she noticed that Danlyn was suffering from intermittent fever, but Madiline refused to take her daughter to a hospital, despite her and Roger's prodding.⁵⁷

The accused further mentioned that it was Madiline who asked for their help to temporarily bury Danlyn because Madiline had no money for a proper burial. When the three buried the child, Madiline dropped Danlyn, whose head hit the sharp edges of the tomb.⁵⁸

Yvonne also denied the following: (1) that she was the leader of the Group, a "faith healer," or that she was being possessed by a "holy child," and asserted that she was a Roman Catholic; (2) her alleged romantic relationship with Roger, whom she stated was just a friend; (3) that she and Roger physically abused Danlyn and tied her feet; (4) that Roger punched and slapped Madiline; and (5) that Madiline was a live-in worker at Cebu Royale and asserted instead that Madiline returns to the Scions residence every night.⁵⁹

Roger corroborated Yvonne's testimony. He confirmed that on April 11, 2011, he was at Scions together with Yvonne and Danlyn; that he brought lukewarm water to Yvonne after Danlyn fainted; and that Yvonne applied hot compress and oil massage on Danlyn to revive her from paleness and weakness. He asserted that Danlyn died in Madiline's arms

⁵⁵ *Id.*

⁵⁶ *Id.* at 147–148, RTC Judgment.

⁵⁷ *Id.* at 148.

⁵⁸ *Id.*

⁵⁹ *Id.* at 149, RTC Judgment.

and that the latter was the one who declared Danlyn dead.⁶⁰

Roger further testified that he used to be a Senior Police Officer III in the Opol Police, but he was later dropped from the roll due to unauthorized absences. He assisted Yvonne in Opol and lived with her in Scions, although he was married to someone else. He and Yvonne slept in the same bed, but they were not romantically related because Yvonne was just a friend. He insisted that he informed his wife and his superior officer at the Opol Police about helping Yvonne. He denied Madiline's averment that he punched Danlyn on the head and that when confronted about the matter, he slapped and punched Madiline. He also repudiated the allegation that Yvonne was a "cult leader."⁶¹

The Ruling of the RTC

After due proceedings, the RTC rendered its Judgment⁶² dated January 30, 2019, finding the accused guilty beyond reasonable doubt of Murder, viz.:

IN VIEW OF THE FOREGOING, the court finds accused Roger Gamon and Yvonne Estenzo GUILTY beyond reasonable doubt for the crime of Murder and are hereby sentence [sic] to suffer the penalty of *reclusion perpetua* and to pay the heirs of Danlyn Grace Cardines the amount of [PHP] 75,000.00 as death indemnity, [PHP] 75,000.00 as moral damages and [PHP] 75,000.00 as exemplary damages.

SO ORDERED.⁶³

The RTC found the prosecution's version more credible. It explained that based on Madiline's testimony, the accused had a history of maltreating Danlyn, who was in their exclusive custody at the time of her death. Hence, it was the accused who caused the injuries leading to Danlyn's death. To the RTC, it did not matter who between Roger and Yvonne dealt the fatal blow because they acted in conspiracy. It concluded that the circumstantial pieces of evidence were sufficient to prove beyond reasonable doubt that the two accused killed Danlyn. Given that the victim was only 5 years old, the RTC concluded that the crime committed was Murder.⁶⁴

⁶⁰ *Id.* at 150, RTC Judgment.

⁶¹ *Id.* at 149–150, RTC Judgment.

⁶² *Id.* at 139–156.

⁶³ *Id.* at 156.

⁶⁴ *Id.* at 153–154.

The RTC found the defense of denial weak and incredible. It emphasized that Roger, a former police officer, would not have assisted in the burial of Danlyn without making the child's death of public record. It could not believe that Roger and Yvonne lived together at Scions and slept on one bed if they were not involved romantically, or were members of the Group.⁶⁵

Only Roger filed a Motion for Reconsideration⁶⁶ dated February 10, 2019 of the RTC Judgment. However, the RTC denied it in its Order⁶⁷ dated April 17, 2019.

Roger then appealed the RTC Judgment to the CA.⁶⁸ As to Yvonne, she did not appeal the RTC Judgment.⁶⁹

The Ruling of the CA

In its Decision⁷⁰ dated February 10, 2022, the CA dismissed Roger's Appeal for lack of merit and affirmed the RTC Judgment *in toto*, viz.:

WHEREFORE, the Appeal is DISMISSED for lack of merit. The Judgment of the Regional Trial Court, 10th Judicial Region, Branch 38, Cagayan de Oro City in [sic] is hereby AFFIRMED.

SO ORDERED.⁷¹

According to the CA, the circumstantial evidence as a whole points to the accused as the perpetrators of the crime. It explained that Danlyn's death was due to a traumatic head injury while in the accused's exclusive care. The accused had a motive to harm Danlyn, given the child's history of abuse under their care. Furthermore, the accused did not report Danlyn's death, which was particularly unusual considering that Roger was a police officer.

⁶⁵ *Id.*

⁶⁶ *Id.* at 157–159. See Order dated April 17, 2019.

⁶⁷ *Id.*

⁶⁸ *Id.* at 95. See CA Decision.

⁶⁹ *Id.* See CA Decision.

⁷⁰ *Id.* at 95–110.

⁷¹ *Id.* at 109–110, CA Decision.

The CA further ruled that the accused acted in conspiracy. It emphasized that Roger and Yvonne worked together to bury Danlyn and both chose not to report the child's death. Therefore, it is immaterial who among the two delivered the fatal blow that resulted in Danlyn's death.

Roger filed his Motion for Reconsideration⁷² of the CA Decision, but the CA denied it in its Resolution⁷³ dated March 9, 2023.

Thus, the present Petition.⁷⁴

Petitioner's Arguments

Roger insists that his acquittal is proper because the prosecution failed to prove his guilt beyond reasonable doubt. He points out that Dr. Caballes' testimony is insufficient to prove that Danlyn suffered a traumatic head injury because Madiline herself did not see any external injuries on Danlyn before they buried the child. Further, no murder weapon was presented.⁷⁵

Roger also questions the credibility of Dr. Caballes because the latter lacks medical expertise in the field of pathology. He thus concludes that Dr. Caballes' opinion concerning the cause of Danlyn's death does not deserve credence.⁷⁶ He asserts that the child's death could have been caused by an illness.⁷⁷

In addition, Roger avers that Madiline's testimony as to the purported history of Danlyn's maltreatment under his care cannot be believed, as it would be strange for a mother to continue to allow the alleged abusers to continue having custody over the child.⁷⁸ He also asserts that Danlyn was not in their "exclusive" custody before her death because she was also in the care of Madiline.⁷⁹ He adds that the finding of conspiracy between him and Yvonne lacks evidentiary support.⁸⁰

⁷² *Id.* at 111–138.

⁷³ *Id.* at 23–24.

⁷⁴ *Id.* at 3–22.

⁷⁵ *Id.* at 10–11.

⁷⁶ *Id.* at 49–50, Appellant's Brief; *id.* at 128–129, Motion for Reconsideration.

⁷⁷ *Id.* at 128.

⁷⁸ *Id.* at 11–12.

⁷⁹ *Id.* at 12–14.

⁸⁰ *Id.* at 14.

Respondent's Arguments

In its Comment,⁸¹ the People, through the Office of the Solicitor General (OSG), argues for the outright dismissal of the Petition due to procedural infirmities: (1) failure to state the date when Roger received a copy of the CA Decision; and (2) failure to attach a Certificate of Non-Forum Shopping (CNFS).⁸² The OSG adds that the Petition raises factual issues that are outside the scope of a Rule 45 petition.⁸³

On the merits, the OSG avers that the prosecution's evidence sufficiently establishes the accused's guilt beyond reasonable doubt. It insists that there is sufficient circumstantial evidence proving that they were the ones who killed Danlyn: (1) Danlyn's death was caused by a blunt traumatic injury in the head;⁸⁴ (2) she died while under the exclusive custody of the accused; (3) there is a history of physical abuse inflicted by the accused upon the person of Danlyn; and (4) the two accused did not immediately bring Danlyn to the hospital and never reported her death, which was suspicious considering that Roger was a former police officer.⁸⁵

The OSG further asserts that the accused acted in conspiracy because of their coordinated actions to conceal and to not report the death of Danlyn.⁸⁶ As to the non-presentation of the murder weapon, the OSG posits that it is not fatal to the prosecution's cause.⁸⁷

Finally, the OSG avers that the killing of Danlyn was qualified by treachery, considering that the accused, who are grown adults, attacked Danlyn when she was only 5 years old.⁸⁸

Proceedings Before the Court

On October 20, 2023, the Court received the present Petition.⁸⁹

⁸¹ *Id.* at 243–270.

