Republic of the Philippines
Supreme Court
Manila

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-appellee,	**G.R. No. 196735**
	Present:
-versus-	SERENO, *C.J.*,* PERALTA, *J.*, *Acting Chairperson*,** DEL CASTILLO,*** PEREZ, **** and LEONEN, *JJ.*
DANILO FELICIANO, JR., JULIUS VICTOR MEDALLA, CHRISTOPHER SOLIVA, WARREN L. ZINGAPAN, and ROBERT MICHAEL BELTRAN ALVIR, Accused-appellants.	**Promulgated:** August 3, 2016

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RESOLUTION

LEONEN, *J.*:

Even as the judiciary strives to bring justice to victims of fraternity-related violence, the violence continues to thrive in universities across the

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* Chief Justice Maria Lourdes P. A. Sereno was designated as Acting Member of the Third Division, vice Associate Justice Presbitero J. Velasco, Jr., per Raffle dated February 1, 2012.

** Associate Justice Diosdado M. Peralta was designated as Acting Chairperson of the Third Division, vice Associate Justice Presbitero J. Velasco, Jr. who recused himself due to close relation to one of the parties.

*** Associate Justice Mariano C. Del Castillo was designated as Acting Member of the Third Division, vice Associate Justice Jose Catral Mendoza who penned the Regional Trial Court Decision, per Raffle dated April 29, 2014.

**** Associate Justice Jose P. Perez was designated as Acting Member of the Third Division, vice Associate Justice Roberto A. Abad who retired on May 22, 2014 and vice Associate Justice Francis H. Jardeleza who recused himself from the case due to prior action as Solicitor General, per Raffle dated September 8, 2014.

country. Mere weeks after our Decision dated May 5, 2014 was promulgated, various news agencies reported the death of an 18-year-old student of De La Salle-College of St. Benilde.[1] The death was allegedly caused by hazing.

While this Court is powerless to end this madness, it can, at the very least, put an end to its impunity.

This resolves the separate Motions for Reconsideration of our Decision dated May 5, 2014, which were filed by accused-appellants Christopher Soliva (Soliva),[2] Warren L. Zingapan (Zingapan),[3] and Robert Michael Beltran Alvir (Alvir).[4]

To recall, we affirmed the Court of Appeals Decision[5] dated November 26, 2010 finding accused-appellants guilty beyond reasonable doubt for the murder of Dennis Venturina. However, we modified its finding that accused-appellants were only guilty of slight physical injuries in relation to private complainants Leandro Lachica, Cristobal Gaston, Jr., and Cesar Mangrobang, Jr. Instead, we upheld the trial court's Decision[6] dated February 28, 2002, which found accused-appellants guilty beyond reasonable doubt of the attempted murder of private complainants Leandro Lachica (Lachica), Arnel Fortes (Fortes), Mervin Natalicio (Natalicio), Cristobal Gaston, Jr. (Gaston), and Cesar Mangrobang, Jr. (Mangrobang, Jr.).

Alvir, Zingapan, and Soliva separately filed their Motions for Reconsideration on July 1, 2014, July 2, 2014, and July 9, 2014, respectively. The Office of the Solicitor General was directed to file a Consolidated Comment on these Motions.[7]

Atty. Estelito Mendoza, counsel for Zingapan, through a letter[8] dated May 22, 2014, requested information on the composition of the Division

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1 *See* Rainier Allan Ronda, *St. Benilde sophomore dies in fraternity hazing*, The Philippine Star, June 30, 2014 <http://www.philstar.com/headlines/2014/06/30/1340614/st.-benilde-sophomore-dies-fraternity-hazing> (visited August 1, 2016); *St. Benilde student dies in suspected hazing incident*, Rappler, June 29, 2014 <http://www.rappler.com/nation/61910-st-benilde-student-dead-hazing-manila> (visited August 1, 2016); Julliane Love De Jesus, *Cops eye 11 fraternity men as suspects in Servando fatal hazing*, Philippine Daily Inquirer, June 30, 2014 <http://newsinfo.inquirer.net/615653/cops-eye-11-fraternity-men-as-suspects-in-servando-fatal-hazing> (visited August 1, 2016).

2 *Rollo,* pp. 596–624.

3 Id. at 500–592.

4 Id. at 480–499.

5 Id. at 4–74-A. The Decision was penned by Presiding Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Amelita G. Tolentino, Jose C. Reyes, Jr., and Mariflor P. Punzalan-Castillo of the Special First Division, Division of Five. Associate Justice Stephen C. Cruz dissented.

6 CA *rollo*, pp. 133–215. The Decision was penned by Presiding Judge Jose Catral Mendoza (now Associate Justice of this Court) of Branch 219, Regional Trial Court, Quezon City.

7 *Rollo*, p. 636.

8 Id. at 594.

trying this case. At that time, our May 5, 2014 Decision was not yet published in the Supreme Court website. Atty. Estelito Mendoza's request was denied[9] under Rule 7, Section 3 of the Internal Rules of the Supreme Court,[10] which mandates that results of a raffle, including the composition of the Division, are confidential in criminal cases where the trial court imposes capital punishment.

Undaunted, Zingapan moved to elevate the case to this Court En Banc.[11] The Motion was denied for lack of merit.[12]

On November 10, 2014, the Office of the Solicitor General filed its Consolidated Comment[13] on the Motions for Reconsideration.

Meanwhile, Alvir moved for modification of judgment,[14] arguing on his innocence and praying for his acquittal.

The only issue to be resolved is whether accused-appellants presented substantial arguments in their Motions for Reconsideration as to warrant the reversal of this Court's May 5, 2014 Decision.

