Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JOHN PAUL S. ATUP, *Petitioner,*	**G.R. No. 229395 [Formerly UDK-15672]**
- versus -	
PEOPLE OF THE PHILIPPINES, *Respondent.*	
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IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF JOHN PAUL S. ATUP,	**G.R. No. 252705**
	Present:
	PERLAS-BERNABE, *S.A.J.*, *Chairperson*, HERNANDO, INTING, GAERLAN, and DIMAAMPAO, *JJ.*
	Promulgated:
JOHN PAUL S. ATUP, *Petitioner.*	NOV 10 2021
x----------x	

D E C I S I O N

INTING, *J.*:

Before the Court are two petitions filed by John Paul S. Atup (petitioner) which the Court consolidated in the Resolution[1] dated June 28, 2021:

[1] *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), pp. 124-125.

(1) Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court docketed as G.R. No. 229395 [Formerly UDK-15672] assailing the Resolutions dated May 27, 2015[3] and August 16, 2016[4] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01930, which dismissed petitioner's appeal for failure to file an appellant's brief within the reglementary period, and thus, rendering as final and executory the Joint Decision[5] dated January 8, 2013 of Branch 51, Regional Trial Court (RTC), [redacted], Bohol. The RTC found: (a) petitioner and his co-accused guilty of Rape under Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353, otherwise known as "The Anti-Rape Law of 1997," in Criminal Case Nos. 0101 and 0101-A; and (b) petitioner guilty of Frustrated Murder under Article 248 of the RPC in Criminal Case No. 0102.

(2) Petition for Issuance of a Writ of *Habeas Corpus*[6] docketed as G.R. No. 252705, wherein petitioner asserts that: (1) he was a minor at the time of the commission of the crime, and thus, entitled to the remedy under the writ; and (2) he should be allowed to avail himself of the privileges under Section 51 of RA 9344,[7] otherwise known as "Juvenile Justice and Welfare Act of 2006."

In the matter of G.R. No. 229395.

Under two (2) Amended Complaints,[8] petitioner and his co-accused, namely: Sodum Decasa (Decasa), Ronde Estorba a.k.a. Rondy Estorba (Estorba), Jairius Atup a.k.a. Julius Atup (Jairius) and Luwell Gamalo (Gamalo) were charged with two (2) counts of Rape, Frustrated Murder, and Robbery with Homicide, as follows:

In Criminal Case No. 0101 (Rape):

x x x x

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2 *Id.* at 6-17.
3 *Id.* at 29-33; penned by Associate Justice Marie Christine Azcarraga-Jacob with Associate Justices Marilyn B. Lagura-Yap and Ma. Luisa Quijano-Padilla, concurring.
4 CA *rollo*, pp. 149-150.
5 *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), pp. 41-59; penned by Presiding Judge Pablo R. Magdoza.
6 *Rollo* (G.R. No. 252705), pp. 3-32.
7 Approved on April 28, 2006.
8 *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), pp. 42-44.

That on or about the 7th day of October, 1997, in the [redacted], [P]rovince of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above[-]named accused, conspiring, confederating and helping with one another, with lewd designs, and with the use of force and intimidation, did then and there wilfully, unlawfully, and feloniously poke a pointed weapon at her neck, removed her pant[s] and underwear, force her to lie down and thereafter accused Julius Atup lay on top of her and insert his erect penis into her vagina while all other accused were holding her thus the said accused succeeded in having carnal knowledge with the said victim [AAA],[9] without her consent and against her will; to the damage and prejudice of the said offended party

Acts committed contrary to law.[10]

In Criminal Case No. 0101-A (Rape):

x x x x

That on or about the 7th day of October, 1997, in the [redacted], [P]rovince of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping with one another, with lewd designs, and with the use of force and intimidation, did then and there wilfully, unlawfully, and feloniously poke a pointed weapon at her neck, removed her pant[s] and underwear, force her to lie down and thereafter accused Sodum Decasa lay on top of her and insert his erect penis into her vagina while all other accused were holding her, thus the said accused succeeded in having carnal knowledge with the said victim [AAA], without her consent and against her will; to the damage and prejudice of the said offended party

Acts committed contrary to law.[11]

In Criminal Case No. 0102 (Frustrated Murder):

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[9] The identity of the victim or any information to establish or compromise their identity, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;" RA 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

[10] *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), pp. 42-43.

