



Republic of the Philippines  
Supreme Court  
Office of the Court Administrator  
Manila

**OCA CIRCULAR NO. 42-2024**

**TO : ALL DESIGNATED AND STATUTORY FAMILY COURTS AND REGIONAL TRIAL COURTS HANDLING CASES INVOLVING CHILDREN IN CONFLICT WITH THE LAW**

**SUBJECT: GUIDELINES IN DETERMINING DISCERNMENT IN CRIMES INVOLVING CHILDREN IN CONFLICT WITH THE LAW**

In its Decision dated 14 March 2023 in *CICL XXX v. People of the Philippines*,<sup>1</sup> the Court *En Banc*, speaking through Associate Justice Rodil V. Zalameda, established guidelines in determining discernment in crimes involving children in conflict with the law (CICL), thus:

1. Discernment is the capacity at the time of the commission of the offense to understand the difference between right and wrong and the consequence of the wrongful act.<sup>2</sup>
2. **The task of ascertaining discernment is undertaken preliminarily by a social worker, and finally by the court.** The determination of discernment shall take into account the ability of a child to understand the moral and psychological components of criminal responsibility and the consequences of the wrongful act; and whether a child can be held responsible for essentially antisocial behavior.<sup>3</sup> The assessment of a social worker is merely evidentiary and is not binding upon the court. Ultimately, the court finally determines discernment, based on its own appreciation of all the facts and circumstances in each case.
3. In our jurisdiction, there is no presumption that a minor acts with discernment. The prosecution must specifically prove as a separate circumstance that the alleged crime was committed with discernment. For a minor at such an age to be criminally liable, the prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence, that he acted with discernment.
4. **In determining discernment, courts shall consider the totality of facts and circumstances in each case.**<sup>4</sup> Such circumstances include, but are not limited to: (i) the very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during trial, (ii) the gruesome nature of the crime, (iii) the minor's cunning and shrewdness, (iv) the utterances of the minor, (v) his overt acts before, during and after the commission of the crime, (vi) the nature of the weapon used, (vii) his attempt to silence a witness, and (viii) his disposal of evidence or his hiding the *corpus delicti*. (*Emphasis supplied*)

<sup>1</sup> G.R. No. 238798.

<sup>2</sup> A.M. No. 02-1-18-SC, 2019 Supreme Court Revised Rule on Children in Conflict with the Law, 22 January 2019.

<sup>3</sup> *Id.*

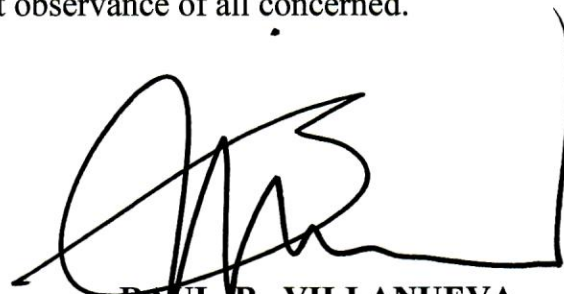
<sup>4</sup> 879 Phil. 629 (2019) [Per J. Leonen, Third Division].

Furthermore, the Court emphasized that “these guidelines encapsulate the carefully crafted rules and principles in dealing with children in conflict with law, taking into account their rights and special circumstances.”

Any prior circular from this Office on this matter which is contrary to the foregoing is hereby deemed superseded.

For the information, guidance, and strict observance of all concerned.

16 February 2024



**RAUL B. VILLANUEVA**  
Court Administrator