THIRD DIVISION

G.R. No. 227951 – CARLOS PAULO BARTOLOME y ILAGAN and JOEL BANDALAN y ABORDO, *Petitioners*, **v. PEOPLE OF THE PHILIPPINES,** *Respondent.*

Promulgated:
June 28, 2021

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DISSENTING AND CONCURRING OPINION

LEONEN, *J.*:

Before this Court are petitioners Carlos Paulo Bartolome y Ilagan (Bartolome) and Joel Bandalan y Abordo (Bandalan), alleged members of the Tau Gamma Phi, whom the lower courts found guilty[1] of hazing John Daniel Samparada y Llamera (Samparada),[2] causing his death.[3]

The *ponencia* granted the Petition and acquitted petitioners.[4] It found no direct evidence linking them to Samparada's death,[5] and the circumstantial evidence presented was deemed insufficient to prove their guilt beyond reasonable doubt.[6] It discussed that the prosecution failed to prove all the elements of hazing.[7] The circumstantial evidence likewise failed to establish that Samparada was hazed, and that petitioners were responsible for his death, to the exclusion of others.[8]

The prosecution's sole evidence to prove the hazing was Senior Police Officer 2 Jo Norman A. Patambang (SPO2 Patambang)'s testimony that petitioners admitted to a hazing incident that occurred in a field in Dasmariñas, Cavite.[9] But as the *ponencia* observed, petitioners neither admitted their involvement nor mentioned the fraternity that conducted the hazing.[10] Thus, the prosecution had to investigate further at the Lyceum of the Philippines University-Cavite, where Samparada was enrolled.[11]

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1 Ponencia, pp. 4–5.
2 Id. at 3.
3 Id. at 2.
4 Id. at 7.
5 Id.
6 Id. at 11–12.
7 Id. at 12.
8 Id.
9 Id.
10 Id. at 12–13.
11 Id. at 13.

More, the *ponencia* found that the assessment of Samparada's injuries was not conclusive of hazing.[12] It ruled that while Samparada was subjected to physical suffering, his injuries may not have been caused by hazing. It found that the failure to prove his status as a recruit prevented the conclusion that his injuries were caused by hazing.[13] The injuries were not deemed proof of an initiation rite conducted by Tau Gamma Phi as a requisite for admission into membership.[14]

The *ponencia* did not lend any credence to the document found on petitioner Bartolome's person which was related to the fraternity. While he may be connected to it, the *ponencia* said this did not establish his membership, since he could well be just another neophyte.[15] It likewise found that Samparada being with petitioners when he fell unconscious, and petitioners accompanying him to the hospital, did not prove that they were responsible for the injuries.[16] This circumstantial evidence failed to exclude the possibility that some other persons caused the injuries.[17]

The *ponencia* compared the facts here to those in *Dungo v. People*,[18] noting that in *Dungo*, it was established that the fraternity was conducting an initiation rite through hazing and the victim was a neophyte.[19] Here, no testimony supported the claim that Samparada was a recruit, and he was merely presumed to be a hazing victim because of the document found in petitioner Bartolome.[20]

Finally, it ruled that while a *prima facie* presumption of participation exists when hazing was committed in one's presence, the presumption cannot arise as to petitioners, since the hazing itself was not proven.[21]

I disagree with some of the *ponencia*'s conclusions, and would like to emphasize a few points.

I

Hazing is the infliction of "physical or psychological suffering, harm, or injury" to a person who seeks to be a member of a fraternity, sorority, association, or any organization, and is:

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12 Id.
13 Id.
14 Id. at 14.
15 Id.
16 Id. at 16.
17 Id.
18 Id. at 17.
19 Id. at 20.
20 Id.
21 Id. at 21.

> *. . . made as a prerequisite for admission or a requirement for continuing membership in a fraternity, sorority, or organization including, but not limited to, paddling, whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical and psychological health of such recruit, neophyte, applicant, or member. This shall also include any activity, intentionally made or otherwise, by one person alone or acting with others, that tends to humiliate or embarrass, degrade, abuse, or endanger, by requiring a recruit, neophyte, applicant, or member to do menial, silly, or foolish tasks.*[22] (Emphasis supplied)

This Court has deemed hazing to be a shameful exercise of cruelty, which should no longer be tolerated:

> Hazing is a form of deplorable violence that has no place in any civil society, more so in an association that calls itself a brotherhood. It is unthinkable that admissions to such organizations are marred by ceremonies of psychological and physical trauma, all shrouded in the name of fraternity. This practice of violence, regardless of its gravity and context, can never be justified. This culture of impunity must come to an end.[23]

This violence is not imagined.[24] It is deeply ingrained in the culture of many fraternities, leading to senseless deaths and injuries.[25] Thus, hazing was penalized under Republic Act No. 8049. It was later amended by Republic Act No. 11053, or the Anti-Hazing Act of 2018.