⁸² *Id.* at 253–254.

⁸³ *Id.* at 258–259.

⁸⁴ *Id.* at 261.

⁸⁵ *Id.* at 261–263.

⁸⁶ *Id.* at 264.

⁸⁷ *Id.*

⁸⁸ *Id.* at 266–267.

⁸⁹ *Id.* at 3.



In the Resolution⁹⁰ dated February 28, 2024, the Court directed the OSG to file its comment on the Petition. The Court further required Roger to submit the following: (1) a soft copy of the Petition; (2) a valid verification of the Petition that is compliant with Rule 7, Section 4 of the 2019 Revised Rules on Civil Procedure together with a proper identification document; and (3) a CNFS.

On October 14, 2024, the Court received the Comment⁹¹ from the OSG.⁹²

The Issues

The issues before the Court are: (1) whether the Petition should be dismissed outright due to procedural infirmities; and (2) whether the CA erred in sustaining the RTC's conviction of Roger for Murder.

The Ruling of the Court

The Petition is denied. The judgment of conviction against Roger for the crime of Murder is affirmed with modification as to the penalties imposed.

The denial of the Petition is proper because of fatal procedural defects

At the outset, the Court notes that the Petition is riddled with several procedural defects that warrant its denial.

First, no CNFS was attached to the present Petition, contrary to Rule 45, Section 4⁹³ of the Rules of Court. Rule 45, Section 5⁹⁴ is clear that non-compliance with the foregoing rule is a sufficient ground for the immediate dismissal of a petition.⁹⁵

⁹⁰ *Id.* at 235–236.

⁹¹ *Id.* at 243–270.

⁹² *Id.* at 243.

⁹³ SECTION 4. *Contents of petition.* – The petition shall . . . (e) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.

⁹⁴ SECTION 5. *Dismissal or denial of petition.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

⁹⁵ See *Uy v. Land Bank of the Philippines*, 391 Phil. 303, 312–313 (2000).

Second, the Verification⁹⁶ attached to the Petition is defective as it does not contain all of the required contents of a verification under Rule 7, Section 4⁹⁷ of the 2019 Amendments to the Rules on Civil Procedure. While verification is only a formal and not a jurisdictional defect,⁹⁸ it is still among the requirements of a valid appeal by *certiorari* under Rule 45, Section 1⁹⁹ of the Rules of Court, which must be complied with by the petitioner.¹⁰⁰

Finally, the Petition improperly raises issues concerning the *factual* findings of the lower courts and the credibility of the prosecution's evidence. A petition that improperly raises questions of fact, which are generally not allowed under Rule 45, Section 1¹⁰¹ of the Rules of Court, may be dismissed outright.¹⁰²

While the Court has held that a finding of guilt in a criminal case is essentially a factual matter and necessarily calls upon the appellate court to ascertain whether the judgment is conformable to the evidence on record,¹⁰³ the Court has distinguished between its power to review the *factual* findings of the lower courts in an ordinary appeal, on the one hand, and in an appeal by *certiorari* under Rule 45, on the other.

⁹⁶ *Rollo*, p. 22.

⁹⁷ SECTION 4. *Verification*. – Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

(a) The allegations in the pleading are true and correct based on his or her personal knowledge or based on authentic documents;

(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

A pleading required to be verified *that* contains a verification based on “information and belief,” or upon “knowledge, information and belief,” or lacks a proper verification, shall be treated as an unsigned pleading.

⁹⁸ *Bello v. Bonifacio Security Services, Inc.*, 670 Phil. 563, 568 (2011).

⁹⁹ SECTION 1. *Filing of petition with Supreme Court*. – A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a *verified* petition for review on *certiorari*. The petition shall *raise only questions of law* which must be distinctly set forth. (Emphasis supplied)

¹⁰⁰ *Iloilo Jar Corp. v. Comglasco Corp.*, 803 Phil. 567, 573 (2017).

¹⁰¹ *Uy v. Land Bank of the Philippines*, *supra*.

¹⁰² *Espina v. Court of Appeals*, 289 Phil. 967, 970 (1992).

¹⁰³ *De Vera v. People*, 948 Phil. 13, 23 (2023).

Particularly, in *People v. Olpindo*,¹⁰⁴ the Court explained that when an accused is convicted of a capital offense and the penalty of *reclusion perpetua* or life imprisonment is imposed by the CA, the accused has two options in appealing the adverse ruling to the Court, specifically: (1) *ordinary appeal* by way of notice of appeal in accordance with Rule 122, Section 3(e)¹⁰⁵ in relation to Rule 124, Section 13(c)¹⁰⁶ of the 2000 Revised Rules on Criminal Procedure, if the purpose of the accused is to throw the entire case open for review and to raise *questions of fact*; and (2) appeal by *certiorari* under Rule 45 of the Rules of Court based *purely on questions of law*.

In the case at bench, Roger was convicted of Murder and was sentenced to suffer the penalty of *reclusion perpetua*. He appealed the CA rulings through a Rule 45 Petition for Review of *Certiorari* instead of an ordinary appeal. However, the issues raised in the Petition are not purely legal but instead involve *factual* matters, as it assails the credibility and sufficiency of the prosecution's evidence to support the judgment of conviction against Roger. Such determination of guilt, being a question of fact, is generally not entertained in a petition for review under Rule 45.¹⁰⁷

Admittedly, *Olpindo* recognizes that the Court may *exceptionally* treat a Rule 45 petition as an ordinary appeal, which throws open the whole case for review and authorizes the Court to resolve factual matters in the interest of substantial justice, as when there are special or compelling reasons that warrant a re-evaluation of the factual conclusions of the lower courts, or when the accused's appeal is meritorious. However, Roger *failed* to adequately establish the existence of any of the foregoing exceptional grounds.

Accordingly, pursuant to Rule 45, Sections 1, 4, and 5, as well as Rule 56, Section 5(d) and (e)¹⁰⁸ of the Rules of Court, the Petition must

¹⁰⁴ *People v. Olpindo*, 919 Phil. 1024, 1034 (2022).

¹⁰⁵ SECTION 3. *How appeal taken.* –

.....
(e) Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on certiorari under Rule 45.

¹⁰⁶ SECTION 13. *Certification or appeal of case to the Supreme Court.* –

.....
(c) In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals.

¹⁰⁷ *Lisaca v. People*, 907 Phil. 318, 327 (2021).

¹⁰⁸ SECTION 5. *Grounds for dismissal of appeal.* – The appeal may be dismissed *motu proprio* or on motion of the respondent on the following grounds:

.....

be dismissed outright for improperly raising factual issues; and for Roger's failure to submit a CNFS and a valid verification for the Petition.

The circumstantial evidence is sufficient to prove the accused's guilt beyond reasonable doubt

Even on the merits, the Petition must still be denied. No error may be imputed to the CA in affirming the judgment of conviction against Roger.

For an accused to be convicted of Murder as defined and penalized under Article 248 of the Revised Penal Code, as amended, the prosecution must establish the following elements, to wit: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code, as amended; and (4) the killing constitutes neither parricide nor infanticide.¹⁰⁹

The existence of the *first*, *third*, and *fourth* elements of Murder is not seriously disputed in the present case.

The *first* element of Murder, i.e., that Danlyn died, is conceded by the parties. Verily, the accused stipulated during pre-trial that on April 12, 2011, Danlyn was buried at the IFI public cemetery.

As to the *third* element of Murder, the RTC and the CA determined that the killing was qualified by treachery because Danlyn was only 5 years old. The conclusion is based on the well-settled principle that treachery exists when an adult person unlawfully attacks a child of tender years and causes the latter's death, considering that young children are inherently defenseless and cannot protect themselves against such an assault.¹¹⁰ This principle applies to Danlyn, who at 5 years old *cannot* be expected to defend herself against an attack upon her by an adult, such as Roger. The RTC and the CA thus correctly concluded that the killing was

(d) Failure to comply with the requirements regarding proof of service and contents of and the documents which should accompany the petition;

(e) Failure to comply with any circular, directive or order of the Supreme Court without justifiable cause[.]