I

Soliva argues that his conviction was merely based on private complainant Natalicio's sole testimony, which he alleges was doubtful and inconsistent.[15] He points out that prosecution witness Ernesto Paolo Tan (Tan) was able to witness the attack on Natalicio, but was unable to identify him as the attacker.[16]

The Office of the Solicitor General, on the other hand, argues that Natalicio's testimony was sufficient to identify Soliva.[17] It argues that Tan's testimony did not contradict Natalicio's testimony since Tan was able to

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9 Id. at 478.

10 RULES OF COURT, Rule 7, sec. 3 provides:
Section 3. *Raffle Committee Secretariat.* – The Clerk of Court shall serve as the Secretary of the Raffle Committee. He or she shall be assisted by a court attorney, duly designated by the Chief Justice from either the Office of the Chief Justice or the Office of the Clerk of Court, who shall be responsible for (a) recording the raffle proceedings and (b) submitting the minutes thereon to the Chief Justice. The Clerk of Court shall make the result of the raffle available to the parties and their counsels or to their duly authorized representatives, except the raffle of (a) bar matters; (b) administrative cases; and (c) criminal cases where the penalty imposed by the lower court is life imprisonment, and which shall be treated with strict confidentiality.

11 *Rollo*, pp. 626–635.

12 Id. at 636–637.

13 Id. at 701–740.

14 Id. at 693–700.

15 Id. at 599.

16 Id. at 600.

17 Id. at 712–713.

state that he saw the assailants who were not masked, though he did not know their names.[18]

The testimony of a single witness, as long as it is credible and positive, is enough to prove the guilt of an accused beyond reasonable doubt.[19]

Soliva argues that Natalicio was not able to identify his attackers since he was seen by Tan lying face down as he was being attacked. On the contrary, Natalicio's and Tan's testimonies were consistent as to Natalicio's position during the attack. Natalicio testified:

> Q With respect to the first group that attacked you, Mr. Natalicio, while they were beating you up, what else if anything happened?
>
> A I was able to recognize two (2) among those [sic] first group of attackers.
>
> COURT
> What group, first group?
>
> . . . .
>
> A While I was parrying their blows, two (2) of these attackers had no mask, they had no mask anymore.
>
> . . . .
>
> Q So, Mr. Natalicio, who were these two (2) men that you recognized?
>
> A They were Warren Zingapan and Christopher Soliva.[20]
>
> Cross-examination
>
> Q Imagine, Mr. Witness, there were ten (10) people ganging up on you, you stood up, faced them, just like that?
>
> A Yes.
>
> Q You did not cover your head with your arms as they were pounding on you?
>
> A Not yet. When I was standing up, no. I was parrying their blows. I covered my head when I fell down already, because I was defenseless already.

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18 Id. at 716–717.

19 *People v. Jalbonian*, 713 Phil. 93, 95 (2013) [Per J. Del Castillo, Second Division], *citing People v. Gonzales*, G.R. No. 105689, February 23, 1994, 230 SCRA 291, 296 [Per J. Bidin, Third Division] states: "Well-settled is the rule that the testimony of a lone prosecution witness, as long as it is credible and positive, can prove the guilt of the accused beyond reasonable doubt."

20 TSN, July 3, 1995, pp. 10–16.

Q And there were people [who] attacked you from behind?

A When I was standing up, none.

Q All of them were in front of you?

A Front, yes.[21]

Natalicio explained that he was attacked twice. During the first attack, he tried to stand up and was able to identify two (2) of his attackers. He fell to the ground when he was attacked the second time. This is consistent with Tan's testimony, where he stated:

A During the second waive [sic], your honor, *[Natalicio] tried to get up* but immediately after the first waive [sic] another group of persons attacked, your honor.

COURT
Q When he tried to get up, he was still facing the ground?

A He was a bit tilted, your honor. *He was no longer lying face down or "nakadapa,"* your honor.[22] (Emphasis supplied)

Soliva also misconstrues Tan's testimony that he could not identify Natalicio's attackers. Tan testified:

Q You stated that while you were inside the beach house canteen observing the events outside thru the door and in that couple of seconds, you could not establish the identity of persons, is it not?

A *I could see them although I do not know their names.*[23] (Emphasis supplied)

Tan failed to identify the attackers only because he did not know their names. His testimony corroborates Natalicio's testimony that some of the attackers were masked and some were not,[24] although Tan could not identify them because he was not familiar with their names.

Tan was a fourth year student of the University of the Philippines College of Business Administration at the time of the incident. He was not part of the Sigma Rho Fraternity and was merely one of the students eating at Beach House Canteen on December 8, 1994.[25]

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21 Id. at 55.
22 TSN, September 3, 1996, pp. 73–74.
23 TSN, September 18, 1996, pp. 82–83.
24 TSN, September 3, 1996, p. 42.
25 Id. at 15.

Another witness, Darwin Asuncion (Asuncion), was a third year student at the University of the Philippines and was also at Beach House Canteen during the incident.[26] He testified that some attackers were wearing masks while some were not.[27] On cross-examination, he stated:

> Q And many of these people who were in beach house canteen who were there to probably eat or probably lining up to eat were not wearing mask? [sic]
>
> A Yes sir.
>
> Q *And there is a great possibility that you could have mistaken the unmasked people as part of the attacking group?*
>
> A *No sir.*
>
> Q *Why?*
>
> A *Because they were carrying lead pipes and baseball bats sir.*[28] (Emphasis supplied)

Asuncion's testimony corroborates that of defense witness Frisco Capilo, who testified that before the incident, the attackers were wearing masks, but after the incident, he saw some wearing masks and some who did not.[29]

Alvir argues that Lachica's identification of him was "uncorroborated and hazy."[30] He argues that Lachica admitted that while he was attacked, he covered his head with his forearms, which created doubt that he was able to see his attackers. He argues that Lachica's statement that he was still able to raise his head while parrying blows was impossible. Alvir also argues that when Lachica ran away and looked back at the scene of the crime, Lachica was only able to identify Julius Victor Medalla (Medalla) and Zingapan.[31]

It is in line with human experience that even while Lachica was parrying the blows, he would strive to identify his attackers. As has been previously stated by this Court:

> It is the most natural reaction for victims of criminal violence to strive to see the looks and faces of their assailants and observe the manner in which the crime was committed. Most often the face of the assailant

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26 TSN, April, 30, 1997, pp. 6–7.
27 Id. at 9.
28 Id. at 40–41.
29 TSN, December 4, 1995, p. 47.
30 *Rollo*, p. 481.
31 Id. at 485.

and body movements thereof, create a lasting impression which cannot be easily erased from their memory.[32]

Lachica clearly and categorically identified Alvir as one of his attackers:

Q And during these attacks of these five (5) men and according to you, you were parrying their blows, what happened?