Hazing was criminalized to deter it from being a requirement for acceptance in an association or organization, and to hold those who commit it accountable for the violence they committed on other persons. In *Fuertes v. Senate*:[26]

> The intent of the Anti-Hazing Law is to deter members of a fraternity, sorority, organization, or association from making hazing a requirement for admission. By making the conduct of initiation rites that cause physical and psychological harm *malum prohibitum*, the law rejects the defense that one's desire to belong to a group gives that group the license to injure, or even cause the person's death:
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> > The public outrage over the death of Leonardo "Lenny" Villa — the victim in this case — on 10 February 1991 led to a very strong clamor to put an end to hazing.

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22 Republic Act No. 11053 (2018), sec. 2(a).

23 *Villarba v. Court of Appeals*, G.R. No. 227777, June 15, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66301> [Per J. Leonen, Third Division].

24 *People v. Feliciano, Jr.*, 792 Phil. 371 (2016) [Per J. Leonen, Special Third Division].

25 Id.

26 G.R. No. 208162, January 7, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66134> [Per J. Leonen, En Banc].

> Due in large part to the brave efforts of his mother, petitioner Gerarda Villa, groups were organized, condemning his senseless and tragic death. This widespread condemnation prompted Congress to enact a special law, which became effective in 1995, that would criminalize hazing. The intent of the law was to discourage members from making hazing a requirement for joining their sorority, fraternity, organization, or association. Moreover, the law was meant to counteract the exculpatory implications of "consent" and "initial innocent act" in the conduct of initiation rites by making the mere act of hazing punishable or *mala prohibita*.
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> . . . To emphasize, the Anti-Hazing Law aims to prevent organizations from making hazing a requirement for admission. The increased penalties imposed on those who participate in hazing is the country's response to a reprehensible phenomenon that persists in schools and institutions. The Anti-Hazing Law seeks to punish the conspiracy of silence and secrecy, tantamount to impunity, that would otherwise shroud the crimes committed.
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> In fact, the amendments on the imposable penalties introduced by Republic Act No. 11053 bolster the State's interest in prohibiting hazing. As noted by public respondents, a P3-million fine shall be imposed in addition to the penalty of *reclusion perpetua* for those who actually planned or participated in the hazing if it results in death, rape, sodomy, or mutilation. Further, Republic Act No. 11053 put in place imposable penalties on certain members, officers, and alumni of the organization involved in the hazing, and prescribes the administrative sanctions, if applicable. The concealment of the offense or obstruction of the investigation is also penalized.
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> Notably, Section 14 (c) of Republic Act No. 11053 imposes the penalty of *reclusion temporal* in its maximum period and a P1-million fine on all persons present in the conduct of the hazing. This new penalty affirms the law's policy to suppress the escalation and encouragement of hazing, and to severely punish bystanders and watchers of the reprehensible acts committed.[27] (Citations omitted)

In *People v. Feliciano, Jr.*,[28] this Court acknowledged the difficulty of proving the violence inflicted by fraternities because of the culture of silence, secrecy, and blind loyalty dictated among its members:

> 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.
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> 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

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27 Id.

28 792 Phil. 371 (2016) [Per J. Leonen, Special Third Division].

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." 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 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.
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> 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.

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*, 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*[.]

> The inherent difficulty in the prosecution of fraternity-related violence forces the judiciary to be more exacting in examining all the evidence on hand, with due regard to the peculiarities of the circumstances[.][29] (Emphasis in the original, citations omitted)

Nonetheless, this Court in *Villarba v. Court of Appeals*[30] ruled that conviction for hazing is still possible through a single, credible witness:

