



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated March 3, 2021 which reads as follows:

“G.R. No. 227041 – DENNIS DELA PEÑA, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

After a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the Decision¹ dated March 17, 2016 and Resolution² dated September 1, 2016 of the Court of Appeals – Twelfth Division (CA) in CA-G.R. CR No. 37089. The facts, as borne out by the records, sufficiently support the conclusion that petitioner Dennis Dela Peña (petitioner) is indeed guilty of the crime of Direct Assault upon an Agent of a Person in Authority. The issues and matters raised before the Court, the same ones as those raised in the CA, were sufficiently addressed and correctly ruled upon by the CA.

According to jurisprudence, the crime of Direct Assault upon an Agent of a Person in Authority has the following elements:

1. That the offender (a) makes an attack, (b) employs force, (c) makes a serious intimidation, or (d) makes a serious resistance;
2. That the person assaulted is a person in authority or his agent;
3. That at the time of the assault, the person in authority or his agent (a) is engaged in the actual performance of official duties, or (b) is assaulted by reason of the past performance of official duties;
4. That the offender knows that the one he is assaulting is a person in authority or his agent in the exercise of his duties; and
5. That there is no public uprising.³

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¹ *Rollo*, pp. 29-38. Penned by Associate Justice Manuel M. Barrios, with Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio-Diy concurring.

² *Id.* at 40-42.

³ *Gueles v. People*, 811 Phil. 37, 58-59 (2017).

In this appeal, petitioner reiterates his argument that the third element of the crime is not present. Similar to the appeals made to the Regional Trial Court and the CA, petitioner hinges this argument on the supposed inconsistencies in the victim's testimony on what he was doing at the time of the encounter.

The Court, however, agrees with the disposition of the CA as regards the same arguments. The Court thus quotes with approval the following disquisitions by the CA:

We have carefully reviewed the evidence on record and have reached the conclusion that the crime of Direct Assault Upon An Agent Of A Person In Authority has been established against petitioner. The first, second, fourth and fifth elements are readily apparent from the uncontested testimonies of private complainants. It is conceded that complainant Carlos Antonio is a Barangay Tanod of Barangay Santol and, as such, is an agent of a person in authority pursuant to Section 388 of the Local Government Code. He was attacked by herein petitioner Dennis who boxed him on his left jaw and subsequently hit him with a piece of wood. Gleaned from the contemporaneous statement "*walang bara-barangay, magpahinog kayong mag-ama,*" it is clearly apparent that petitioner and his brother were cognizant of private complainant's public position as a barangay official and that the latter was in the performance of his functions. It is equally worthy to emphasize that petitioner never denied that he attacked Carlos.

The third element was adequately proven. It is quite obvious that the antecedent cause for the attack was the admonition of Carlos to the group of petitioner not to be rowdy and noisy so as not to disturb the neighbors. This was apparently resented by the petitioner and his brother who went after Carlos and attacked him, evidently by reason of or on the occasion of the performance of his duties as barangay tanod.

We find no merit to the contention that Carlos was already a private individual at the time of the assault because it was already past his hours of duty. Relative thereto, it must be stated that as barangay tanod, and just like a police officer, it was Carlos' duty to maintain peace and order in his community on a daily basis regardless of the time of day. Though he may have been on his way home, he felt compelled as a tanod to remind petitioner and his group – who were drunkenly noisy and rowdy at the time – to behave properly. This is especially so in light of the instructions of their barangay captain that whenever there was noise or trouble, it was incumbent upon them to pacify those involved in order to preserve peace and order.

Now, taking the testimonies of private complainants in their entirety, We find the noted inconsistencies to be trivial and inconsequential to the main requisite of the crime which is the

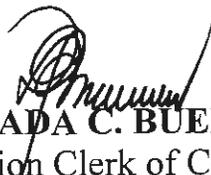
laying of hands upon an agent of a person in authority. In this instance, there is no doubt that Carlos, a barangay tanod, was assaulted by petitioner and his brother. In *People v. Calara*, the Supreme Court had occasion to rule that “*although there are inconsistencies in the testimonies of witnesses on minor details, they do not impair their credibility where there is consistency in relating the principal occurrence and positive identification of the assailant.*” As the trial court had the opportunity to observe private complainants’ demeanor and evaluate firsthand whether their testimonies were credible under the circumstances, its finding is given high regard.⁴

In sum, the Court thus agrees that petitioner’s guilt was proven beyond reasonable doubt. With regard to the penalty imposed, the Court finds the modification by the CA to be in accord with law and jurisprudence. Since the Revised Penal Code punishes the act done by the petitioner with a penalty with a single period only — *prision correccional* in its minimum period⁵ — then there is a need to apportion the same into three periods before the Indeterminate Sentence Law is applied. Thus, the penalty imposed by the CA, which is six (6) months of *arresto mayor* as minimum to one (1) year eight (8) months and twenty (20) days of *prision correccional* maximum, is hereby affirmed.

WHEREFORE, premises considered, the Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated March 17, 2016 and Resolution dated September 1, 2016 of the Court of Appeals in CA-G.R. CR No. 37089. The Decision finding petitioner Dennis Dela Peña guilty beyond reasonable doubt for the crime charged is hereby **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m5/21*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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⁴ *Rollo*, pp. 34-35..

⁵ REVISED PENAL CODE, Art. 148.



PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Petitioner
DOJ Agencies Building
Diliman, 1101 Quezon City

Court of Appeals (x)
Manila
(CA-G.R. CR No. 37089)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Hon. Presiding Judge
Regional Trial Court, Branch 9
Malolos City, 3000 Bulacan
(Crim. Case No. 1998-M-2013)

The Hon. Presiding Judge
Municipal Trial Court
Balagtas, 3016 Bulacan
(Crim. Case No. 034-2007)

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