



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 10, 2021 which reads as follows:*

**“UDK 16746 (Jimmy Orillana y Leyva, Petitioner, v. People of the Philippines, Respondent).** – We resolve this petition for review on *certiorari* seeking to reverse and set aside the Decision dated 14 January 2020 and Resolution dated 21 October 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 42879, which, in turn, affirmed with modification the decision of Branch 72, Regional Trial Court (RTC), Antipolo City, finding petitioner Jimmy Orillana y Leyva guilty of violating Section 10 (a) of Republic Act (RA) No. 7610 or the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

Acting on the Motion for Extension, the same is hereby **DENIED** for petitioner’s failure to indicate the date of his receipt of the CA’s resolution denying his motion for reconsideration. Petitioner’s counsel counted the last day of filing the petition from the alleged promulgation of the resolution of the motion for reconsideration on 27 October 2020.<sup>1</sup> This is incorrect. The document attached to the motion for extension shows that the resolution was, in fact, promulgated on 21 October 2020, and what was issued on 27 October 2020 was a certification from the CA stating that the copy that petitioner presented before it was a true and correct copy of the original on file.<sup>2</sup> It does not state when the original was actually received by petitioner. For this reason, the motion for extension must be denied. Petitioner’s period to appeal may have already lapsed on or before the date he filed his motion for extension on 10 November 2020.

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<sup>1</sup> *Rollo*, p. 6.

<sup>2</sup> *Id.* at 30.

Petitioner's Motion to Admit Compact Disk or "CD" with Priorly Express Leave is **NOTED**.

After a judicious review and in view of the denial of petitioner's motion for extension, the Court resolves to **DENY** the petition for failure of the petitioner to file the same on time and to sufficiently show any reversible error in the assailed Decision and Resolution of the CA.

The Court, however, finds it proper to modify the range of penalty imposed.

The penalty prescribed for violations of Section 10(a) of RA 7610 is *prision mayor* in its minimum period. While RA 7610 is a special law, it was explained in *Cahulogan v. People*<sup>3</sup> that if the special penal law adopts the nomenclature of the penalties under the Revised Penal Code (RPC), as in this case, the ascertainment of the indeterminate sentence will be based on the rules applied for those crimes punishable under the RPC. Applying the Indeterminate Sentence Law (ISLaw), the maximum of petitioner's prison term should be within the range of imposable penalty, *prision mayor* minimum, while the minimum term should be within the range of penalty next lower in degree, which is *prision correccional* maximum. Thus, it was erroneous for the CA to impose a minimum term of one (1) year, which is within the minimum range of *prision correccional*. Nevertheless, the prison term of (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum, which was imposed by the RTC correctly reflects the application of the ISLaw, and therefore, should be reinstated.

**WHEREFORE**, premises considered, the Decision dated 14 January 2020 and Resolution dated 21 October 2020 of the Court of Appeals in CA-G.R. CR No. 42879 are **AFFIRMED with MODIFICATION**. Petitioner Jimmy Orillana y Leyva is found **GUILTY** of violating Section 10 (a) of Republic Act No. 7610 and sentenced to suffer the indeterminate penalty of four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

The petitioners are required to **SUBMIT**, within five (5) days from notice hereof, the verified declaration of the petition for review

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<sup>3</sup> G.R. No. 225695, 21 March 2018 [Per J. Perlas-Bernabe].

on certiorari and a soft copy in compact disc, USB or e-mail containing the PDF file of the signed motion for extension of time to file a petition for review on certiorari, both pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *m.c/vs*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**20-A**

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Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 42879)

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

The Hon. Presiding Judge  
Regional Trial Court, Branch 72  
1870 Antipolo City  
(Crim. Case No. 09-39321)

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