¹⁰⁹ *People v. Santiago*, 898 Phil. 858, 866 (2021); *People v. Babor*, 772 Phil. 252, 259–260 (2015).

¹¹⁰ *People v. Fallorina*, 783 Phil. 806, 819 (2016).

qualified by treachery.

The *fourth* element of Murder is also present. Certainly, that the killing of Danlyn constitutes neither parricide nor infanticide is uncontested.

The crux of the present controversy revolves around the *second* element of Murder, i.e., that the accused killed Danlyn.

The fact of the victim's death is insufficient to show that murder was committed because the *corpus delicti* of the crime consists of: (1) the death of the party alleged to be dead; (b) *that the death was produced by the criminal act of some other than the deceased and was not the result of an accident, natural cause or suicide*; and (c) *that the accused committed the criminal act* or was in some way criminally responsible for the act which produced the death.¹¹¹ Hence, apart from the fact of death, the prosecution also carries the burden to prove that the victim's death arose from a deliberate criminal act committed by the accused and not because of an accident, a natural cause, or suicide.

To prove the foregoing, the prosecution offered several circumstantial evidence, which were enumerated by the OSG as follows:

- a. Danlyn died because of a traumatic head injury. This was established by the autopsy report issued by Dr. [Caballes];
- b. Danlyn died while under the exclusive custody of [Roger] and Yvonne. [Roger] and Yvonne were the only persons present when Danlyn died;
- c. There is a history of physical abuse between [Roger] and Yvonne on one hand, and Danlyn on the other. The moments of abuse were personally witnessed by Madiline when she saw her daughter's feet bound by rope on one occasion, and when she saw her daughter with a black eye on another occasion. On both occasions, Danlyn told Madiline that it was petitioner and Yvonne who physically abused her. Moreover, Boyet corroborated that Danlyn was visibly afraid whenever [Roger] and Yvonne were around;
- d. [Roger] and Yvonne never reported Danlyn's death. In addition, [Roger] and Yvonne never explained why they waited for Madiline

¹¹¹ *Quinto v. Andres*, 493 Phil. 643, 654 (2005), citing *People v. Delim*, 444 Phil. 430, 450 (2003); *Wharton*, Criminal Law, Vol. 1, pp. 473–474, citing *Lovelady v. State*, 14 Tex. App. 545). (Emphasis supplied)



to arrive to check her daughter's pulse when they should have brought Danlyn to the hospital already. The CA highlighted the fact that [Roger], being a former police officer, ought to have known that he had the duty to report the death of the victim to the proper authorities.¹¹²

The OSG asserts that the foregoing pieces of circumstantial evidence are adequate to support the conclusion that the accused, Roger and Yvonne, killed Danlyn.¹¹³

In contrast, Roger argues that his liability for Murder was not established beyond a reasonable doubt. It is alleged that the prosecution did not exclude the possibility that Danlyn's death may have been attributed to an illness.¹¹⁴ He likewise contests the RTC and the CA's conclusion that he and Yvonne had exclusive custody of Danlyn at the time of her death, that they were maltreating Danlyn, or that he and Yvonne acted in conspiracy to kill Danlyn.¹¹⁵

After a careful review of the case, the Court agrees with the RTC and the CA that the prosecution was able to prove beyond reasonable doubt that the two accused are guilty of Murder.

As opposed to direct evidence which "proves a challenged fact without drawing any inference," circumstantial evidence "indirectly proves a fact in issue, such that the factfinder must draw an *inference* or reason from circumstantial evidence."¹¹⁶ To warrant a judgment of conviction based on circumstantial evidence, Rule 133, Section 4 of the 2019 Revised Rules on Evidence requires that: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. These requisites must be *strictly* complied with if circumstantial evidence is to be the basis for proof beyond reasonable doubt.¹¹⁷

¹¹² *Rollo*, p. 262, Comment.

¹¹³ *Id.* at 261–263.

¹¹⁴ *Id.* at 49–50, Appellant's Brief; *id.* at 128, Motion for Reconsideration.

¹¹⁵ *Id.* at 13–15, Petition.

¹¹⁶ *Planteras v. People*, 841 Phil. 492, 506 (2018); *Bacerra v. People*, 812 Phil. 25, 35 (2017); *People v. Villaflores*, 685 Phil. 595, 614 (2012); *People v. Ramos*, 310 Phil. 186, 195 (1995), *citing* Gardner, Criminal Evidence, Principles, Cases and Readings, West Publishing Co., 1978 ed., p. 124.

¹¹⁷ *Navarro v. Court of Appeals*, 251 Phil. 796, 805 (1989).



In ascertaining whether a judgment of conviction is warranted based on circumstantial evidence, the Court must be guided by the following principles enumerated in *People v. Jaen*:¹¹⁸

- (a) Circumstantial evidence should be acted upon with caution;
- (b) All the essential facts must be consistent with the hypothesis of guilt;
- (c) The facts must exclude every other theory but that of the guilt of the accused; and
- (d) The facts must establish with certainty the guilt of the accused so as to convince beyond reasonable doubt that the accused was the perpetrator of the offense. The peculiarity of circumstantial evidence is that the series of events pointing to the commission of a felony is appreciated not singly but collectively. The guilt of the accused cannot be deduced from scrutinizing just one (1) particular piece of evidence. They are like puzzle pieces which when put together reveal a convincing picture pointing to the conclusion that the accused is the author of the crime.¹¹⁹

In the present case, the circumstantial evidence offered by the prosecution meets all the requisites of Rule 133, Section 4 of the 2019 Revised Rules on Evidence and the guidelines in *Jaen*. Taken together, they lead to but one conclusion: that Roger and Yvonne killed Danlyn.

First, in homicide or murder cases, the fact that the accused was last seen with the victim immediately before or after the commission of the crime serves as circumstantial evidence that the accused is the killer.¹²⁰ Thus, in several cases,¹²¹ the Court sustained the conviction of therein accused based on circumstantial evidence showing that they were last seen with the victim before the latter's demise.

Here, the prosecution's evidence suggests that the accused, Roger and Yvonne, were the last people seen with Danlyn, both immediately before and after her death on April 11, 2011. Notably, they admitted to

¹¹⁸ 858 Phil. 447 (2019).

¹¹⁹ *Id.* at 449, citing *Almojuela v. People*, 734 Phil. 636, 647 (2014); *People v. Galvez*, 548 Phil. 436, 460–461 (2007); *People v. Monje*, 438 Phil. 716, 732–733 (2002); *People v. Licayan*, 428 Phil. 332, 340–341 (2002).

¹²⁰ *People v. Caliso*, 675 Phil. 742, 755 (2011); *People v. Gallarde*, 382 Phil. 718, 736 (2000).

¹²¹ *People v. Solano, Jr.*, 734 Phil. 732, 740 (2014); *People v. Pondivida*, 705 Phil. 201, 205–206 (2013); *People v. Villamor*, 675 Phil. 53, 66 (2011); *People v. Marzan*, 659 Phil. 30, 34 (2011); *People v. Corfin*, 430 Phil. 315, 327 (2002); *People v. Castillon III*, 419 Phil. 92, 100–101 (2001).

being with Danlyn at Scions on the day of her death. They did not mention anyone else being with the child at that time. Since they were the last people seen with Danlyn, it can be inferred that they were also the ones who inflicted the fatal head injury.

Roger contests the conclusion of the RTC and the CA that he and Yvonne had *exclusive* custody of Danlyn. Supposedly, Madiline was also taking care of Danlyn.

The Court is not convinced by Roger's argument.

Even granting that Madiline was also Danlyn's caregiver, the evidence still shows that the accused were the last people with Danlyn on the day of her death. According to Yvonne, she had to call Madiline, who was at work at that time, to go to Scions because of Danlyn's condition. This means that Madiline was not at Scions when the victim died. In addition, aside from the accused, Madiline did not see anyone else at the Scions residence when she arrived to care for Danlyn. The lower courts were correct to conclude that at the time of her death, Danlyn was under the exclusive care of the accused.