> Contrary to petitioner's claim, the testimony of a single witness may suffice to attain conviction if it is deemed credible. The prosecution has no obligation to present a certain number of witnesses; after all, testimonies are weighed, not numbered. It is inconsequential that only the victim testified on the events that transpired during the hazing. If the trial court found the sole testimony of the victim credible, conviction may ensue.
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> This is not unusual in prosecutions of hazing cases, where the reluctance of fraternity members to speak about the initiation rites persists. In *Dungo v. People*:
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> > Needless to state, the crime of hazing is shrouded in secrecy. Fraternities and sororities, especially the Greek organizations, are secretive in nature and their members are reluetant to give any information regarding initiation rites. The silence is only broken after someone has been injured so severely that medical attention is required. It is only at this point that the secret is revealed and the activities become public. . . .
>
> Against Dordas's candid testimony, petitioner's defense of denial utterly fails. This Court has settled that "mere denial . . . is inherently a weak defense and constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters." Petitioner's denial is no exception.[31] (Citations omitted)

Furthermore, hazing need not be proven by direct evidence. Circumstantial evidence may suffice. In *Dungo v. People*:[32]

> While it is established that nothing less than proof beyond reasonable doubt is required for a conviction, this exacting standard does not preclude resort to circumstantial evidence when direct evidence is not available. Direct evidence is not a condition *sine qua non* to prove the guilt of an accused beyond reasonable doubt. For in the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden. Crimes are usually committed in secret and under conditions where concealment is highly probable. If direct evidence is insisted on under all circumstances, the prosecution of vicious felons who

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29 Id. at 400–402

30 *Villarba v. Court of Appeals*, G.R. No. 227777, June 15, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66301> [Per J. Leonen, Third Division].

31 Id.

32 762 Phil. 630 (2015) [Per J. Mendoza, Second Division].

commit heinous crimes in secret or secluded places will be hard, if not impossible, to prove.

Needless to state, the crime of hazing is shrouded in secrecy. Fraternities and sororities, especially the Greek organizations, are secretive in nature and their members are reluctant to give any information regarding initiation rites. The silence is only broken after someone has been injured so severely that medical attention is required. It is only at this point that the secret is revealed and the activities become public. Bearing in mind the concealment of hazing, it is only logical and proper for the prosecution to resort to the presentation of circumstantial evidence to prove it.

The rules on evidence and precedents to sustain the conviction of an accused through circumstantial evidence require the existence of the following requisites: (1) there are more than one circumstance; (2) the inference must be based on proven facts; and (3) the combination of all circumstances produces a conviction beyond reasonable doubt of the guilt of the accused. To justify a conviction upon circumstantial evidence, the combination of circumstances must be such as to leave no reasonable doubt in the mind as to the criminal liability of the accused. Jurisprudence requires that the circumstances must be established to form an unbroken chain of events leading to one fair reasonable conclusion pointing to the accused, to the exclusion of all others, as the author of the crime.[33] (Citations omitted)

II

Here, the evidence shows that Samparada was indeed hazed.

The medico-legal report[34] of Dr. Jonathan A. Serranillo, the physician who autopsied Samparada's body, reads:

. . . the cause of death of [Samparada] was "BLUNT TRAUMATIC INJURIES TO THE HEAD AND LOWER EXTREMITIES" and contained findings of "hematoma" on both of his thighs as well as "multiple abrasions" on his right arm[.][35] (Citation omitted)

There was also a finding of "subdural and subarachnoidal bleeding most noted at the left cerebral lobe" and "dural discoloration/contusion at the posterior region of the left middle cranial fossa."[36]

Additionally, in concluding that Samparada was hazed, the lower courts considered the following documentary evidence:

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33 Id. at 678–679.
34 Medico-Legal Report No. A-438-09 dated November 4, 2009.
35 *Rollo*, p. 43, Court of Appeals Decision.
36 Id.

> (i) Pinagsamang Sinumpaang Salaysay dated October 22, 2009 of SPO2 Jo Norman A. Patambang, PO3 Elmer A. Mendoza and PO3 Arwin M. Torres stating that they were tasked to investigate after a victim of hazing was brought by accused-appellants to Estrella Hospital and that accused-appellants, from whom the police officers recovered a document with handwritten markings relating to Tau Gamma Phi Fraternity, told the police officers that the hazing occurred in a field in Dasmariñas, Cavite; (ii) Initial Investigation Report of SPO2 Jo Norman A. Patambang; (iii) Spot Report dated October 22, 2009 of SPO2 Jo Norman A. Patambang; (iv) pictures of John Daniel Samparada showing the injuries he sustained in his thighs and back; (v) document containing handwritten notes of "I love Tau Gamma Phi," "Tau Gamma Phi," "Tau Gamma Sigma," "Mabuhay Lyceum of Phil. Univ.-CC," "TRISKELION," as well as different names including the name of accused-appellant Carlos Paulo Bartolome; (v) photographs of accused-appellants[.][37] (Citations omitted)