A At that time, one of the mask [sic] of those who attacked us fell off and I was able to recognize one of them.

Q Who did you recognize whose mask fell?

A He was Mike Alvir.[33]

Alvir also misinterprets Lachica's testimony that Lachica was unable to see Alvir as he was running away. Lachica testified:

Q What happened after as you said you parried the blows of the men who attacked you and you recognized one of them to be Mike Alvir. What happened next?

A As I said, I was able to elude these five armed men and run towards the College of Education and prior to reaching the College of Education, I tried to look back.

Q And what happened when you looked back?

A *I was able to see also, identify two more of them.* Two of the attackers.

Q Who are these persons?

A Warren Zingapan and Victor Medalla.[34] (Emphasis supplied)

Lachica testified that he was able to identify Alvir while he was being attacked. When Lachica ran away and looked back at the scene of the crime, he was also able to identify two (2) *more* of the attackers, Zingapan and Medalla. He did not deny seeing Alvir, but only added that he was able to identify two (2) more people.

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32 *People v. Dolar*, 301 Phil. 420, 430 (1994) [Per J. Puno, Second Division], *citing People v. Sartagoda*, 293 Phil. 259, 266 (1993) [Per J. Campos, Jr., Second Division]. *See also People v. Selfaison*, 110 Phil. 839, 845–846 (1961) [Per J. Gutierrez-David, En Banc].

33 TSN, June 5, 1995, pp. 11–12.

34 Id. at 13.

Accused-appellants were positively identified by private complainants. Private complainants' testimonies were clear and categorical. On this issue, we find no cogent reason to reverse our May 5, 2014 Decision.

II

Zingapan's main argument hinges on the sufficiency of the Information filed against him, which, he argues, violated his constitutional right to be informed of the nature and cause of the accusation against him.[35] His arguments, however, have already been sufficiently addressed in our May 5, 2014 Decision.

For an information to be sufficient, Rule 110, Section 6 of the Rules of Criminal Procedure requires that it state:

> the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

The purpose of alleging all the circumstances attending a crime, including any circumstance that may aggravate the accused's liability, is for the accused to be able to adequately prepare for his or her defense:

> To discharge its burden of informing him of the charge, the State must specify in the information the details of the crime and any circumstance that aggravates his liability for the crime. *The requirement of sufficient factual averments is meant to inform the accused of the nature and cause of the charge against him in order to enable him to prepare his defense. It emanates from the presumption of innocence in his favor, pursuant to which he is always presumed to have no independent knowledge of the details of the crime he is being charged with.* To have the facts stated in the body of the information determine the crime of which he stands charged and for which he must be tried thoroughly accords with common sense and with the requirements of plain justice[.][36] (Emphasis supplied)

Here, the aggravating circumstance of "masks and/or other forms of disguise"[37] was alleged in the Informations to enable the prosecution to establish that the attackers intended to conceal their identities. Once this is established, the prosecution needed to prove how the witnesses were able to identify the attackers despite the concealment of identity. In our May 5, 2014 Decision:

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35 *Rollo*, pp. 510–523.

36 *People v. PO2 Valdez, et al.*, 679 Phil. 279, 293–294 (2012) [Per J. Bersamin, First Division].

37 RTC records, Vol. I, p. 3.

> In criminal cases, disguise is an aggravating circumstance because, like nighttime, it allows the accused to remain anonymous and unidentifiable as he carries out his crimes.
>
> The introduction of the prosecution of testimonial evidence that tends to prove that the accused were masked but the masks fell off does not prevent them from including disguise as an aggravating circumstance. What is important in alleging disguise as an aggravating circumstance is that there was a *concealment of identity* by the accused. The inclusion of disguise in the information was, therefore, enough to sufficiently apprise the accused that in the commission of the offense they were being charged with, they tried to conceal their identity.[38] (Emphasis in the original)

To recall, the Information for murder filed against accused-appellants reads:

> That on or about the 8th day of December 1994, in Quezon City, Philippines, the above-named accused, wearing masks and/or other forms of disguise, conspiring, confederating with other persons whose true names, identities and whereabouts have not as yet been ascertained, and mutually helping one another, with intent to kill, qualified with treachery, and with evident premeditation, taking advantage of superior strength, armed with baseball bats, lead pipes, and cutters, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of DENNIS F. VENTURINA, by then and there hitting him on the head and clubbing him on different parts of his body thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said DENNIS F. VENTURINA.[39]

Zingapan was sufficiently informed that he was being charged with the death of Dennis Venturina, committed through the circumstances provided.

Based on this Information, Zingapan's counsel was able to formulate his defense, which was that of alibi. He was able to allege that he was not at Beach House Canteen at the time of the incident because he was having lunch with his cousin's husband in Kamuning.[40] His defense had nothing to do with whether he might or might not have been wearing a mask during the December 8, 1994 incident since his main defense was that he was not there at all.