[11] *Id.* at 44.

x x x x

That on or about the 7th day of October, 1997, in the [redacted], [P]rovince of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with intent to kill, with abuse of or taking advantage of superior strength, and treachery, by suddenly attacking the victim [AAA] who was unarmed without affording her an opportunity to defend herself, did then and there willfully, unlawfully and feloniously attack, assault and stab the said [AAA], a defenseless woman, with the use of a bladed-weapon, thereby inflicting upon the vital parts of her body mortal wounds and injuries; thus the said accused in said manner performed all the acts of execution which would have produced the crime of Murder, as a consequence, but nevertheless did not produce it by reason of a cause independent of their will, that is, the immediate medical assistance and treatment extended to the victim which prevented her death; to the damage and prejudice of the offended party.

Acts committed contrary to the provisions of Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, in relation to Articles 6 and 50 of the Revised Penal Code.[12]

In Criminal Case No. 0103 (Robbery with Homicide):

x x x x

That on or about the 7th day of October, 1997, in the [redacted], [P]rovince of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with intent to gain, armed with a bladed weapon and employing force and intimidation on the person of [BBB], did then and there willfully, unlawfully and feloniously demand and take the wallet of the said [BBB] and thereafter take, steal and carry away money in an undetermined amount belonging to [BBB] and that by reason or on the occasion of the said robbery, the said accused with intent to kill and without justifiable cause, and with abuse of or taking advantage of superior strength, did then and there willfully, unlawfully, and feloniously stab and beat with a piece of wood the victim hitting the latter on the different parts of his body; and thereafter pressed the victim into the canal and hit him ([BBB]) with stones which resulted to the latter's death with the generic aggravating circumstance of the crime having been committed by a band; to the damage and prejudice of the heirs of the deceased in the amount to be proved during trial

[12] *Id.* at 45.

Acts committed contrary to the provisions of Articles 293 and 294, No. 1 of the Revised Penal Code, as amended by Rep. Act No. 7659 in relation to Art. 14, No. 6 of the Revised Penal Code.[13]

Version of the Prosecution

The prosecution established that on the evening of October 7, 1997, AAA was with her suitor, BBB. Also with them were CCC and her boyfriend, DDD. The four of them went to [redacted] Dam in [redacted] Bohol. Upon arrival at [redacted] Dam, AAA and BBB sat on a stone bench while CCC and DDD sat in a separate bench about five steps away. While the four were leisurely spending time with each other, six persons, later identified as herein petitioner, Decasa, Estorba, Jairius, Gamalo, and Ruben Mangmang (Mangmang) approached them. The group demanded money from them and told AAA and BBB not to resist. In the meantime, the other person known as Mangmang left the scene. At that point, Estorba poked a knife at AAA's side. Out of fear, AAA gave Estorba ₱3.00 while BBB gave Decasa ₱500.00. Discontented, Decasa forcibly grabbed BBB's wallet. Thereafter, petitioner and his co-accused brought AAA and BBB to a lower portion of the dam. BBB was about six meters away from AAA when he saw Gamalo undress AAA. From her end, AAA saw Decasa stab BBB three times with the use of a knife, push him into a canal, and hit him with a big stone; and Estorba hit him with a piece of wood.[14]

After BBB was left to die in the canal, petitioner, Decasa, Gamalo, and Estorba approached AAA, who was being held by Jairius. The five accused helped one another in removing AAA's pair of long pants and t-shirt. AAA resisted and begged for mercy, but all the accused laughed at her. After undressing her, one of the accused pushed AAA to the ground. Thereafter, Decasa went on top of AAA and inserted his penis into her vagina. All the while, the others fondled her breasts. After Decasa satisfied himself, Jairius took over and likewise inserted his penis into AAA's vagina while the other accused held her body. After the rape, Decasa stabbed AAA several times in the different parts of her body. AAA shouted for mercy but Decasa uttered: "*you will tell others so you should die.*" With 31 stab wounds, AAA lost consciousness.[15]

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[13] *Id.* at 46-47.
[14] *Id.* at 48-49.
[15] *Id.* at 49.

