

(H. B. 961)

(No. 46)

(Approved March 4, 2002)

AN ACT

To amend Rule 171 of the Rules of Criminal Procedure of 1963, as amended, in order to add a paragraph (r) to clause A of the third paragraph, to consider as an aggravating circumstance the fact the injured party has been a victim of a hate crime.

STATEMENT OF MOTIVES

The Constitution of the Commonwealth of Puerto Rico, in Article II, Section 1 of the Bill of Rights, recognized the inviolability of the dignity of human beings into law. Therefore, it established that certain types of discrimination are prohibited in order to enforce and apply this maxim of human rights.

In the diverse society in which we live and in response to a sad social reality, different groups and persons have been subject and are potential victims of crimes affecting their life, bodily safety, decency, honor, property, and civil rights, among others, caused by prejudice.

In 1990, the Congress of the United States of America enacted the Hate Crimes Statistics Act of 1990. As a result, the Attorney General of the United States of America established, through the Federal Bureau of Investigations, a uniform system for the states and Puerto Rico to voluntarily participate in offering the data and statistics necessary to fight the terrible evil of prejudice against groups of citizens.

As of today, eleven (11) years have passed since the Hate Crimes Statistics Act of 1990, *supra*, was approved; Puerto Rico has not reported a single case in which the victim was a hate crime victim. However, this Legislature is still concerned with the strict observance of the constitutional guarantee to which all Puerto Rican citizens are entitled, so that they do not suffer discrimination of any kind.

Rule 171 of Criminal Procedure of 1963, as amended, considers a number of facts related with the commission of a crime and with the defendant him/herself under certain extenuating or aggravating circumstances for purposes of imposing the penalty pursuant to the crime committed. The establishment of a method to ponder the criteria relative to aggravating and extenuating circumstances is a function that lies with the legislative process rather than with the judicial power, in order to prevent our citizens from becoming victims of a hate crime.

Rule 171 of Criminal Procedure of 1963, as amended, does not consider as an aggravating circumstance the fact that the crime committed has been motivated by prejudice against the victim, which should be considered as an aggravating circumstance and pondered by the Court at the time of imposing the penalty for the crime committed. The Constitution of the Commonwealth of Puerto Rico is the safeguard of values and rights germane to dignity, integrity and privacy. These are ethnic and moral values consubstantial with the human nature and indispensable for living within a democratic society.

The values of equality, liberty and dignity expressed in the Constitution of the Commonwealth of Puerto Rico constitutes the cornerstone of Puerto Rican society. Therefore, it is the duty of the Legislature to see that the

maxims of our constitution be respected and enforced by the Commonwealth of Puerto Rico and all its citizens.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Rule 171 of Criminal Procedure of 1963, as amended, is hereby amended to read as follows:

“Rule 171.- Sentence; Evidence as to Mitigating or Aggravating Circumstances.—

The Court, on its own instance...

...

...

...

...

The following may be considered as aggravating circumstances, among others:

(A) Facts related to the commission of the crime and the defendant him/herself, including, among others:

(a) ...

(b) ...

(c) ...

...

...

(r) the crime committed was motivated by prejudice against the victim for reason of race, color, sex, sexual orientation, gender, gender identity, origin, ethnic origin, civil status, birth, physical and/or mental disability, social status, religion, age, or religious or political beliefs.

For purposes of establishing the motive as provided in this paragraph, it will not suffice to prove that the defendant has a belief in particular or to prove only that the defendant belongs to a particular organization.”

Section 2.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 46 (H.B. 961) of the 3rd Session of the 14th Legislature of Puerto Rico:

AN ACT to amend Rule 171 of the Rules of Criminal Procedure of 1963, as amended, in order to add a paragraph (r) to clause A of the third paragraph, to consider as an aggravating circumstance the fact the injured party has been a victim of a hate crime,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 3th of February of 2004.

Elba Rosa Rodríguez-Fuentes
Director