The lower courts also considered other circumstances: (1) the police officers received a call from Estrella Hospital telling them that a hazing victim was brought to the hospital;[38] (2) the hospital staff informed the investigating officers that Samparada was a victim of hazing as shown from the bruises on his thighs;[39] and (3) SPO2 Patambang testified that petitioners themselves stated that there was a hazing incident at 10:00 a.m. on October 22, 2009 in a farm in Area C, Dasmarinas, Cavite.[40] They told SPO2 Patambang that they went to Silang, Cavite for an outing after the hazing, and that was where Samparada lost consciousness.[41] SPO2 Patambang testified:

> Q: After going out to find out who were the persons who brought the victim to the hospital, what happened next?
> A: 'Nakita naming yong tatlo (3) na papalayo kaya ang ginawa ng kasama ko ay hinabol at kinausap namin'.
>
> Q: Mr. Witness, going back to the victim as a side question, what was the preliminary assessment of the Doctor who made the Medical Report with respect to the victim.
> A: 'Pagdating pa lang sa hospital, sabi nila victim ng Hazing'.
>
> Q: Upon seeing the body of the victim, what was your initial findings?
> A: 'Sa tingin ko talagang sa Hazing gawa ng mga pasa niya sa hita. Mukha naman talagang pinalo'.
>
> Q: Going back to the original question, after accosting said individuals for questioning, what happened next?
> A: 'Yong isa di na nahold ng tropa, bale yong dalawa lang and nahold (sic) nila. Tinanong ko kung sino yung (sic) victim'.
>
> Q: You asked them who the victim is?

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37 Id.
38 Ponencia, p. 2.
39 Id. at 2–3.
40 Id. at 3.
41 Id.

A: Yes, sir.

. . . .

Q: After confronting said individuals or the accused, what happened next?
A: 'Tinanong ko sila kung sino yong victim pero ang sabi nila John lang'.

Q: What happened next Mr. Witness?
A: 'Hindi sila kumikibo sa mga tanong. Pinaliliwanagan ko sila na isasama ko sila sa Police Station'.

Q: What happened next? What explanation did you give to the accused in the instant case?
A: 'Sinabi ko sa kanila na isasailalim sila sa investigation dahil sa pangyayaring Hazing'.

Q: Then, what happened next?
A: 'Pinaliwanagan ko sila ng mga Karapatan nila at isinama sa Police Station'.

Q: Can you tell us where is that Police Station where you took these two (2) individuals?
A: Silang Municipal Police Station.

Q: During the investigation, what was the result of your investigation?
A: Wala po silang sinasabi kungdi sa Area C nangyari yong Hazing. Pero ayaw nila kumibo, kaya lang sila nakapagsalita tulad ng dumating yong parents and relatives nila pero directly, hindi po sila nasagot'.[42]

Considering the evidence, it is reasonable to conclude that Samparada's injuries resulted from hazing. The police did not only deduce it from the injuries, but the hospital staff also confirmed it. It is telling that when Samparada was brought to Estrella Hospital, the nurse on duty identified petitioners and required them to have their pictures taken and to write their names and addresses, "per hospital policy as far as cases of this nature are concerned and based on initial assessment[.]"[43]

Moreover, SPO2 Patambang testified that *petitioners themselves told him that Samparada was hazed.* A clear statement that Samparada had been subjected to hazing was made.

Notably, hazing is not limited to harm or injury on neophytes seeking membership in a fraternity. It covers even the harm inflicted on all members of the fraternity, sorority, or organization as a requirement for continuing membership.[44] That Samparada was not proven to be a neophyte will not take away the reality that he was hazed, when the evidence is clear.

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42 Id. at 11–12.
43 *Rollo*, p. 43.
44 Republic Act No. 11053 (2018), sec. 2(a).

III

Under the Anti-Hazing Act, even those who did not actually harm the victim, but simply stood by while a victim is hazed, will still be punished as a principal in the crime. Section 14, paragraph 4 of the law states:

> The presence of any person, even if such person is not a member of the fraternity, sorority, or organization, during the hazing is *prima facie* evidence of participation therein as a principal unless such person or persons prevented the commission of the acts punishable herein or promptly reported the same to the law enforcement authorities if they can do so without peril to their person or their family.

The following must first be proved before a disputable presumption arises against a person who was present during the hazing: (1) the act of hazing itself; and (2) the presence of the persons during the hazing. Once this disputable presumption arises, the burden of proof shifts to those present to prove the contrary. They may either show that they were not present in the hazing, or that they attempted to prevent it.