Zingapan's right to be informed of the cause or nature of the accusation against him was not violated. The inclusion of the aggravating

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38 *People v. Feliciano, Jr.*, G.R. No. 196735, May 5, 2014, 724 SCRA 148, 171 [Per J. Leonen, Third Division], *citing People v. Sabangan Cabato*, 243 Phil. 262 (1988) [Per J. Cortes, Third Division] and *People v. Veloso*, 197 Phil. 846 (1982) [Per Curiam, En Banc].

39 RTC records, Vol. I, p. 3.

40 CA *rollo*, pp. 165–166, Regional Trial Court Decision.

circumstance of disguise in the Informations did not prevent him from presenting his defense of alibi.

III

Accused-appellants argue that the testimony of University of the Philippines Police Officers Romeo Cabrera (Cabrera) and Oscar Salvador (Salvador) and Dr. Carmen Mislang (Dr. Mislang) from the University of the Philippines Infirmary should have been given credibility by this Court.[41] They also insist that the victims' delay in reporting the incident casts doubt in their credibility as witnesses.[42] Unfortunately, these arguments fail to persuade.

Natalicio testified that he was unable to answer the queries of Cabrera and Salvador since he was more concerned with his injuries and the injuries of his companions.[43] He also denied that Dr. Mislang questioned him on the identity of his attackers.[44]

Even if it were true that Natalicio denied knowing his attackers when he was interviewed by Cabrera, Salvador, and Dr. Mislang, it did not cast doubt on accused-appellants' guilt. The conditions prevailing within the campus at the time of the incident must also be taken into account.

At the time of the incident, the University of the Philippines-Diliman had an existing policy that all students involved in fraternity rumbles would be expelled.[45] Cabrera, Salvador, and Dr. Mislang were employees of the University.[46] Reporting the incident as a fraternity rumble was risking expulsion.[47]

The investigation conducted by the University of the Philippines Police was met with the same difficulty, since the witnesses interviewed were reluctant to speak on fraternity matters:

> As of this date, operatives of the UP Diliman Police have already interviewed sixty (60) persons, twenty five (25) of them mostly students, *refused to comment or to give their names. Most of those who refused to comment said that they don't want to get involved in fraternity matters*[.][48] (Emphasis supplied)

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41 *Rollo*, pp. 577 and 607.
42 Id. at 494, 567–568, and 609–610.
43 CA *rollo*, p. 177.
44 Id. at 176–177.
45 Id. at 193.
46 Id. at 170.
47 Id. at 174.
48 *Rollo*, p. 538, Zingapan's Motion for Reconsideration, *citing* Progress Report dated December 14, 1994, Exhibit "Z".

Under these circumstances, private complainants chose to report the matter to the National Bureau of Investigation as an ordinary crime rather than to report it to school authorities. The University would have treated the matter as a fraternity-related campus incident where *all* parties involved, including private complainants who were also fraternity members, risk academic sanctions. At that time, private complainants decided that reporting to the National Bureau of Investigation, rather than to university officials, was the more prudent course of action.

The alleged delay in reporting the crime also does not cast doubt on private complainants' credibility. The trial court stated:

> [O]n the evening of December 8, 1994, the victims, upon the advice of their senior fraternity brothers, had agreed that the NBI would handle the investigation. This was reached during the fellowship of the Sigma Rho brothers in a racetrack in Makati which Lachica and Gaston attended. Lachica preferred the NBI because he wanted a thorough investigation in view of the gravity of the offense.
>
> So, on the very next day, December 9, 1994, the Vice Grand Archon, Redentor Guerrero, went to the NBI and inquired about the procedure in filing a complaint. Thereafter, their then Grand Archon Jovy Bernabe, with Redentor Guerrero, informed them that they would be going to the NBI together. They were advised to rest and told that they would just be informed when they would go to the NBI. On the 11th, the two informed them that they would go to the NBI the next day and they did.[49]

The incident happened on a Thursday. On the evening of the incident, private complainants agreed that they would report the matter to the National Bureau of Investigation. On Friday, December 9, 1994, they were advised by their senior fraternity brothers to recuperate first from their injuries while their Grand Archon and Vice Grand Archon went to the National Bureau of Investigation to inquire on the procedure. They could not report the incident on December 10 and 11, 1994 because this was a Saturday and a Sunday. They were able to report to the National Bureau of Investigation on December 12, 1994, the Monday following the incident.[50]

The alleged delay in reporting was caused by the gravity of private complainants' injuries, their desire to report to the proper authorities, and the weekend. These circumstances are not enough to disprove their credibility as witnesses.

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[49] CA *rollo*, p. 185.
[50] Id.

Soliva also takes exception to this Court's characterization that the University of the Philippines Police have become desensitized to fraternity-related violence.[51]

It is not disputed that the University of the Philippines has served as a common battleground for fraternity-related violence. In 2007, GMA News compiled a list of casualties of fraternity-related violence at the University of the Philippines.[52] Six (6) students were reported to have died from fraternity-related violence before the December 8, 1994 incident at Beach House Canteen.

Even after the promulgation of our May 5, 2014 Decision, fraternity-related violence remained prevalent within the University. On July 4, 2014, the Office of the Chancellor issued a statement confirming another fraternity-related incident involving students of the University.[53] Another fraternity rumble was reported to have occurred on university grounds.[54] Although no casualties were reported in both incidents, these incidents only amplify the reality that fraternity-related violence continues to be rampant within the University.

The presence of the University of the Philippines Police or the severe sanctions imposed by university officials have done little to deter these crimes. The frequency of these incidents has become the University's cultural norm, where its students—and even university employees—simply regard it as part of university life.

IV

Alvir argues that this Court erred in finding conspiracy among all the accused since the trial court acquitted those who were identified by Mangrobang, Jr.[55] This argument, however, is non sequitur.

The trial court, in acquitting the other accused, stated:

> The foregoing should not be misinterpreted to mean that the testimony of Mangrobang was an absolute fabrication. The Court is not inclined to make such a declaration. The four accused were exonerated

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51 *Rollo*, p. 612.

