



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

OCA CIRCULAR NO. 89-2024

TO : ALL JUDGES OF THE SECOND LEVEL COURTS

SUBJECT: GUIDELINES ON PROPER DESIGNATION OF CRIME WHEN ELEMENTS OF BOTH STATUTORY RAPE AND QUALIFIED RAPE ARE PRESENT

In its Decision dated 23 January 2024 in *People of the Philippines v. ABC260708*,¹ the Court ruled that:

“For clarity and uniformity, the Court now fixes the guidelines as to the proper designation of the offense when the elements of both statutory rape, *i.e., victim is below the statutory age or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age*, and qualified rape, *i.e., twin requirements of minority and relationship, or the age of the victim being below 7 years old, or the accused’s knowledge of the mental disability of the victim at the time of the commission of rape*, are present, thus:

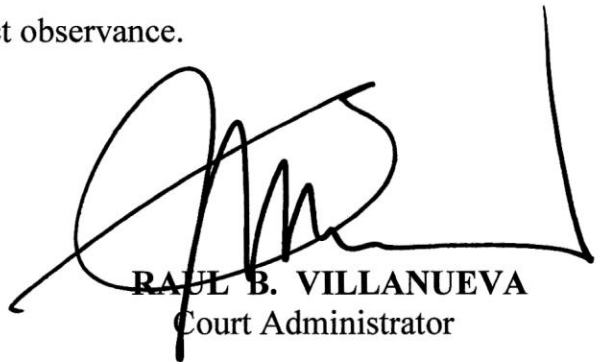
1. The crime shall be denominated as **QUALIFIED RAPE of a minor** and not qualified statutory rape if any of the special qualifying aggravating circumstances is present, *i.e., twin circumstances of minority and relationship, or the age of the victim being below 7 years old, or the accused’s knowledge of the mental disability of the victim at the time of the commission of rape*. This rule shall apply whether the victim is below the statutory rape or is suffering from mental retardation comparable to the intellectual capacity of a child below the statutory age.
2. The crime shall be denominated as **QUALIFIED RAPE of a minor** and not qualified statutory rape if the crime is attended with two or more special qualifying aggravating circumstances, *i.e., twin circumstances of minority and relationship, or the age of the victim being below 7 years old, or the accused’s knowledge of the mental disability of the victim at the time of the commission of rape*. One of these aggravating circumstances is sufficient to qualify the crime. The unutilized special qualifying aggravating circumstances will be deemed as generic aggravating circumstances which may be appreciated if the facts warrant the imposition of a divisible penalty, *i.e., existence of privileged mitigating circumstances under Article 69 of the RPC, and penalties in cases of frustrated and attempted felonies, and for accomplices and accessories pursuant to Articles 50 to 57 of the RPC*. Otherwise, any unutilized aggravating circumstances shall not be considered in the application of penalties.

¹ G.R. No. 260708 [Per AJ M. Lopez, *En Banc*]

3. The term “*statutory rape*” in these guidelines shall mean either “*below 12 years old*” or “*under 16 years old*” depending on whether the crime of rape was committed before or after the effectivity of Republic Act No. 11648, respectively.”

For your information, guidance, and strict observance.

27 March 2024



RAUL B. VILLANUEVA
Court Administrator