In *Fuertes*, this Court explained the reason behind the disputable presumption: Acting as an audience to hazing encourages those committing the violence, and in many cases, inspires them to take it to the extremes.[45] This Court said:

> This Court has upheld the constitutionality of disputable presumptions in criminal laws. The constitutional presumption of innocence is not violated when there is a logical connection between the fact proved and the ultimate fact presumed. When such *prima facie* evidence is unexplained or not contradicted by the accused, the conviction founded on such evidence will be valid. However, the prosecution must still prove the guilt of the accused beyond reasonable doubt. The existence of a disputable presumption does not preclude the presentation of contrary evidence.
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> . . . .
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> Here, petitioner fails to show that a logical relation between the fact proved — presence of a person during the hazing — and the ultimate fact presumed — their participation in the hazing as a principal — is lacking. Neither has it been shown how Section 14 of the Anti-Hazing Law does away with the requirement that the prosecution must prove the participation of the accused in the hazing beyond reasonable doubt.
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> On the contrary, the study of human behavior has shown that being surrounded by people who approve or encourage one's conduct impairs

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[45] *Fuertes v. Senate*, G.R. No. 208162, January 7, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66134> [Per J. Leonen, En Banc].

otherwise independent judgment, be it in the form of peer pressure, herd mentality, or the bystander effect.

The term "groupthink" was coined by American psychologist Irving L. Janis to describe the phenomenon of "mental deterioration of mental efficiency, reality testing, and moral judgment that results from group pressures." He observed:

> Groups, like individuals, have shortcomings. Groups can bring out the worst as well as the best in man. Nietzsche went so far as to say that madness is the exception in individuals but the rule in groups. A considerable amount of social science shows that in circumstances of extreme crisis, group contagion occasionally gives rise to collective panic, violent acts of scapegoating, and other forms of what could be called group madness.

The failure of individuals in a group to intervene allows evil acts to persist, as explained by Philip Zimbardo, the American psychologist behind the controversial Stanford Prison Experiment:

> In situations where evil is being practiced, there are perpetrators, victims, and survivors. However, there are often observers of the ongoing activities or people who know what is going on and do not intervene to help or to challenge the evil and thereby enable evil to persist by their inaction.
>
> It is the good cops who never oppose the brutality of their buddies beating up minorities on the streets or in the back room of the station house. It was the good bishops and cardinals who covered over the sins of their predatory parish priests because of their overriding concern for the image of the Catholic Church. They knew what was wrong and did nothing to really confront that evil, thereby enabling these pederasts to continue sinning for years on end (at the ultimate cost to the Church of billions in reparations and many disillusioned followers).
>
> Similarly, it was the good workers at Enron, WorldCom, Arthur Andersen, and hosts of similarly corrupt corporations who looked the other way when the books were being cooked. Moreover, as I noted earlier, in the Stanford Prison Experiment it was the good guards who never intervened on behalf of the suffering prisoners to get the bad guards to lighten up, thereby implicitly condoning their continually escalating abuse. It was I, who saw these evils and limited only physical violence by the guards as my intervention while allowing psychological violence to fill our dungeon prison. By trapping myself in the conflicting roles of researcher and prison superintendent, I was overwhelmed with their dual demands, which dimmed my focus on the suffering taking place before my eyes. I too was thus guilty of the evil of inaction.

> Through their express and implicit sanction, observers of hazing aggravate the abuses perpetuated upon neophytes. As an American fraternity member explained, hazing is "almost like performance art" where the so-called audience plays as much of a role as the neophytes at the center of the initiation rites. Hazing derives its effectiveness from the humiliation it achieves. Humiliation requires an audience. The audience provides the provocation, goading the actors to escalate borderline conduct toward more extreme behavior that would otherwise be intolerable. In situations like this, presence is participation.
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> . . . .
>
> Thus, those group members who do not actually perform the hazing ritual, but who by their presence incite or exacerbate the violence being committed, may be principals either by inducement or by indispensable cooperation.[46] (Citations omitted)

Here, while hazing did occur, I agree with the *ponencia* that the evidence is not sufficient to prove that petitioners were present during Samparada's hazing.