52 *See Casualties of Frat-Related Violence*, GMA News Online, September 5, 2007 <http://www.gmanetwork.com/news/story/59204/news/casualties-of-frat-related-violence-in-up> (visited August 1, 2016).

53 *See* Jee Y. Geronimo, *Upsilon involved in UP hazing that injured 17-year-old*, Rappler, July 4, 2014 <http://www.rappler.com/nation/62423-up-hazing-frat-upsilon-sigma-phi> (visited August 1, 2016).

54 *See* Erica Sauler, *Frat violence on UP Day: 3 mauled, 5 arrested*, Inquirer News Online, June 20, 2015 <http://newsinfo.inquirer.net/699690/frat-violence-on-up-day-3-mauled-5-arrested> (visited August 1, 2016).

55 *Rollo*, pp. 497–498.

> merely because they were afforded the benefit of the doubt as their identification by Mangrobang, under tumultuous and chaotic circumstances were not corroborated and their alibis, not refuted.[56]

In contrast, Lachica's identification of Alvir was given credibility by the trial court.[57] Alvir's alibi was also found to be weak.[58]

Conspiracy does not require that *all* persons charged in the information be found guilty. It only requires that those who were found guilty conspired in committing the crime. The acquittal of some of the accused does not necessarily preclude the presence of conspiracy.

Of the 10 accused in the Informations, four[59] (4) were acquitted. The trial court was convinced that they were not present during the commission of the crime. Conspiracy cannot attach to those who were not properly identified.

However, Alvir, Zingapan, Soliva, Medalla, and Danilo Feliciano, Jr. (Feliciano) were positively identified by eyewitnesses before the trial court. The prosecution's evidence was enough to convince the trial court, the Court of Appeals, and this Court that they were present during the December 8, 1994 incident and that they committed the crime charged in the Informations. We have also exhaustively examined the evidence on hand, as well as the assessments of the trial court and of the Court of Appeals, to determine that all five (5) of them conspired to commit the crimes with which they were charged. The trial court's acquittal of some of those charged in the Informations has no bearing on our finding that Alvir, Zingapan, Soliva, Feliciano, and Medalla are guilty beyond reasonable doubt.

Soliva, however, argues that our May 5, 2014 Decision did not apply to those who did not appeal to this Court, namely: Feliciano and Medalla.[60] At this point, a re-examination of the rules of appeal in criminal cases may be in order.

To recall the procedural incidents in this case, the trial court's Decision[61] dated February 28, 2002 found Alvir, Zingapan, Soliva, Feliciano, and Medalla guilty beyond reasonable doubt of the murder of Dennis Venturina and the attempted murder of Lachica, Fortes, Natalicio,

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56 CA *rollo*, p. 196.
57 Id. at 198.
58 Id.
59 The case against Benedict Guerrero was archived by the trial court as authorities have not yet been able to arrest him, nor has he voluntarily submitted to the jurisdiction of the trial court.
60 *Rollo*, p. 620.
61 CA *rollo*, pp. 133–215.

Gaston, and Mangrobang, Jr.[62] They were meted the death penalty, and the case was brought to this Court on automatic review.[63]

In view, however, of *People v. Mateo*[64] and the Amended Rules to Govern Review of Death Penalty Cases,[65] this Court referred the case to the Court of Appeals for review. A notice of appeal in this instance was unnecessary. Rule 122, Sections 3(d) and 10 of the Rules of Criminal Procedure, as amended, state:

> RULE 122
> APPEAL
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> . . . .
>
> SEC. 3. *How appeal taken.—*
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> . . . .
>
> (d) *No notice of appeal is necessary in cases where the Regional Trial Court imposed the death penalty. The Court of Appeals shall automatically review the judgment as provided in Section 10 of this Rule.* (3a)
>
> . . . .
>
> SEC. 10. *Transmission of records in case of death penalty. — In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Court of Appeals for automatic review and judgment* within twenty days but not earlier than fifteen days from the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten days after the filing thereof by the stenographic reporter. (Emphasis supplied)

The Court of Appeals was mandated to review the case with regard to *all* five (5) of the accused, now referred to as accused-appellants, regardless of whether they filed a notice of appeal. The review is considered automatic.

During the pendency of the appeal before the Court of Appeals, Congress enacted Republic Act No. 9346,[66] which prohibited courts from

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62 Id. at 215.

63 CONST., art. VIII, sec. 5(2)(d) provides:
SECTION 5. The Supreme Court shall have the following powers:
. . . .
(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
. . . .
(d) All criminal cases in which the penalty imposed is *reclusion perpetua* or higher.

64 477 Phil. 752 (2004) [Per J. Vitug, En Banc].

65 Adm. Order No. 00-5-03-SC (2004).

66 An Act Prohibiting the Imposition of Death Penalty in the Philippines (2006).

imposing the death penalty. In its November 26, 2010 Decision,[67] the Court of Appeals affirmed the trial court's finding that accused-appellants were guilty beyond reasonable doubt of the murder of Dennis Venturina. In view of the proscription on death penalty, the Court of Appeals modified the imposable penalty from death to *reclusion perpetua*.[68]

However, the Court of Appeals disagreed with the trial court's finding that accused-appellants were likewise guilty of attempted murder with regards Lachica, Mangrobang, Jr., and Gaston.[69] It stated that the gravity of their injuries was not indicative of accused-appellants' intent to kill.[70] Instead, the Court of Appeals modified the offense to slight physical injuries.[71] In other words, it found accused-appellants guilty of the murder of Dennis Venturina, the attempted murder of Fortes and Natalicio, and the slight physical injuries of Lachica, Mangrobang, Jr., and Gaston.[72]

Only three (3)—namely: Soliva, Alvir, and Zingapan—of the five (5) accused-appellants filed their respective Notices of Appeal before this Court. The Court of Appeals forwarded the records of the case to this Court, and the entire case was again opened for review under Rule 124, Section 13(b) and (c) of the Rules of Criminal Procedure:

> RULE 124
>
> SEC. 13. *Certification or appeal of case to the Supreme Court.*—
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> . . . .
>
> (b) Where the judgment also imposes a lesser penalty for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more severe offense for which the penalty of death is imposed, and the accused appeals, the appeal shall be included in the case certified for review 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.* (Emphasis supplied)

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67 *Rollo*, pp. 4–74-A.