Nothing short of a miracle, AAA regained consciousness. The five accused were no longer in the area. She put on her long pants and staggered towards the nearest house to ask for help. [redacted] and his wife, owners of the nearby house, helped her contact her father. After about thirty minutes, AAA's father arrived and immediately brought her to a hospital for treatment. Due to her serious injuries, she was confined for one week at the [redacted] Memorial Hospital. After regaining her strength, AAA, accompanied by her parents, went to the Philippine National Police (PNP) Crime Laboratory of the Regional Office VII where she was examined by Dr. Nestor A. Satur, Medico-Legal Officer.[16]

Version of the Defense

For the defense, all of the accused testified and denied the allegations against them; except for Decasa, who remained at large during the entire proceedings of the case.[17]

In their version of the incident, petitioner, Jairius, and Estorba alleged that in the afternoon of October 7, 1997, they attended a birthday party.[18] After consuming five gallons of tuba, they, this time with Mangmang, Gamalo, and Decasa, decided to go to [redacted], Bohol to attend another birthday party. In the second birthday party, all of them consumed beer and Tanduay Rhum. At around 10:00 p.m., the group left the party and decided to walk home. When they passed by [redacted] Dam, and felt tired, they rested in a hut. Petitioner and Jairius fell asleep. After a few minutes, Jairius was awakened by Mangmang, who told him that Decasa killed somebody and requested that Jairius follow him to the lower portion of the dam. Jairius followed Mangmang but upon reaching the highway, Mangmang suddenly ran away. At that point, Jairius heard a person moaning in pain; he heard Decasa utter: "*who is that?*" Out of fear, Jairius walked away slowly. On the other hand, petitioner and Estorba ran away in order to hide from Decasa. Petitioner and Jairius arrived in their house at around 4:00 a.m.[19]

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[16] *Id.* at 49-50.
[17] *Id.* at 47.
[18] *Id.* at 53.
[19] *Id.* at 54-55.

The RTC Ruling

The RTC in the Joint Decision[20] dated January 8, 2013 ruled as follows:

I. In Criminal Case Nos. 0101 and 0101-A, the RTC found petitioner and his co-accused Estorba, Jairius, and Gamalo guilty beyond reasonable doubt of two (2) counts of Rape and sentenced each of them to suffer the penalty of *reclusion perpetua* for each count;

II. In Criminal Case No. 0102, the RTC found petitioner guilty beyond reasonable doubt of Frustrated Murder and sentenced him to suffer the penalty of seventeen (17) years, four (4) months and one (1) day to twenty (20) years of *reclusion temporal* maximum. However, it acquitted his co-accused: Estorba, Jairius, and Gamalo; and

III. In Criminal Case No. 0103, the RTC found Estorba guilty beyond reasonable doubt of Robbery with Homicide and sentenced him to suffer the penalty of *reclusion perpetua.* However, it acquitted petitioner, Jairius, and Gamalo.

The dispositive portion of the RTC Joint Decision reads:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Ronde Estorba a.k.a. Rondy Estorba, John Paul Atup, Jairius Atup a.k.a. Julius Atup and Luwell Gamalo GUILTY beyond reasonable doubt of the crime of Rape in Criminal Case No. 0101 and the Court hereby sentences each of said accused to suffer the penalty of Reclusion Perpetua. Said accused are further ordered to indemnify [AAA], jointly and severally the amount of ₱100,000.00 as moral damages.
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> In Criminal Case No. 0101-A, the Court finds accused Ronde Estorba a.k.a. Rondy Estorba, John Paul Atup, Jairius Atup a.k.a. Julius Atup and Luwell Gamalo GUILTY beyond reasonable doubt of the crime of Rape, and the Court hereby sentences each of said accused to suffer the penalty of Reclusion Perpetua. Said accused are further ordered to indemnify [AAA], jointly and severally the amount of ₱100,000.00 as moral damages.

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[20] *Id.* at 41-59.

> In Criminal Case No. 0102, the Court finds accused John Paul Atup GUILTY beyond reasonable doubt of the crime of Frustrated Murder under Article 248 of the Revised Penal Code, as Amended by R.A. No. 7659, in relation to Articles 6 and 50 of the Revised Penal Code, and the Court hereby sentences said accused to suffer an indeterminate penalty of imprisonment from 17 Years, 4 Months and 1 Day to 20 Years of Reclusion Temporal Maximum. Said accused if further ordered to indemnify [AAA] the amount of ₱5,905.00 as actual damages and ₱50,000.00 as moral damages. Accused Ronde Estorba a.k.a. Rondy Estorba, Jairius Atup a.k.a. Julius Atup and Luwell Gamalo are ACQUITTED of the crime charged because of reasonable doubt.
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> In Criminal Case No. 0103 the Court finds accused Ronde Estorba a.k.a. Rondy Estorba GUILTY beyond reasonable doubt of the crime of Robbery with Homicide punishable under paragraph 1 of Article 294 of the Revised Penal Code as Amended, and the Court hereby sentences said accused to suffer the penalty of Reclusion Perpetua. Said accused is hereby further ordered to indemnify the heirs of [BBB] the amount of ₱50,000.00 as moral damages and ₱50,000.00 in the form of death indemnity.
>
> Accused John Paul Atup, Jairius Atup a.k.a. Julius Atup and Luwell Gamalo are ACQUITTED of the crime charged because of reasonable doubt.
>
> SO ORDERED.[21]