Second, it is settled that in the field of medicine, the opinions of doctors qualified by training and experience as to the cause of death and the victim's injuries are competent and in numerous cases, controlling and binding upon the Court.¹²²

Here, the testimony of Dr. Caballes establishes that a blunt traumatic injury to the head caused Danlyn's death. He particularly testified that Danlyn sustained the injury while she was still alive because he observed hematoma around the area, which would not have happened if Danlyn was already dead when her head was struck. He also mentioned that Danlyn's injury was normally caused by striking a person with a blunt object, such as wood.¹²³

Roger nevertheless argues that the testimony of Dr. Caballes is unreliable because he is not an expert in the field of pathology.¹²⁴

¹²² *People v. Tolentino*, 248 Phil. 701, 711 (1988); *People v. Castro*, 203 Phil. 374 (1982). See also *Murray v. Industrial Commissions*, 349 P. 2d 627, 87 Ariz 190 (1960).

¹²³ *Rollo*, p. 146, RTC Judgment.

¹²⁴ *Id.* at 105, CA Decision; *id.* at 128–129, Motion for Reconsideration.



This lacks merit.

There is nothing in the relevant laws or the evidence on record that supports Roger's assertion that only a medical expert in pathology could identify the cause of a person's death. Besides, Dr. Caballes was clear and categorical in his statement that his medical qualification pertains to *forensics*, a field in science that "*determines the cause of death of a person.*"¹²⁵ Further, as a medico-legal officer of the Region 10 Office of the PNP, it is precisely the duty of Dr. Caballes to conduct autopsies and examine bodies for forensic evidence.¹²⁶

The Court stresses that under the civil service laws, the PNP may only hire medico-legal officers who meet specific requirements on education, training, and work experience, among other qualifications.¹²⁷ In this regard, the law presumes that a person acting in a public office was regularly appointed to it, that official duty has been regularly performed, and that the law has been obeyed.¹²⁸ There is therefore a legal presumption that before any person was appointed to a position in government, due inquiry was made with regard to their character and qualifications, and that no person will be appointed to the position if they did not possess the necessary degree of learning and proficiency that would entitle them to occupy the said office.¹²⁹

Thus, it must be presumed that the appointment of Dr. Caballes as a PNP medico-legal officer was regularly made in accordance with the civil service laws, and that he would not have been admitted to the position if he did not possess the required degree of education and expertise to perform the functions of his office. It is Roger who bears the burden to show otherwise, which he failed to do.

At any rate, the records show that Dr. Caballes had been training in forensics since January 2011.¹³⁰ He later became a PNP medico-legal officer sometime in October 2011.¹³¹ As a medico-legal officer, he had examined or performed autopsies on around 100 bodies.¹³²

¹²⁵ *Id.* at 129, Motion for Reconsideration. (Emphasis supplied)

¹²⁶ *Id.* at 105, CA Decision; at 131, Motion for Reconsideration.

¹²⁷ See Civil Service Commission (CSC) Website, CSC Job Portal, Philippine National Police, Medico-Legal Officer III requirements. Available at <https://csc.gov.ph/career/job/4365130> [Last accessed on May 8, 2025]

¹²⁸ 2019 Amendments to the Rules on Evidence, Rule 131, Section 3(l), (m), and (ff).

¹²⁹ See *In re: Du Fresne*, 20 Phil. 488, 492 (1911).

¹³⁰ *Rollo*, p. 130, Motion for Reconsideration.

¹³¹ *Id.* at 130–131, Motion for Reconsideration.

¹³² *Id.* at 131–132, Motion for Reconsideration.

Dr. Caballes' training and experience warrant the conclusion that he has the *sufficient qualification* to testify on the cause of death of a person,¹³³ such as Danlyn. His testimony is thus adequate to support the conclusion that Danlyn suffered a traumatic injury to her head while she was still alive, that this injury caused her death, and that she did not die because of some illness, which Roger did not even identify.

It is equally important to point out that notwithstanding some other injury or illness of the victim, the accused is still criminally liable if the victim's death was ultimately caused by the accused's deliberate unlawful act.¹³⁴ That Danlyn was suffering from some malady before her death is therefore immaterial because the prosecution was able to establish that Danlyn died because of a head injury. The purported ailment could not have caused her death because, as testified to by Dr. Caballes, Danlyn sustained the injury to her head while she was still alive.

Roger further argues that Danlyn could not have died because of a traumatic head injury because Madiline did not see any external injuries on the child at the time of her death, such as cuts, lacerations, or wounds.¹³⁵

The argument fails to convince the Court.

As aptly pointed out by the CA, the lack of external injuries was sufficiently explained by Dr. Caballes, who stated that Danlyn suffered from a hematoma on the head or what he described in layman's terminology as "*bukol*." This meant that it was the blood vessels *inside* Danlyn's head which ruptured.¹³⁶ Given the situation, Madiline would not have seen any external cuts or wounds on Danlyn, as the latter was bleeding from the inside because of the head injury.

Third, Dr. Caballes testified that Danlyn's injury could lead to *instantaneous* death. Therefore, the fatal head injury that resulted in her

¹³³ See *Borromeo v. Family Care Hospital, Inc.*, 779 Phil. 1, 21 (2016); *Uriarte v. People*, 403 Phil. 513, 522 (2001).

¹³⁴ See *People v. Ortega, Jr.*, 342 Phil. 124, 128 (1997), where the Court held that an accused may be held as a principal in the crime of murder even though his original intention was only to assist his co-accused in burying in a well what he thought was the lifeless body of the murder victim, who was stabbed. The victim turned out to be alive although he subsequently died in the well where he was buried. The victim died because of asphyxiation or drowning in the well where he was buried alive and not due to the stab wounds that he sustained.

¹³⁵ *Rollo*, p. 11, Petition.

¹³⁶ *Id.* at 106–107, CA Decision.

death could only have occurred while she was at Scions with the two accused on April 11, 2011.

Notably, Yvonne implied that Danlyn's injury could have been caused by Madiline on April 8, 2011, when the latter supposedly struck Danlyn's head with a piece of wood that she was using to feed the child. She further averred that Danlyn's head hit the sharp edges of the tomb while she was being buried at the IFI cemetery on April 12, 2011.

However, based on Dr. Caballes' testimony, the incident on April 8, 2011, could not be the cause of Danlyn's fatal head injury because if such were the case, then she would have instantaneously died on that date; however, she did not. The allegation that the fracture observed on Danlyn's skull was sustained *post-mortem* is likewise bereft of merit. Again, Dr. Caballes categorically stated that Danlyn's head injury happened when she was still alive because of the hematoma surrounding the area.

Fourth, it is beyond cavil that the concealment of a crime serves as evidence of guilt.¹³⁷ Indeed, it is highly unusual for an innocent person who witnessed a crime not to report the matter to the proper authorities.¹³⁸ The decision of the accused not to inform the police about the victim's death is indicative of guilt because the perpetrator would naturally attempt to conceal his or her wrongdoing.¹³⁹

Thus, the RTC and the CA correctly held that Roger's failure to report Danlyn's death to the proper authorities is indicative of guilt. Such concealment serves as evidence of a guilty conscience and applies with greater force against Roger, who, as a former police officer, should know that he was required to report Danlyn's death to the proper authorities as a matter of law.¹⁴⁰ His failure to report the death is even more suspicious,

¹³⁷ *People v. Iran*, 290-A Phil. 361, 370 (1992); *People v. Kamad*, 100 Phil. 419, 425 (1956).

¹³⁸ *See People v. Abucay*, 218 Phil. 698, 706 (1984); *People v. De Pascual*, 185 Phil. 509, 521 (1980).

¹³⁹ *People v. Abucay*, *id.*

¹⁴⁰ *See* ACT NO. 3753, sec. 6, which states:

SECTION 6. *Death certificate and register.* – No human body shall be buried unless the proper death certificate has been presented and recorded in the office of the local civil registrar. The physician who attended the deceased or, in his default the health officer concerned, or in default of the latter, any member of the family of the deceased or any person having knowledge of the death, shall report the same to the local health authorities, who shall issue a death certificate and shall order the same to be recorded in the office of the local civil registrar. The death certificate, which shall be issued by the attending physician of the deceased or, in his default, by the proper health officer, shall contain the following data be furnished by the person reporting the death; (a) date and place of death; (b) full name, (c) age, (d) sex, (e) occupation or profession, (f) residence; (g) status as regards marriage, (h) nationality of the deceased, and (i) probable cause of death. (Emphasis supplied)

given his claim that Danlyn died in Madiline's arms. If that were truly the case, then he would have no reason to hide the child's death.