Petitioners testified that they were with Samparada when he fell, had difficulty in breathing, and lost consciousness.[47] Petitioner Bandalan testified:

> Q: What happened, Mr. Witness, when you were at the house of your friend?
> A: Nun nandoon na po kami sa bahay ng kaibigan namin bigla na lang natumba si John.
>
> Q: Who is this John, Mr. Witness?
> A: Bale yung biktima.
>
> Q: Are you referring to the victim in this case John Samparada?
> A: Opo.
>
> Q: What happened, Mr. Witness, when John Samparada fell to the ground?
> A: Bumangon po siya at sinabi n[i]ya po sa amin na nahihirapan daw po siyang huminga.
>
> Q: Thereafter that stated made (sic) by the victim that he is suffering difficulty in breathing, what happened next?
> A: Pinaupo po namin siya.
>
> Q: After John was able to . . . sit what happened next, if any, Mr. Witness?
> A: Tumayo ulit siya.
>
> Q: After John stands (sic) up, what happened, if any, Mr. Witness?
> A: Bigla na lang po ulit siyang natumba.

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46 Id.

47 *Rollo*, pp. 45–46.

Q: When John fell again to the ground, what did you do, if any, Mr. Witness?
A: Bale humingi po siya ng tulong sa amin na dalhin siya sa ospital dahil nahihirapan daw po siya huminga.

Q: What was your response to the statement made by the victim John?
A; Bale tinulungan po namin si John at iyong ibang kasama namin tumawag ng tricycle para dalhin sa pinakamalapit na hospital.

. . . .

Q: When you brought down John Samparada from the tricycle he was still conscious?
A: Wala na po siyang malay nun malapit na po sa hospital.[48] (Citation omitted)

Petitioner Bartolome likewise confirmed that he was with Samparada when he had to be brought to the hospital:

Q: While you were there in the house of Ivan, what happened next?
A: 'Inayos po namin yong pinamili [namin] at bigla na lang po natumba si John Samparada at tumama po yong ulo niya sa sahig'.

Q: When John Samparada fall down (sic), what happened next?
A: 'Bale po pinaupo po namin siya'.

Q: After you assist John Samparada to sit down, what happened next?
A: 'Bigla po siyang tumayo'.

Q: After John Samparada stood up, what happened next, if any?
A: 'Bigla po siya natumba'.

Q: For the second time that John Samparada fell down to the floor, what happened next, if any?
A: 'Dumaing po siya sa amin, na nagpapadala po siya sa hospital'.

Q: What was your reaction after John Samparada told you to bring him to the hospital?
A: 'Tinulungan po namin siya at yong iba naming kasama tumawag po ng tricycle'.

. . . .

Q: When he was brought to the hospital, do you know if he was conscious?
A: 'Opo'.

Q: Can he still talk?
A: 'Opo'.

Q: Did you hear his complaints of any pain?
A: 'Wala na'.

Q: Thereafter, you knew that he died?

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[48] Id.

A: 'Opo'.[49] (Citation omitted)

While petitioners were with Samparada before he died, there is no concrete evidence that they were present during the hazing. The hazing may have occurred before they got together, given that the prosecution did not present evidence that Samparada sustained his injuries while with them. Petitioners could very well be members of the fraternity that hazed Samparada, but it does not mean they were present during the hazing.

Thus, the disputable presumption cannot arise as to petitioners. There is reasonable doubt that they are the persons guilty of the crime charged.

Nonetheless, I maintain that hazing occurred, and this Court should not turn a blind eye to its indicative circumstances. Samparada's body was found to have sustained several injuries in various parts of his body that suggest hazing. He was last seen in the company of petitioners, one of whom was found with a document related to a fraternity.

Petitioners also notably failed to account for Samparada's severe injuries in their testimonies. They simply said he fell and hit his head. Not only were Samparada's injuries unlikely to have been caused by a fall, but given his state when he was brought to the hospital, it is curious how petitioners provided so little information on the matter. There was no sensible explanation as to how they thought Samparada came to be injured that way, or why they only brought him to the hospital when he was already in that condition. It was not their testimony, but that of SPO2 Patambang, that confirmed the nature of Samparada's injuries.

The injuries sustained by the victim, and the silence and secrecy surrounding the circumstances here, are consistent with fraternity-related violence. To ignore these may set back the advancements this Court has made to hold accountable those who commit the atrocious crime of hazing.

ACCORDINGLY, I dissent as to the finding that no hazing occurred. Nonetheless, for the prosecution's failure to prove guilt beyond reasonable doubt, I vote to **GRANT** the Petition.

MARVIC M.V.F. LEONEN
Associate Justice

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[49] Id.