68 Rep. Act No. 9346 (2006), sec. 2 provides:
SECTION 2. In lieu of the death penalty, the following shall be imposed:
(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or
(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

69 *Rollo*, p. 63.

70 Id.

71 Id. at 64.

72 Id. at 72–74.

In our May 5, 2014 Decision,[73] we reversed the Court of Appeals' modification of the offense from attempted murder to slight physical injuries.[74] We explained that the liabilities of accused-appellants arose from a single incident where the intent to kill was already evident from the first swing of the bat, and that intent was shared by all when the presence of conspiracy was proven. In effect, we affirmed the trial court's ruling that accused-appellants were guilty of the attempted murder of Lachica, Fortes, Natalicio, Gaston, and Mangrobang, Jr.[75]

According to Article 248[76] in relation to Article 51[77] of the Revised Penal Code, attempted murder is punishable by *prision mayor*. Slight physical injuries, on the other hand, is punishable by *arresto menor*. The Court of Appeals, in modifying the offenses with regard to victims Lachica, Gaston, and Mangrobang, Jr., *lowered* some of the imposable penalties of accused-appellants. On appeal to this Court, however, we reverted to the findings of the trial court and brought back the *higher* offense of attempted murder. In this instance, the application of the higher penalty to accused-appellants becomes problematic when only three (3) of them actually appealed to this Court.

The problem lies with the effect of the prohibition of death penalty on the current rules on appeal in the Rules of Criminal Procedure. The amendments introduced in the Amended Rules to Govern Review of Death Penalty Cases still stand even if, as this Court has previously mentioned, "death penalty cases are no longer operational."[78]

In *People v. Rocha*,[79] this Court encountered a similar problem. The issue for resolution was whether the accused's Motion to Withdraw Appeal

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73 *People v. Feliciano, Jr.*, G.R. No. 196735, 724 SCRA 148 [Per J. Leonen, Third Division].

74 Id. at 191.

75 Id.

76 REV. PEN. CODE, art. 248 provides:
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 *reclusión temporal* in its maximum period 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 street car or locomotive, fall of an airship, 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 any 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.

77 REV. PEN. CODE, art. 51 provides:
ARTICLE 51. Penalty to Be Imposed Upon Principals of Attempted Crimes. — The penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony.

78 *People v. Abon*, 569 Phil. 298, 307(2008) [Per J. Velasco, En Banc].

79 558 Phil. 521 (2007) [Per J. Chico-Nazario, Third Division].

before this Court could be granted if the Court of Appeals imposed a penalty of *reclusion perpetua*.[80] The People were of the opinion that the appeal could not be withdrawn since this Court was mandated by the Constitution to review all cases where the penalty imposed is *reclusion perpetua* or higher.[81]

However, this Court ruled that the appeal could still be withdrawn as cases where the penalty imposed is *reclusion perpetua* or higher is not subject to this Court's mandatory review. Thus:

> The confusion in the case at bar seems to stem from the effects of the Decision of this Court in *People v. Mateo*. In *Mateo*, as quoted by plaintiff-appellee, it was stated that "[w]hile the Fundamental Law requires a mandatory review by the Supreme Court of cases where the penalty imposed is *reclusion perpetua*, life imprisonment, or death, nowhere, however, has it proscribed an intermediate review." A closer study of *Mateo*, however, reveals that the inclusion in the foregoing statement of cases where the penalty imposed is *reclusion perpetua* and life imprisonment was only for the purpose of including these cases within the ambit of the intermediate review of the Court of Appeals: "[this] Court now deems it wise and compelling to provide in these cases [cases where the penalty imposed is *reclusion perpetua*, life imprisonment or death] review by the Court of Appeals before the case is elevated to the Supreme Court."
>
> *We had not intended to pronounce in Mateo that cases where the penalty imposed is reclusion perpetua or life imprisonment are subject to the mandatory review of this Court. In Mateo, these cases were grouped together with death penalty cases because, prior to Mateo, it was this Court which had jurisdiction to directly review reclusion perpetua, life imprisonment and death penalty cases alike. The mode of review, however, was different. Reclusion perpetua and life imprisonment cases were brought before this Court via a notice of appeal, while death penalty cases were reviewed by this Court on automatic review. . . .*
>
> . . . .
>
> After the promulgation of *Mateo* on 7 June 2004, this Court promptly caused the amendment of the foregoing provisions, but retained the distinction of requiring a notice of appeal for *reclusion perpetua* and life imprisonment cases and automatically reviewing death penalty cases. . . .
>
> . . . .
>
> *Neither does the Constitution require a mandatory review by this Court of cases where the penalty imposed is reclusion perpetua or life imprisonment. The constitutional provision quoted in Mateo merely gives this Court jurisdiction over such cases*[.] . . .

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80 Id. at 528.

81 *See* CONST., art. VIII, sec. 5(2)(d).

. . . .