On February 4, 2013,[22] petitioner and his brother, Jairius, filed a Notice of Appeal[23] on the RTC Joint Decision dated January 8, 2013. Estorba filed his separate Notice of Appeal[24] on February 8, 2013.

On December 22, 2014, the Court sent notices for the filing of brief to petitioner and Jairius, through their common counsel, Atty. Bayani S. Atup; and to Estorba, through his counsel Atty. Michael Doria.[25]

On February 20, 2015, petitioner and Jairius filed a Motion for Extension to File Appellant's Brief but did not submit any brief with the CA. Meanwhile, Escorba received the notice to file brief on January 26,

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[21] *Id.* at 58-59.
[22] Erroneously dated January 4, 2013.
[23] Records (Criminal Case No. 0101), pp. 762-765.
[24] *Id.* at 771-772.
[25] *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), p. 32.

2015 and he similarly did not file an appellant's brief.[26]

The CA Ruling

In the Resolution[27] dated May 27, 2015, the CA considered the case abandoned for failure of the petitioner, Jairius, and Escorba to file their respective appellant's briefs. Accordingly, it ordered the case dismissed pursuant to Section 1(e), Rule 50, in relation to Section 8, Rule 124, of the Rules of Court.[28]

For failure to promptly challenge the CA Resolution despite due notice, the CA Resolution dated May 27, 2015 became final and executory on July 2, 2015.[29]

On April 5, 2016, or more than nine months after the finality of the dismissal of his appeal, petitioner, through counsel, filed a Motion for Reconsideration[30] asserting that the imposed penalty was not in conformity with law. The motion did not provide any explanation for petitioner's failure to submit the necessary appellant's brief with the CA.

On August 16, 2016, the CA denied the Motion for Reconsideration "*for being filed out of time since it was filed only in the 287th day from receipt of notice of the May 27, 2015 Resolution by his counsel, Atty. Bayani S. Atup.*"[31]

Hence, the Petition for Review on *Certiorari*[32] was filed and docketed as *G.R. No. 229395*.

Petitioner prays for the reinstatement of his appeal and for the Court to consider the privilege mitigating circumstance of minority in his favor.

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[26] *Id.*
[27] *Id.* at 29-33.
[28] *Id.* at 32.
[29] See Entry of Judgment, CA *rollo*, pp. 110-111.
[30] *Id.* at 112-115.
[31] *Id.* at 149.
[32] *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), pp. 6-17.

The Office of the Solicitor General (OSG) filed its Comment on the petition.

In the matter of G.R. No. 252705.

On July 16, 2020, petitioner filed a Petition for Issuance of the Writ of *Habeas Corpus*[33] with the Court.

In the petition, petitioner asserted that he was a child offender as he was allegedly a minor, 16 years old, when he committed the crime, and thus, should be confined in an agricultural camp or any other training facility and not in the New Bilibid Prison (NBP) as provided under Section 51 of RA 9344.

The OSG filed a Comment[34] dated October 7, 2020. In the Comment, it alleged that petitioner's confinement in a regular penal institution during trial and after conviction was in accordance with law. The RTC's discretion in detaining youthful offenders during trial is clearly outlined in Article 191 of Presidential Decree No. (PD) 603.[35] Moreover, the OSG raised that after conviction of petitioner, the RTC has still the discretion as to his detention as clearly provided under Sections 40 and 51 of RA 9344.[36]

Sections 40 and 51 of RA 9344 provides:

> SECTION 40. *Return of the Child in Conflict with the Law to Court.* — x x x x
>
> If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.
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> x x x x

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[33] *Rollo* (G.R. No. 252705), pp. 3-32.
[34] *Id.* at 97-103.
[35] Entitled, "The Child and Youth Welfare Code," approved on December 10, 1974.
[36] *Rollo* (G.R. No. 252705), pp. 99-101.