Finally, the prior incidents of physical maltreatment that Danlyn suffered while under the care of the two accused may be appreciated as proof that they committed a criminal act which resulted in Danlyn's death.

Rule 130, Section 35 of the 2019 Revised Rules on Evidence explicitly states that previous similar acts cannot be admitted as proof that a person did or did not do the same act at another time:

SECTION 35. *Similar Acts as Evidence.* – Evidence that one did or did not do a certain thing at one time is not admissible to prove that he or she did or did not do the same or similar thing at another time; but it may be received to prove a specific intent or knowledge, identity, plan, system, scheme, habit, custom or usage, and the like.

The rule dictates that in criminal cases, evidence of other wrongful acts committed by the accused that are wholly independent of the offense for which they are on trial is *not competent* to prove that the accused committed the crime charged in the information.¹⁴¹ It is founded on public policy because evidence of uncharged offenses tends to create *prejudice* against the accused, who may be convicted of the crime charged based merely on the perception that he or she is a "bad person" with a propensity for crime or is a notorious criminal.¹⁴² It may also give rise to a multiplicity of collateral matters that would *confuse* the issues for trial:

The rule is founded upon reason, public policy, justice and judicial convenience. The fact that a person has committed the same or similar acts at some prior time affords, as a general rule, no logical guaranty that he committed the act in question. This is so because, subjectively, a man's mind and even his modes of life may change; and, objectively, the conditions under which he may find himself at a given time may likewise change and thus induce him to act in a different way. Besides, if evidence of similar acts are to be invariably admitted, they will give rise to a multiplicity of collateral issues and will subject the defendant to surprise as well as confuse the court and prolong the trial.¹⁴³

¹⁴¹ *People v. Magpayo*, 297 Phil. 13, 28 (1993). (Emphasis supplied)

¹⁴² *See People v. Dadles*, 343 Phil. 916, 934 (1997).

¹⁴³ *See Citibank, N.A. v. Sabeniano*, 535 Phil. 384, 462–463 (2006). *See also* J.A.R. Sibal and J.N. Salazar, Jr., COMPENDIUM ON EVIDENCE 199–200 (4th ed., 1995).

Still, while similar acts cannot be admitted as evidence to prove that the accused committed the particular criminal act charged in the information, they are “competent to prove the motive, the intent, *the absence of mistake or accident*, a common scheme or plan embracing the commission of two or more crimes so *related* to each other that proof of one tends to establish the other, or the *identity* of the person charged with the commission of the crime on trial.”¹⁴⁴

Pertinently, our rules on evidence were drawn mainly from American sources.¹⁴⁵ With particular regard to Rule 130, Section 35 of the 2019 Revised Rules on Evidence, its origins may be traced to the Nebraska¹⁴⁶ and California¹⁴⁷ rules on evidence.¹⁴⁸ Given this history, the decisions of American courts applying the evidentiary rule on similar acts as evidence have persuasive effect in the present case.¹⁴⁹

In this regard, American jurisprudence provides that in child abuse, homicide, or murder cases, evidence of other crimes, bad acts, or past violence towards a child is *admissible* to prove the *identity* of the perpetrator, his or her *intent* to kill or injure the child, and the *non-accidental or unnatural cause* of the child’s death or injury.¹⁵⁰ The rule recognizes that children of tender years are defenseless beings who are

¹⁴⁴ *People v. Magpayo*, *supra* note 142, at 29. (Emphasis supplied)

¹⁴⁵ *People v. Paggaguitan*, 373 Phil. 856, 872 (1999); *Philippine National Bank v. Bondoc*, 122 Phil. 100, 103 (1965).

¹⁴⁶ NEBRASKA RULES ON EVIDENCE, Rule 404(2) states:

§ 27-404. Rule 404. Character evidence; not admissible to prove conduct; exceptions; evidence of other crimes, wrongs, or acts; standard of proof; sexual assault; provisions applicable.

(2) Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he or she acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

¹⁴⁷ CALIFORNIA EVIDENCE CODE, sec. states:

§ 101. Evidence of character to prove conduct

(a) Except as provided in this section and in Sections 1102, 1103, 1108, and 1109, *evidence* of a person’s character or a trait of his or her character (whether in the form of an opinion, evidence of reputation, or *evidence of specific instances of his or her conduct*) is *inadmissible when offered to prove his or her conduct on a specified occasion*.

(b) *Nothing in this section prohibits the admission of evidence that a person committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or whether a defendant in a prosecution for an unlawful sexual act or attempted unlawful sexual act did not reasonably and in good faith believe that the victim consented) other than his or her disposition to commit such an act.*

(c) Nothing in this section affects the admissibility of evidence offered to support or attack the credibility of a witness. (Emphasis supplied)

¹⁴⁸ *See United States v. Evangelista*, 24 Phil. 453, 458 (1913), which cited cases decided by the Supreme Court of California and Nebraska.

¹⁴⁹ *Id.*

¹⁵⁰ *State v. Radue*, 564 P.3d 1230 (Idaho 2025); *Lowery v. State*, 276 So. 3d 381, 387–388 (Fla. Dist. Ct. App. 2019); *Ceaser v. State*, 964 N.E.2d 911, 915–916 (Ind. Ct. App. 2012); *State v. Taylor*, 347 Md. 363, 376–377, 701 A.2d 389, 395–396 (1997); *United States v. Harris*, 661 F.2d 138, 142 (10th Cir. 1981). (Emphasis supplied)

totally dependent on the person having custody over them, and are too young to relate the abuse or the attempts against their life, such that previous similar acts may be the only evidence that could prove the crime:

[W]hen the crime is one of infanticide or child abuse, evidence of repeated incidents is especially relevant because it may be the only evidence to prove the crime. A child of [very young age] . . . is a helpless, defenseless unit of human life. Such a child is too young, if he survives, to relate the facts concerning the attempt on his life, and too young, if he does not survive, to have exerted enough resistance that the marks of his cause of death will survive him. Absent the fortuitous presence of an eyewitness, infanticide or child abuse . . . would largely go unpunished.¹⁵¹

American case law further distinguishes child abuse, homicide, and murder cases from other crimes against persons, in that the former class of crimes are typically executed in *secret* and in the *privacy* of a person's home.¹⁵² With the secrecy involved in such crimes against young children, who are often dependent on the abuser and are too young to alert anyone about their situation, the accused could ordinarily claim that the child's injuries or ailments arose from accidental or natural causes.¹⁵³ Given the situation, prior acts of abuse or violence upon the child may be the only evidence that could prove that the child's death or injury was neither accidental nor an isolated incident but instead occurred due to a deliberate or intentional act on the part of the accused.¹⁵⁴

The foregoing rule is also founded on the doctrine of chances or the theory of objective improbability.¹⁵⁵ The principle is based on "the instinctive logical process that reasonably determines that unusual and

¹⁵¹ *State v. Radue*, 564 P.3d 1230 (Idaho 2025), citing *State v. Hassett*, 124 Idaho 357, 362, 859 P.2d 955, 960 (Ct. App. 1993), which cites *United States v. Harris*, 661 F.2d 138, 142 (10th Cir. 1981), which in turn cites *United States v. Woods*, 484 F.2d 127, 133 (4th Cir. 1973).

¹⁵² *State v. Martucci*, 380 S.C. 232, 252–254, 669 S.E.2d 598, 609–610 (Ct. App. 2008), where the rationale for admitting similar acts as evidence in child abuse, homicide, or murder cases was explained as follows:

Child abuse differs from other types of crimes in several respects. Specifically, the crime of child abuse often occurs in secret, typically in the privacy of one's home. The abusive conduct is not usually confined to a single instance, but rather is a systematic pattern of violence progressively escalating and worsening over time. Child victims are often completely dependent upon the abuser, unable to defend themselves, and often too young to alert anyone to their horrendous plight or ask for help. It is also not uncommon for child abuse victims to be so young that they are incapable of offering testimony against the abuser. For these reasons, proving the crime of child abuse is extremely difficult. (Emphasis supplied)

¹⁵³ *State v. Taylor*, 347 Md. 363, 376–377, 761 A.2d 389, 395–396 (1997).

¹⁵⁴ *Id.*; *Lowery v. State*, 276 So. 3d 381, 389 (Fla. Dist. Ct. App. 2019); *Shelton v. State*, 445 So. 2d 844, 848 (Miss. 1984).