> Since the case of accused-appellants is not subject to the mandatory review of this Court, the rule that neither the accused nor the courts can waive a mandatory review is not applicable. Consequently, accused-appellants' separate motions to withdraw appeal may be validly granted.[82] (Emphasis supplied)

Here, the trial court's ruling mandated an automatic review and the case was forwarded to the Court of Appeals per *Mateo* and the Amended Rules to Govern Review of Death Penalty Cases. As the death penalty was abolished during the pendency of the appeal before the Court of Appeals, the highest penalty the Court of Appeals could impose was *reclusion perpetua*. Any review of the Court of Appeals Decision by this Court will never be mandatory or automatic.

In effect, while we can review the case in its entirety and examine its merits, we cannot disturb the penalties imposed by the Court of Appeals on those who did not appeal, namely, Feliciano and Medalla. This is consistent with Rule 122, Section 11(a) of the Rules of Criminal Procedure:

> RULE 122
> APPEAL
>
> SEC. 11. *Effect of appeal by any of several accused.* —
>
> (a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter[.]

As our May 5, 2014 Decision was *unfavorable* to accused-appellants, those who did not appeal must not be affected by our judgment. The penalty of *arresto menor* imposed by the Court of Appeals on Feliciano and Medalla in Criminal Case Nos. Q95-61134, Q95-61135, and Q95-61136 stands.

In view, however, of *People v. Jugueta*,[83] the damages previously awarded must also be increased. In *Jugueta*, we stated that "civil indemnity is, technically, not a penalty or a fine; hence, it can be increased by [this] Court when appropriate."[84] We also explained that the Civil Code did not fix the amount of moral damages, exemplary damages, and temperate

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82 *People v. Rocha*, 558 Phil. 521, 530–535 (2007) [Per J. Chico-Nazario, Third Division], *citing People v. Mateo*, 477 Phil. 752, 770–771 (2004) [Per J. Vitug, En Banc].

83 G.R. No. 202124, April 4, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/202124.pdf> [Per J. Peralta, En Banc].

84 Id. at 14, *citing Corpuz v. People of the Philippines*, 734 Phil. 353, 416 (2014) [Per J. Peralta, En Banc].

damages that may be awarded; thus, the amount is within this Court's discretion to determine.[85]

In Criminal Case No. Q95-61133, the award of civil indemnity, moral damages, and exemplary damages are increased to ₱100,000.00,[86] respectively. The amount of temperate damages to be awarded is increased to ₱50,000.00.[87] In Criminal Cases Nos. Q95-61134, Q95-61135, Q95-61136, Q95-61137, and Q95-61138, the award of moral damages and exemplary damages are increased to ₱50,000.00,[88] respectively.

V

Soliva takes exception to this Court's statements on fraternity culture and argued that these have no basis on facts or evidence.[89] Unfortunately, our May 5, 2014 Decision was not the first time that this Court expressed its sentiments on the issue of fraternity-related violence.

In *Villareal v. People*,[90] this Court found five (5) promising young men guilty beyond reasonable doubt of reckless impudence resulting in homicide for the death of Lenny Villa, an Ateneo law student and a neophyte of Aquila Legis Fraternity. This Court could only lament on accused-appellants' fate and the senseless loss of life in the name of a so-called "brotherhood," stating:

> *It is truly astonishing how men would wittingly — or unwittingly — impose the misery of hazing and employ appalling rituals in the name of brotherhood. There must be a better way to establish "kinship."* A neophyte admitted that he joined the fraternity to have more friends and to avail himself of the benefits it offered, such as tips during bar examinations. Another initiate did not give up, because he feared being looked down upon as a quitter, and because he felt he did not have a choice. Thus, for Lenny Villa and the other neophytes, joining the Aquila Fraternity entailed a leap in the dark. *By giving consent under the circumstances, they left their fates in the hands of the fraternity members. Unfortunately, the hands to which lives were entrusted were barbaric as they were reckless.*[91] (Emphasis supplied)

Indeed, the blind loyalty held by fraternity members to their "brothers" defies logic or reason.

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85 Id. at 15–18, 28.
86 Id. at 28–29.
87 Id. at 34.
88 Id. at 28–29.
89 *Rollo*, pp. 611–612.
90 680 Phil. 527 (2012) [Per J. Sereno, Second Division].
91 Id. at 605.

In *People v. Colana*,[92] an innocent college student, Librado De la Vega (De la Vega), became collateral damage between two rival fraternities in Far Eastern University. When De la Vega passed Phi Lambda Epsilon officer Leonardo Colana's (Colana) group on his way to school, the head of Colana's fraternity told him that De la Vega was a member of Alpha Kappa Rho, their rival fraternity. The group approached De la Vega as Colana, armed with an ice pick, stabbed De la Vega repeatedly. They left De la Vega on the street to die.

On appeal, this Court affirmed the trial court's finding that Colana was guilty beyond reasonable doubt of murder, stating that "[m]otive for the killing was revenge. On a prior occasion some members of the Epsilon fraternity were beaten allegedly by members of the Alpha fraternity."[93]

This Court likewise briefly mentioned the senselessness of De la Vega's death:

> What is lamentable is that De la Vega was not an FEU student, much less a member of the Alpha fraternity. He used to be an engineering student at the Feati University. At the time of his death, he was studying typing.[94]

Death or injuries caused by fraternity rumbles are not treated as separate or distinct crimes, unlike deaths or injuries as a result of hazing. They are punishable as ordinary crimes of murder, homicide, or physical injuries under the Revised Penal Code.

The prosecution of fraternity-related violence, however, is harder than the prosecution of ordinary crimes. Most of the time, the evidence is merely circumstantial. The reason is obvious: loyalty to the fraternity dictates that *brods* do not turn on their *brods*. A crime can go unprosecuted for as long as the brotherhood remains silent.