> SECTION 51. *Confinement of Convicted Children in Agricultural Camps and other Training Facilities.* — A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

Thus, the OSG concluded that the use of the word "may" connotes discretion on the part of the trial court whether or not to confine the convicted child in conflict with the law in a regular penal facility or in a training facility or agricultural camp.[37]

In his Reply[38] dated October 26, 2020, petitioner argued that the commitment of the youthful offender to the Department of Social Welfare and Development, a local rehabilitation center, or a detention home from the time of his arrest is mandatory under Article 191 of PD 603.[39] Moreover, he insisted that Section 51 of RA 9344 is not merely discretionary, but mandatory on the part of the RTC.[40]

Issues

I. Whether the judgment of conviction issued by the RTC may still be modified;

II. Whether petitioner is entitled to a privilege mitigating circumstance of minority; and

III. Whether petitioner is entitled to a writ of *habeas corpus*.

Our Ruling

The petitions are devoid of merit.

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[37] *Id.* at 101.
[38] *Id.* at 78-93.
[39] *Id.* at 79.
[40] *Id.* at 84-85.

In G.R. No. 229395

Foremost, the Court finds that the CA, in G.R. No. 229395, did not err when it deemed petitioner's appeal as abandoned and accordingly, dismissed his appeal for his failure to timely file an appellant's brief.

Section 8,[41] Rule 124 of the Rules of Court provides that the CA may, upon motion or on its own, with notice to the appellant, dismiss the appeal if the appellant did not file his or her appellant's brief within the reglementary period, unless the appellant is represented by a counsel *de oficio*.

In the case, petitioner and his co-accused, who were *not* shown to be represented by a counsel *de officio*, filed a motion for extension of time to file brief; yet, they did not submit the required brief before the CA. While petitioner moved for a reconsideration of the dismissal of the appeal, the motion did not give any explanation for his noncompliance with the requirement to file a brief on time. Apart from this, petitioner did not at all append in the motion the appellant's brief required by the Rules. On these facts alone, the Court finds that the CA has sufficient reasons in considering the appeal abandoned and accordingly dismissing it.

Let it be underscored too, that petitioner did not only fail to submit his appellant's brief with the CA within the reglementary period; but even belatedly filed his motion for reconsideration. In fact, it took him more than nine months from notice before he moved for a reconsideration on the denial of his appeal. As noted by the CA, the Motion for Reconsideration was submitted only on the 287th day from receipt of notice by petitioner's counsel of the dismissal of petitioner's appeal. As a consequence, the CA issued an entry of judgment in the case.

Under the circumstances, for failure to submit his appellant's brief

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[41] Section 8, Rule 124 of the Rules of Court provides:

SEC. 8. *Dismissal of Appeal for Abandonment or Failure to Prosecute.* — The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de oficio*.

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within the prescribed period, the CA had basis, in fact and law, in dismissing the appeal.

Time and again, the Court has stressed that the right to appeal is not a natural but a statutory privilege and must be pursued in accordance with the law. It follows that the party who intends to pursue it must observe the requirements of the Rules; otherwise, his or her right to appeal is lost.[42] Definitely, strict compliance with the Rules of Court is indispensable for the orderly and speedy disposition of justice.

Veritably, considering the final and executory decision on the case, *the Court is already precluded from taking cognizance of the issues and matters raised in the instant petition.*

Well settled is the rule that "a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest court of the land, rendered it."[43] On certain recognized exceptions, however, the Court has suspended the application of this rule based on: "(a) the existence of special or compelling circumstances; (b) the merits of the case; (c) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (d) a lack of any showing that the review sought is merely frivolous and dilatory; and (e) the other party will not be unjustly prejudiced thereby."[44]

In *Britchford v. Alapan*,[45] the Court also discussed the time-honored doctrine of immutability of judgment, its effects, and some of the exceptions to the general rule:

> A decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true

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[42] *Polintan v. People*, 604 Phil. 42, 47 (2009), citing *Spouses Ortiz v. Court of Appeals*, 360 Phil. 95, 100-101 (1998).

[43] *Schulze, Sr. v. National Power Corporation*, G.R. No. 246565, June 10, 2020, citing *Apo Fruits Corporation v. Land Bank of the Philippines*, 647 Phil. 251, 288 (2010).