¹⁵⁵ *Swell v. State*, 2018 WY 144, ¶¶ 25–26, 431 P.3d 1135, 1142–1143 (2018). See also Concurring Opinion (CJ. Saylor), *Commonwealth v. Hicks*, 638 Pa. 444, 475–476, 156 A.3d 1114, 1132 (2017).

abnormal events are unlikely to recur by chance.”¹⁵⁶ Stated otherwise, “the more often an accidental or unusual event occurs, the more likely it is that any subsequent reoccurrence is not the result of a mistake or accident.”¹⁵⁷ Evidence of similar acts is thus admitted not to prove that the accused has a bad character or a criminal propensity, but to show that “it is objectively improbable that the accused would be involved in multiple unusual events, which, in turn, leads to the ultimate inference that the accused committed the *actus reus* of the charged crime.”¹⁵⁸

For the doctrine of chances to apply as proof of intent, absence of mistake or accident, and the identity of the perpetrator, the prior conduct must involve the *same intent* that the prosecution seeks to establish in the charged crime,¹⁵⁹ the number of unusual occurrences in which the accused was involved must exceed the *frequency* rate for the general population or for ordinary persons,¹⁶⁰ and the incidents should be sufficiently *similar* to support a rational inference on the existence of the fact sought to be proved by the prosecution.¹⁶¹ Particularly for child abuse, homicide, or murder cases, it is generally required that the *victim* in the other instances of abuse or violence and in the crime charged is the *same person* or is similar in nature, or the abuses were committed under similar circumstances.¹⁶² The *similarity* of the previous wrongful acts to the charged offense is *indispensable* because evidence of dissimilar bad acts does nothing more than show the accused’s criminal propensity,¹⁶³ which is prohibited by the rules on evidence.

Here, the prosecution’s evidence establishes that the accused were involved in at least four incidents involving Danlyn: (1) the strange swelling on the child’s cheek that Boyet observed; (2) the wounds on Danlyn’s feet after being bound by a rope, for which Madiline had to bring medicine; (3) the hematoma in Danlyn’s left eye that Madiline saw about a week before the child’s death; and (4) the fatal head injury that Danlyn sustained on April 11, 2011. Danlyn suffered these injuries between June 2010 and April 11, 2011, or for about 10 months, while she resided in Scions with the two accused. Significantly, as stated by Madiline, Danlyn pointed to Roger and Yvonne as the individuals who caused her black eye

¹⁵⁶ Concurring Opinion (CJ. Saylor). *Commonwealth v. Hicks*, 638 Pa. 444, 476, 156 A.3d 1114, 1132 (2017).

¹⁵⁷ *Swett v. State*, 2018 WY 144, ¶ 25, 431 P.3d 1135, 1143 (2018).

¹⁵⁸ *People v. Everett*, 250 P.3d 649, 657 (Colo. App. 2010).

¹⁵⁹ *People v. Casias*, 2012 COA 117, ¶¶ 39–42, 312 P.3d 208, 216–217 (2012). (Emphasis supplied)

¹⁶⁰ *People v. Everett*, 250 P.3d 649, 657–660 (Colo. App. 2010).

¹⁶¹ *Peavy v. Madden*, No. 19cv0743-MMA (BGS), at *19–21 (S.D. Cal. Aug. 17, 2020).

¹⁶² *Swett v. State*, 2018 WY 144, ¶ 28, 431 P.3d 1135, 1143 (2018).

¹⁶³ *Id.* at 1144. (Emphasis supplied)

and bound her feet with a rope.¹⁶⁴ As to Boyet, the swelling that he observed on Danlyn's cheek should be assessed together with his statement that it was the accused who would meet the child at a nearby food store on those occasions when he accompanied Danlyn to her school.¹⁶⁵ The foregoing incidents are sufficiently similar, especially considering that they all involve the same child, i.e., Danlyn, and the same caregivers, i.e., the accused.¹⁶⁶ On at least three occasions, Danlyn sustained injuries to her head. The wound on Danlyn's feet, while in a different area from where she suffered her fatal injury, clearly resulted from the same intention to harm or injure her. Therefore, it is admissible to demonstrate intentional harm against Danlyn and to show the absence of accident, mistake, or natural cause related to her injury death.¹⁶⁷

Pursuant to the doctrine of chances, it may be inferred that: (1) Danlyn's injuries, including the fatal head injury that she sustained on April 11, 2011, did not arise from an accident or a natural cause but were instead deliberately inflicted; (2) the two accused, as her caregivers, are the ones who caused the injuries; and (3) the two accused acted with an intent to injure Danlyn.¹⁶⁸

To be sure, it is objectively improbable that the injuries observed on Danlyn while under the care of the two accused arose from recurring accidents or natural events within a period of ten months. Common sense dictates that it is unusual for innocent persons to be repeatedly accused of maltreating a child under their care, for them to be involved as the caregivers in at least four occasions when the child sustained atypical injuries, or for the child to identify them as the persons who inflicted the injuries on two of those occasions. The improbability that the same persons will be repeatedly accused of committing several acts of physical abuse upon the same child raises an inference that they did commit those crimes of violence.¹⁶⁹

¹⁶⁴ *Rollo*, pp. 97, 108, CA Decision; p. 143, RTC Judgment; *Id.* at 221 (TSN, Madiline F. Cardines, November 29, 2012, pp. 40, 50).

¹⁶⁵ *Id.* at 147, RTC Judgment.

¹⁶⁶ *See State v. Taylor*, 347 Md. 363, 376–377, 701 A.2d 389, 395–396 (1997).

¹⁶⁷ *See Worden v. State*, 603 So. 2d 581, 583 (Fla. Dist. Ct. App. 1992), where it was held that the injuries sustained by the child in bodily areas other than where he sustained the fatal injury, i.e., in the head, was admissible to prove the accused's criminal intent and the absence of mistake.

¹⁶⁸ *People v. Everett*, 250 P.3d 649, 657–560 (Colo. App. 2010); *State v. Hassett*, 124 Idaho 357, 362–363, 859 P.2d 955, 960–61 (Ct. App. 1993).

¹⁶⁹ *People v. Everett*, 250 P.3d 649, 657–660 (Colo. App. 2010).



Pertinently, in the similar case of *People v. Cariquez*,¹⁷⁰ the two accused therein were convicted of parricide and homicide for the death of a 2-year old child who was under their custody. As in this case, the child died due to massive injuries to the head on May 27, 1996. There were no eyewitnesses to the crime and the prosecution could only offer pieces of circumstantial evidence, consisting of prior injuries that the witnesses observed on the child about a month to a few weeks before the child's death. The witnesses mentioned that the child pointed to the two accused as the ones who inflicted the earlier injuries.

In sustaining the judgment of conviction against the accused in *Cariquez*, the Court explained that the child's statements as regards the identity of her abusers were admissible in evidence as part of the *res gestae*, which, when assessed together with the totality of the circumstantial evidence, was sufficient to prove the accused's guilt beyond reasonable doubt:

[I]n the Appellee's Brief, the Office of the Solicitor General enumerates seven (7) circumstantial evidence which the trial court took into account and relied upon as bases for its finding that AVA and LEEZEL, were criminally responsible for the death of ETHEL, to wit:

1. In 14 April 1996, prosecution principal witness, Lilia Gujol, saw Ethel shaven, with many *contusions* on her face, *black eyes*, cigarette burns on her arms and neck, and several marks of maltreatment on her legs and both knees as well as traces of pinching all over her body. *When asked who caused her those injuries, the 2 year old girl pointed to her own mother, Ava, and her mother's live in partner, Leezel Franco;*
2. When Lilia next saw Ethel on 12 May 1996, Ethel had even graver injuries and was sickly. *Again, Ethel pointed to appellants Ava and Leezel as the ones who caused her the injuries.*
3. Michelle Torrente, a resident of the unit adjacent to the townhouse unit occupied by Ava Cariquez, Leezel Franco and Ethel Cariquez, testified that she used to hear Ethel crying between 1:00 to 2:00 in the morning. She further testified that one day she saw Ethel with bruises and cigarettes burns and when asked what happened to her, Ethel replied, "*pinaso po ako;*" *Ethel pointed to her Papa Leezel as the one who did it to her.*

¹⁷⁰ 373 Phil. 877 (1999).