Perhaps the best person to explain fraternity culture is one of its own. Raymund Narag was among those charged in this case but was eventually acquitted by the trial court. In 2009, he wrote a blog entry outlining the culture and practices of a fraternity, referring to the fraternity system as "a big black hole that sucks these young promising men to their graves."[95] This, of course, is merely his personal opinion on the matter. However, it is illuminating to see a glimpse of how a fraternity member views his

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92 211 Phil. 216 (1983) [Per J. Aquino, Second Division].
93 Id. at 217.
94 Id. at 219.
95 Raymund Narag, *Inside the brotherhood: Thoughts on Fraternity Violence*, The blog of Raymund Narag, December 10, 2009 <https://raymundnarag.wordpress.com/2009/12/10/inside-the-brotherhood-thoughts-on-fraternity-violence> (visited August 1, 2016).

disillusionment of an organization with which he voluntarily associated. In particular, he writes that:

> The fraternities anchor their strength on secrecy. Like the Sicilian code of *omerta*, fraternity members are bound to keep the secrets from the non-members. They have codes and symbols the frat members alone can understand. They know if there are problems in campus by mere signs posted in conspicuous places. They have a different set [sic] of communicating, like inverting the spelling of words, so that ordinary conversations cannot be decoded by non-members.
>
> It takes a lot of acculturation in order for frat members to imbibe the code of silence. The members have to be a mainstay of the *tambayan* to know the latest developments about new members and the activities of other frats. Secrets are even denied to some members who are not really in to [sic] the system. They have to earn a reputation to be part of the inner sanctum. It is a form of giving premium to become the "true blue member".
>
> The code of silence reinforces the feeling of elitism. The fraternities are worlds of their own. They are sovereign in their existence. They have their own myths, conceptualization of themselves and worldviews. Save perhaps to their alumni association, they do not recognize any authority aside from the head of the fraternity.[96]

The secrecy that surrounds the traditions and practices of a fraternity becomes problematic on an evidentiary level as there are no set standards from which a fraternity-related crime could be measured. In *People v. Gilbert Peralta*,[97] this Court could not consider a fraternity member's testimony biased without any prior testimony on fraternity behavior:

> Esguerra testified that as a fraternity brother he would do anything and everything for the victim. A witness may be said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color or pervert the truth, or to state what is false. To impeach a biased witness, the counsel must lay the proper foundation of the bias by asking the witness the facts constituting the bias. In the case at bar, there was no proper impeachment by bias of the three (3) prosecution witnesses. *Esguerra's testimony that he would do anything for his fellow brothers was too broad and general so as to constitute a motive to lie before the trial court. Counsel for the defense failed to propound questions regarding the tenets of the fraternity that espouse absolute fealty of the members to each other. The question was phrased so as to ask only for Esguerra's personal conviction*[.][98] (Emphasis supplied)

The inherent difficulty in the prosecution of fraternity-related violence forces the judiciary to be more exacting in examining all the evidence on

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96 Id.

97 403 Phil. 72 (2001) [Per J. De Leon, Second Division].

98 Id. at 88, *citing People v. Watin*, 67 OG 5901.

hand, with due regard to the peculiarities of the circumstances. In this instance, we have thoroughly reviewed the arguments presented by accused-appellants in their Motions for Reconsideration and have weighed them against the evidence on hand. Unfortunately, their Motions have not given us cause to reconsider our May 5, 2014 Decision.

WHEREFORE, this Court resolves to **DENY with FINALITY** the Motions for Reconsideration, both dated July 1, 2014, of accused-appellants Robert Michael Beltran Alvir and Warren L. Zingapan. The Motion for Modification of Judgment dated October 30, 2014 filed by accused-appellant Robert Michael Beltran Alvir is **DENIED**.

The Motion for Reconsideration of accused-appellant Christopher Soliva, however, is **PARTLY GRANTED**. Judgment of the Court of Appeals is hereby **MODIFIED** as follows:

(1) In Criminal Case No. Q95-61133, accused-appellants Robert Michael Beltran Alvir, Danilo Feliciano, Jr., Christopher Soliva, Julius Victor Medalla, and Warren L. Zingapan are found **GUILTY** beyond reasonable doubt of murder and are sentenced to suffer the penalty of *reclusion perpetua*, without parole.

In addition, the accused-appellants are ordered to jointly and severally pay the heirs of Dennis Venturina the following amounts:

(a) ₱100,000.00 as civil indemnity;
(b) ₱139,642.70 as actual damages;
(c) ₱50,000.00 as temperate damages;
(d) ₱100,000.00 as moral damages; and
(e) ₱100,000.00 as exemplary damages.

(2) In Criminal Cases No. Q95-61134, Q95-61135, Q95-61136, Q95-61137, and Q95-61138, accused-appellants Robert Michael Beltran Alvir, Danilo Feliciano, Jr., Christopher Soliva, Julius Victor Medalla, and Warren L. Zingapan are found **GUILTY** beyond reasonable doubt of attempted murder.

Accused-appellants Robert Michael Beltran Alvir, Christopher Soliva, and Warren L. Zingapan are sentenced to suffer the indeterminate penalty of two (2) years, six (6) months, and one (1) day of *prision correccional* as minimum and twelve (12) years of *prision mayor* as maximum.

Danilo Feliciano, Jr. and Julius Victor Medalla are sentenced to suffer *arresto menor*, or thirty (30) days of

imprisonment.

In addition, all accused-appellants are ordered to jointly and severally pay private complainants Leonardo Lachica, Cesar Mangrobang, Jr., Cristobal Gaston, Jr., Mervin Natalicio, and Arnel Fortes the following amounts:

(a) ₱50,000.00 as moral damages; and
(b) ₱50,000.00 as exemplary damages.

Accused-appellants Robert Michael Beltran Alvir, Christopher Soliva, and Warren L. Zingapan are additionally ordered to jointly and severally pay private complainant Mervin Natalicio ₱820.50 as actual damages.

All awards of damages shall earn 6% legal interest per annum from the finality of this judgment until its full satisfaction.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

I dissent and maintain my original opinion

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

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

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
AUG 25 2016