[44] *Almuete v. People*, 706 Phil 166, 184 (2013), citing *Sanchez v. Court of Appeals*, 452 Phil 665, 674 (2003). See also *Dra. Baylon v. Fact-Finding Intelligence Bureau*, 442 Phil. 217, 230-231 (2002).

[45] 823 Phil. 272 (2018).

> whether the modification is made by the court that rendered it or by the highest court in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write finis to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred.
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> The only exceptions to the rule on the immutability of final judgments are (1) the correction of clerical errors, (2) the so-called nunc pro tunc entries which cause no prejudice to any party, and (3) void judgments.[46]

In *Go v. Echavez*,[47] the Court explained the four exceptions to the general rule in this wise:

> The rule, however, admits exceptions: first, the correction of clerical errors; second, the making of *nunc pro tunc* entries which causes no prejudice to any party; third, an attack against a void judgment; and fourth and last, supervening events that render execution unjust and inequitable.
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> Clerical errors cover all errors, mistakes, or omissions that result in the record's failure to correctly represent the court's decision. However, courts are not authorized to add terms it never adjudged, nor enter orders it never made, although it should have made such additions or entered such orders.
>
> In other words, to be clerical, the error or mistake must be plainly due to inadvertence or negligence. Examples of clerical errors include the interchange of the words "mortgagor" and "mortgagee," and the correction of the dispositive portion to read "heirs of Joaquin Avendaño" instead of "heirs of Isabela Avendaño."
>
> *Nunc pro tunc* is Latin for "now for then." Its purpose is to put on record an act which the court performed, but omitted from the record through inadvertence or mistake. It is neither intended to render a new judgment nor supply the court's inaction. In other words, a *nunc pro tunc* entry may be used to make the record speak the truth,

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[46] *Id.* at 283, citing *One Shipping Corp. v. Peñafiel*, 751 Phil. 204, 211 (2015).
[47] 765 Phil. 410 (2015).

but not to make it speak what it did not speak but ought to have spoken.

A void judgment or order has no legal and binding effect. It does not divest rights and no rights can be obtained under it; all proceedings founded upon a void judgment are equally worthless.

Void judgments, because they are legally nonexistent, are susceptible to collateral attacks. A collateral attack is an attack, made as an incident in another action, whose purpose is to obtain a different relief. In other words, a party need not file an action to purposely attack a void judgment; he may attack the void judgment as part of some other proceeding. A void judgment or order is a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head. Thus, it can never become final, and could be assailed at any time.

Nevertheless, this Court has laid down a stiff requirement to collaterally overthrow a judgment. In the case of *Reyes, et al. v. Datu*, We ruled that it is not enough for the party seeking the nullity to show a mistaken or erroneous decision; he must show to the court that the judgment complained of is utterly void. In short, the judgment must be void upon its face.

Supervening events, on the other hand, are circumstances that transpire after the decision's finality rendering the execution of the judgment unjust and inequitable. It includes matters that the parties were not aware of prior to or during the trial because such matters were not yet in existence at the time. In such cases, courts are allowed to suspend execution, admit evidence proving the event or circumstance, and grant relief as the new facts and circumstances warrant.

To successfully stay or stop the execution of a final judgment, the supervening event: (I) must have altered or modified the parties' situation as to render execution inequitable, impossible, or unfair; and (ii) must be established by competent evidence; otherwise, it would become all too easy to frustrate the conclusive effects of a final and immutable judgment.[48]

In the case at bench, the Court highlights the fact that the judgment of conviction issued by the RTC had become final and executory when petitioner and his co-accused abandoned the case in the CA by not filing their appellants' brief despite their counsel's receipt of the notice to file it; and even after requesting for an extension of time to do so. The judgment had become immutable; hence, could no longer be

[48] *Id.* at 423-425.

changed, revised, amended, or reversed. Significantly, none of the exceptions of the doctrine of immutability of judgment is applicable that would warrant a modification of the final and executory judgment of conviction. To be sure, there was no evidence adduced showing that the challenged judgment of conviction is a void judgment, or that there are supervening events that would render the execution of judgment unjust and inequitable.

Notably, petitioner insists before the Court that he was a minor at the time the crimes were committed. In order to prove his assertion, petitioner presented a mere photocopy of his Birth Certificate[49] dated October 4, 1995, issued by the Office of the Local Civil Registrar of the Municipality of Sierra Bullones, Province of Bohol. With this predicament, the Court finds no ground to apply any of the exceptions on the immutability of judgment; thus it cannot consider the document forwarded by the petitioner.