4. Theresa Castillo, another occupant of an adjacent unit, also testified that she often saw Ethel bruised and crying and *sometime in April*, saw her head shaven. When she asked the "yaya" why Ethel's hair was shaved, the "yaya" answered "*parusa*."
5. Dr. Jose Joey Bienvenida, the doctor who attended to Ethel at the Cardinal Santos Memorial Hospital, opined that the injuries found on the head of Ethel were inflicted on different dates.
6. Dr. Bienvenida further testified that in the course of taking the medical history of the child, he interviewed the mother, Ava Cariquez, who gave conflicting accounts as to how the child got injuries: while the mother initially said that her daughter was mauled by her uncle (AVA's brother), she later changed her story by claiming that the child fell from the stairs.
7. Dr. Vertido testified that the *cause of death was traumatic Head Injury, Severe*.

Aside from the foregoing circumstantial evidence, the trial court also took into account AVA's affidavit (Exhibit "R"), reply-affidavit (Exhibit "S"), and LEEZEL's counter-affidavit (Exhibit "T"), as well as the circumstances of the apprehension of the two by authorities for illegal possession of "shabu" and AVA's *judicial admission that ETHEL slipped from her hold, fell and her head hit the cemented floor*.

....

We are fully convinced from the evidence on record of the culpability of AVA and LEEZEL for ETHEL's maltreatment. The testimony of Lilia Gojul, Michelle Torrente and Theresa Castillo ineluctably show that AVA and LEEZEL tormented ETHEL[.]

....

The declarations of Lilia, Michelle and Theresa as to what they observed on ETHEL were not hearsay. They saw her and personally noticed the injuries and telltale marks of torture. While the answer of ETHEL as to who inflicted the injuries may have been, indeed, hearsay because ETHEL could not be confronted on that, yet it was part of the res gestae and, therefore, an exception to the hearsay rule pursuant to Section 42 of Rule 130 of the Rules of Court, which reads:

SECTION 42. *Part of res gestae*. — Statements made by a person while a startling occurrence is taking place or immediately prior or subsequently thereto with respect to the circumstances thereof, may be given in evidence as

part of the *res gestae*. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the *res gestae*.

There are three requisites to the admission of evidence as constituting part of the *res gestae*: (1) that the principal act, the *res gestae*, be a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) that the statements must concern the occurrence in question and its immediately attending circumstances. *In this case the startling occurrences were the tortures inflicted on ETHEL, who when asked who caused them spontaneously pointed to AVA and LEEZEL. That some time may have lapsed between the infliction of the injuries and the disclosure, it must however, be pointed out that there has been no uniformity as to the interval of time that should separate the occurrence of the startling event from the making of the declarations.* What is necessary is that the injuries sustained by ETHEL prior to the incident on 27 May 1996 were inflicted by AVA and LEEZEL[.]¹⁷¹ (Emphasis supplied)

Following *Cariquez*, evidence on the accused's previous acts of physical abuse against Danlyn may be appreciated by the Court in support of the judgment of conviction against them. Moreover, Danlyn's spontaneous statements to Madiline, i.e., that it was Roger and Yvonne who caused her black eye and the wounds on her feet, may be admitted in evidence as part of the *res gestae*.

The occasions of Danlyn's maltreatment are certainly startling occurrences. Although some time may have elapsed between the infliction of the injuries and Danlyn's identification of her abusers, it is settled that the *res gestae* exception applies despite the lapse of time provided that the statement was made while the declarant's mind was still under the influence of the startling occurrence.¹⁷² What is important is the absence of an intervening circumstance between the startling occurrence of such nature that would "divert the mind of the declarant, and thus restore his [or her] mental balance and afford *opportunity for deliberation*."¹⁷³ Considering that Danlyn was only 5 years old at the time material to the case, her youth and immaturity may be considered as badges of truth and sincerity.¹⁷⁴ At such a young age, it is difficult to believe that Danlyn, after the passage of some time from when she sustained the injuries, would deliberately misidentify the persons who harmed her.

¹⁷¹ *Id.* at 889–892.

¹⁷² *See People v. Lanza*, 183 Phil. 249, 261 (1979).

¹⁷³ *See People v. Jorolan*, 452 Phil. 698, 713 (2003). (Emphasis supplied)

¹⁷⁴ *See People v. Oliva*, 616 Phil. 786, 792 (2009); *People v. de Guzman*, 423 Phil. 313, 331 (2001).

As regards the accused's intent to kill, jurisprudence provides that "[i]f the victim dies because of a *deliberate act* of the malefactor, intent to kill is *conclusively* presumed."¹⁷⁵ As previously discussed, the evidence on record shows that Danlyn's fatal head injury was not accidental but instead arose from a *deliberate act* on the part of the two accused.¹⁷⁶ Intent to kill may therefore be conclusively presumed.

In *Cariquez*, the Court did not accept the defense presented by therein accused, who averred that the child had inadvertently fallen from her grasp, resulting in the child's head striking the cement floor. Consequently, the Court considered the previous instances of maltreatment directed towards the child as *corroborative evidence* of a willful act to inflict harm by the accused, thereby refuting the assertion of an accident.

The principle in *Cariquez* applies to the present case. Given the prior circumstances of Danlyn's abuse under the care of the accused, the Court is convinced that the fatal traumatic injury to Danlyn's head resulted from a deliberate act on the part of Roger and Yvonne, and that they acted with an intent to injure Danlyn. Yvonne even told Madiline that she was "disciplining" the child when confronted about Danlyn's condition, while Roger slapped and boxed Madiline upon Yvonne's instructions.¹⁷⁷ The accused clearly intended to harm the child with their actions. As such, they should be held responsible for all the consequences of their unlawful act, including the death of Danlyn.¹⁷⁸

The Court likewise concurs in the CA's conclusion that it does not matter as to who, between Roger and Yvonne, inflicted the fatal blow to Danlyn's head because the two accused acted in conspiracy. "There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it."¹⁷⁹ "Direct proof is not essential to establish conspiracy as this may be inferred from the acts of the assailants before, during, and after the commission of the crime."¹⁸⁰

¹⁷⁵ See *Quinto v. Andres*, *supra* note 112, at 654; *People v. Delim*, *supra* note 112, at 467. (Emphasis supplied)

¹⁷⁶ See *Ceaser v. State*, 964 N.E.2d 911, 915-916 (Ind. Ct. App. 2012) and *State v. Hassett*, 124 Idaho 357, 362-363, 859 P.2d 955, 960-961 (Ct. App. 1993). (Emphasis supplied)

¹⁷⁷ *Rollo*, p. 143. RTC Judgment.

¹⁷⁸ See *Wacoy v. People*, 761 Phil. 570, 580 (2015); *Yapyuco v. Sandiganbayan*, 689 Phil. 75, 119 (2012); *People v. Delim*, *supra* note 112, at 450; *United States v. Gloria*, 3 Phil. 333, 335 (1904).

¹⁷⁹ See *People v. Garchitorena*, 614 Phil. 66, 77 (2009); *People v. Pendatun*, 478 Phil. 201, 213 (2004).

¹⁸⁰ See *People v. Templa*, 415 Phil. 523, 536-537 (2001); *People v. Magallano*, 408 Phil. 757, 762 (2001).

The conspiracy between Roger and Yvonne is demonstrated by the following: (1) the two accused were in Scions with Danlyn on April 11, 2011, attending to the child's body when Madiline arrived; (2) while Yvonne was massaging Danlyn and trying to revive her, Roger told Yvonne to check for a pulse; (3) in disposing of Danlyn's body and concealing the crime, the two accused jointly sought a multicab, with Roger placing the body in a garbage bag and a box while Yvonne acted as a lookout; (4) they jointly searched for a location where they could bury Danlyn's body without being seen; (5) together, they found a shovel to dig the grave where they buried Danlyn; and (6) neither accused reported Danlyn's death to the appropriate authorities.¹⁸¹ That Roger punched and slapped Madiline upon Yvonne's instructions after Madiline confronted them about the hematoma in Danlyn's left eye further demonstrate their agreement to abuse the child.

The aforementioned circumstances, taken together, establish a common design between the accused to harm Danlyn and cause her death. Therefore, it does not matter who among the two accused delivered the fatal blow that resulted in Danlyn's death; in a conspiracy, the act of one is considered the act of all.¹⁸²

In a final effort to assert his innocence, Roger contends that he cannot be convicted due to the prosecution's failure to present a murder weapon. Nevertheless, it is well-established that the introduction of a murder weapon is *not* essential for the prosecution of the accused. Undoubtedly, the absence of the murder weapon does *not* negate the occurrence of murder.¹⁸³

Roger further challenges the credibility of Madiline upon the argument that she would not have allowed Danlyn to continue residing in Scions together with the two accused if they were maltreating the child. However, Madiline testified that the accused, being leaders of the religious Group, exercised influence over her, which was corroborated by Felix. Relevantly, on several occasions, the Court has recognized that religious leaders have moral ascendancy over their members.¹⁸⁴

¹⁸¹ See *People v. Buntag*, 471 Phil. 82, 99 (2004), where the accused's conduct of hiding a piece of evidence of the crime and failure to report the stabbing incident to the police was considered as proof of conspiracy.

¹⁸² See *People v. Angelio*, 683 Phil. 99, 105 (2012); *People v. Bi-Ay, Jr.*, 652 Phil. 386, 397 (2010); *People v. Cariquez*, *supra* note 171, at 893.

¹⁸³ See *People v. Padua*, 334 Phil. 726, 737 (1997).

¹⁸⁴ See *People v. XXX*, 949 Phil. 271, 292 (2023); *People v. Sernadilla*, 930 Phil 1, 11 (2022).



Given the peculiar relationship between the concerned parties, the Court is not convinced that Madiline is an unreliable witness. While Madiline may have been negligent in failing to immediately report Danlyn's death and the child's maltreatment under the care of the two accused, that does not negate the credibility of her statements. Her credibility may even be greater¹⁸⁵ because by testifying under oath and narrating her participation in Danlyn's burial at the IFI cemetery, Madiline implicated herself as an accessory¹⁸⁶ and a violator of Section 17 of Act No. 3753.¹⁸⁷ Madiline would not have taken the witness stand at such personal risk if she was driven by anything other than a sincere desire to secure the conviction of those responsible for her daughter's death.

It is equally important to note that Boyet corroborated Madiline's testimony regarding the behavior and condition of Danlyn in relation to the two accused. Therefore, it is appropriate to give credence to Madiline's account and narration of the events leading to Danlyn's death.

All told, the Court is convinced that the circumstantial evidence in the present case is sufficient to prove beyond reasonable doubt that the two accused are guilty of murdering Danlyn. The pieces of circumstantial evidence, taken together, are consistent with the prosecution's hypothesis that the two accused committed a deliberate act to injure Danlyn in the head area that caused her death. The evidence demonstrates that the injury did not arise from an accident or any natural cause, as Danlyn sustained it under an abusive household and with the two accused as her caregivers. No person other than the two accused could have inflicted the fatal head injury upon Danlyn because the child was under their exclusive custody at the time of her death. The judgment of conviction must therefore be

¹⁸⁵ See *De Ocampo v. Florenciano*, 107 Phil. 35, 40 (1960), where, in a legal separation case instituted by the husband, the wife's admission about her sexual relations with another man was taken as credible because she implicated herself for the crime of adultery:

Here, the offense of adultery had really taken place, according to the evidence. The defendant could not have *falsely told* the adulterous acts to the Fiscal, because her story might send her to jail the moment her husband requests the Fiscal to prosecute. She could not have practiced deception at such a personal risk. (Emphasis supplied)

¹⁸⁶ See *People v. Devaras*, 298-A Phil. 457, 462-463 (1993). The Revised Penal Code, Article 19, defines an "accessory" as follows:

ARTICLE 19. *Accessories*. – Accessories are those who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission in any of the following manners:

.....

2. By concealing or destroying the body of the crime, or the effects or instruments thereof, in order to prevent its discovery.

¹⁸⁷ SECTION 17. *Failure to report*. – Other violations. – Any person whose duty is to report any fact concerning the civil status of persons and who knowingly fails to perform such duty, and any person convicted of having violated any of the provisions of this Act shall be punished by a fine of not less than ten pesos nor more than two hundred.

affirmed.

As regards the proper penalty, the RTC and the CA correctly imposed the penalty of *reclusion perpetua* upon the two accused. Under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, the penalty for Murder is *reclusion perpetua* to death. Absent any aggravating circumstance other than the qualifying circumstance of treachery, the proper imposable penalty is *reclusion perpetua*, the lower of the two indivisible penalties.¹⁸⁸

In accordance with *People v. Jugueta*,¹⁸⁹ the RTC and the CA correctly sentenced the two accused to pay the heirs of Danlyn the following amounts: (1) PHP 75,000.00 as civil indemnity; (2) PHP 75,000.00 as moral damages; and (3) PHP 75,000.00 as exemplary damages.

However, the monetary award should be modified to make it conform to *Jugueta* in that Roger is likewise directed to pay the heirs of Danlyn the sum of PHP 50,000.00 as temperate damages given that the prosecution did not offer any documentary evidence on the burial or funeral expenses that were incurred by Danlyn's heirs. With the child's death and the exhumation of her corpse as part of the investigation proceedings in the present case, it cannot be denied that the heirs of Danlyn incurred funeral or burial expenses, although the exact amount was not proven with certainty.¹⁹⁰ The award of temperate damages in the amount of PHP 50,000.00 for such pecuniary loss is thus proper.

In addition, all the foregoing monetary awards shall earn interest at the rate of 6% per annum from the date of the finality of the Court's Decision until fully paid.¹⁹¹

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated February 10, 2022, and the Resolution dated March 9, 2023, of the Court of Appeals in CA-G.R. CR-HC No. 02347-MIN that found petitioner Roger L. Gamon **GUILTY** beyond reasonable doubt of the crime of Murder in Criminal Case No. CR-ORD-

¹⁸⁸ *People v. Gunda*, 726 Phil. 289, 296 (2014).

¹⁸⁹ 783 Phil. 806, 840 (2016).

¹⁹⁰ See *People v. Edaño*, 765 Phil. 239, 250 (2015); *People v. Melendres, Jr.*, 450 Phil. 333, 355 (2003); *People v. Principe*, 431 Phil. 392, 407 (2002).

¹⁹¹ *People v. Edaño*, *id.* at 251.

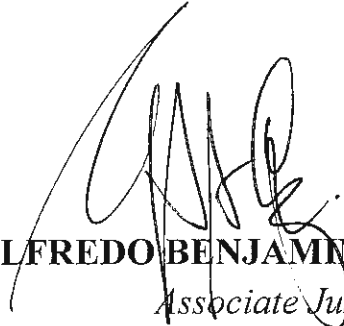
2015-445 R filed with Branch 38, Regional Trial Court, Cagayan de Oro City, Misamis Oriental are hereby **AFFIRMED** with **MODIFICATION**, in that petitioner Roger L. Gamon is **SENTENCED** to suffer the penalty of *reclusion perpetua*. He is further **ORDERED** to **PAY** the heirs of the victim Danlyn Grace Cardines y Fabroa the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, PHP 75,000.00 as exemplary damages, and PHP 50,000.00 as temperate damages. All the monetary awards shall earn legal interest at the rate of 6% per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

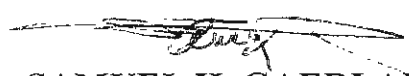


HENRI JEAN PAUL B. INTING
Associate Justice

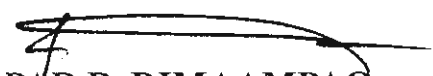
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



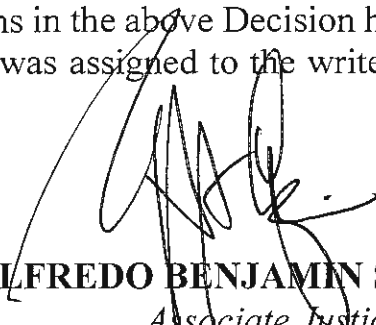
JAPAR B. DIMAAMPAO
Associate Justice

(On leave)

MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

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.



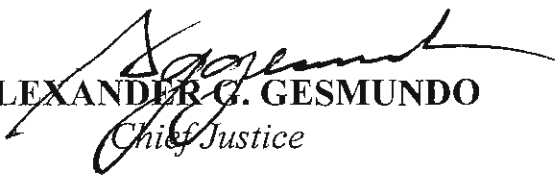
ALFREDO BENJAMIN S. CAGUIOA

Associate Justice

Chairperson, Third Division

CERTIFICATION

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