Let it be underscored too, that petitioner's birth certificate reveals that it was not authenticated by the National Statistics Office, now the Philippine Statistics Authority (PSA). Thus, this gives the Court more reason not to accept the document as evidence of petitioner's supposed minority at the time of the commission of the crime. Definitely, the best evidence to prove petitioner's age is the original copy of his birth certificate duly authenticated by the PSA.

A mere claim that petitioner is a minor is not sufficient because the prosecution has no more opportunity to refute and present evidence to controvert petitioner's allegation of a privileged mitigating circumstance of minority after his conviction. Likewise, after issuance of the judgment of conviction, the Court has no more opportunity to determine the age and minority of the petitioner based on pieces of evidence other than his birth certificate, which is a mere photocopy. The Court must be more cautious in evaluating and admitting documentary evidence submitted after trial, or after judgment of conviction had become immutable. Otherwise, the rule on immutability of judgment may easily be defeated.

Hence, for failure of petitioner to prove that the case falls

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[49] *Rollo* (G.R. No. 229395 [Formerly UDK-15672]), p. 60.

within the exceptions to the doctrine of immutability of judgment in order for the Court to consider his belated evidence of age of minority during the commission of the crime, then any question involving the judgment of conviction against petitioner must be put to rest.

However, the Court modifies the penalty imposed in Criminal Case No. 0102 wherein the RTC convicted petitioner of Frustrated Murder and sentenced him to suffer the penalty of "17 years, 4 months and 1 day to 20 years of *reclusion temporal* maximum."[50]

It is well settled that a sentence which imposes upon the defendant in a criminal prosecution a penalty in excess of the maximum which the court is authorized by law to impose for the offense for which the defendant was convicted, is void for want or excess of jurisdiction as to the excess.[51] Thus, the Court can still correct penalties imposed, notwithstanding the finality of the decisions because they were outside the range of penalty prescribed by law.[52]

After a careful scrutiny of the penalty imposed by the RTC against petitioner in Criminal Case No. 0102, the Court finds that it is outside the range of penalty prescribed by law.

Article 248 of the RPC, as amended, prescribes the penalty of *reclusion perpetua* to death for the crime of Murder. Moreover, Article 50 of the RPC provides that "[t]he penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony." Hence, the penalty for Frustrated Murder is *reclusion temporal*, which is one degree lower from *reclusion perpetua*.

Under the Indeterminate Sentence Law, the maximum term of the indeterminate sentence shall be taken in view of the attending circumstances that could be properly imposed under the rules of the RPC, and the minimum term shall be within the range of penalty next lower to that prescribed by the RPC.[53] One degree lower from *reclusion*

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[50] *Id.* at 58.

[51] *Bigler v. People*, 782 Phil. 158, 167 (2016), citing *Sumbilla v. Matrix Finance Corporation*, 762 Phil. 130, 140 (2015).

[52] *Id.*

[53] Section 1, Republic Act No. 4103.

temporal is *prision mayor* which ranges from six (6) years and one (1) day to twelve (12) years imprisonment. Applying the Indeterminate Sentence Law, there being no mitigating and aggravating circumstance, petitioner should be sentence to a penalty of imprisonment for an indeterminate period of twelve (12) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

In G.R. No. 252705

The Petition for Issuance of the Writ of *Habeas Corpus* in G.R. No. 252705 must likewise be dismissed for lack of merit. To be sure, the writ of *habeas corpus* is unavailing because the confinement of petitioner is in accordance with legal processes, court orders, and final judgment of conviction issued by the RTC.

It bears stressing that a writ of *habeas corpus* can only be availed if the confinement and custody is illegal or unlawful.[54] Rule 102 of the Rules of Court on *Habeas Corpus* provides:

> SECTION. 1. *To what habeas corpus extends.* — Except as otherwise expressly provided by law, the writ of *habeas corpus* shall extend to all cases of *illegal confinement or detention* by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto. (Italics supplied.)

It is likewise settled under Section 4 of Rule 102 of the Rules of Court that if the confinement of the person is by virtue of a process issued by a court or judge or by reason of a judgment or order of a court and that the court or judge who issued the order has jurisdiction, the writ of *habeas corpus* shall not be allowed, thus:

> SEC. 4. *When writ not allowed or discharge authorized.* — If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process,

[54] See *So v. Hon. Tacla, Jr., et al.*, 648 Phil 149, 160 (2010).

> judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment.

In this regard, the Court in *Ampatuan v. Judge Macaraig*,[55] reaffirmed that the issuance of a writ of *habeas corpus* presupposes an illegal confinement of the person asking for the issuance of the writ:

> Plainly stated, the writ obtains immediate relief for those who have been illegally confined or imprisoned without sufficient cause. The writ, however, should not be issued when the custody over the person is by virtue of a judicial process or a valid judgment.
>
> The most basic criterion for the issuance of the writ, therefore, is that the individual seeking such relief is illegally deprived of his freedom of movement or placed under some form of illegal restraint. If an individual's liberty is restrained via some legal process, the writ of habeas corpus is unavailing. Fundamentally, in order to justify the grant of the writ of *habeas corpus*, the restraint of liberty must be in the nature of an illegal and involuntary deprivation of freedom of action.[56]

Here, the issue to be resolved is whether petitioner's incarceration in the NBP is lawful. The Court answers in the affirmative.

Petitioner was incarcerated in the NBP by virtue of a Commitment Order[57] dated January 3, 2014 issued by Branch 48 of the RTC, Tagbilaran City after it issued a Joint Decision convicting petitioner of two (2) counts of Rape and one (1) count of Frustrated Murder.

Even before the trial, petitioner's confinement in the PNP Jail in Sierra Bullones, Bohol was through a valid court order to arrest petitioner and his co-accused. Likewise, petitioner's transfer from the PNP Jail in Sierra Bullones to the Bohol Detention and Rehabilitation Center was based on the court's findings that the crimes charged against petitioner and his co-accused were capital offenses and the pieces of evidence of their guilt were strong. Moreover, records reveal that on September 15, 2006 petitioner escaped from detention and was rearrested only on December 15, 2012. This is the reason for his

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[55] 636 Phil. 269 (2010).
[56] *Id.* at 279.
[57] *Rollo* (G.R. No. 252705), pp. 69-70.

reconfinement in a jail facility. Evidently, *petitioner's confinement before, during, and after trial is by virtue of a judicial process and a valid judgment*. Petitioner was imprisoned with sufficient legal cause.[58]

In *In re: Abellana v. Paredes*[59] (*Abellana*), the Court had the occasion to rule that the writ of *habeas corpus* may be availed of as a post-conviction remedy when, as a consequence of a judicial proceeding, any of the following exceptional circumstances is attendant: (1) there has been a deprivation of a constitutional right resulting in the restraint of a person; (2) the court had no jurisdiction to impose the sentence; or (3) the imposed penalty has been excessive, thus, voiding the sentence as to such excess.[60] The exceptional circumstances are absent in the instant case.

In *Abellana*, the Court held that when the detention complained of finds its origin in what has been judicially ordained, the range of inquiry in a *habeas corpus* proceeding is considerably narrowed.[61] Mere allegation of a violation of one's constitutional right is not enough.[62] The violation of constitutional right must be sufficient to void the entire proceedings.[63] This, petitioner failed to show.

Because petitioner failed to adduce sufficient evidence of violation of his constitutional right, there is no reason for the Court to relax or suspend the rule on immutability of judgment and the strict requirements on the issuance of writ of *habeas corpus*. Certainly, the Petition for Issuance of a Writ of *Habeas Corpus* should be denied.

WHEREFORE, in G.R. No. 229395 [Formerly UDK-15672], the petition is **DENIED**. The Resolutions dated May 27, 2015 and August 16, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 01930 are **AFFIRMED with MODIFICATION** in that in Criminal Case No. 0102, petitioner John Paul S. Atup is sentenced to a penalty of imprisonment for an indeterminate period of twelve (12) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

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58 *Id.* at 100.
59 G.R. No. 232006, July 10, 2019.
60 *Id.*, citing *Go v. Dimagiba*, 499 Phil. 445, 456 (2005).
61 *Id.*, citing *Gumabon v. Director of the Bureau of Prisons*, 147 Phil. 362, 368 (1971).
62 *Id.*
63 *Id.*, citing *Alejano v. Cabuay*, 505 Phil. 298, 310 (2005).

The Petition for Issuance of a Writ of *Habeas Corpus* filed by petitioner John Paul S. Atup in G.R. No. 252705 is **DENIED** for lack of merit.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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