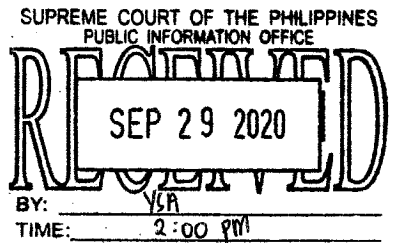




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated June 22, 2020, which reads as follows:

“G.R. No. 216986 (PEOPLE OF THE PHILIPPINES, *petitioner v. HERNIE BRUNO AND ALIAS MUNDOY BRUNO, respondents.*) — This resolves an appeal from the Court of Appeals Decision¹ affirming with modification the conviction of Hernie Bruno of the crime of murder.

An Information was filed charging Hernie Bruno (Hernie) and Alias Munday Bruno (Munday) as follows:

That on or about August 19, 1999, in the Municipality of Lemery, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and helping one another, armed with unlicensed firearms, with deliberate intent and decided purpose to kill and [sic] by means of treachery, did then and there willfully, unlawfully, and feloniously shoot William Bolivar with the unlicensed firearms which they were then provided, inflicting upon the victim multiple gunshot wounds, trunk, which caused his death thereafter.

CONTRARY TO LAW.²

Hernie was arraigned on July 23, 2002, where he pleaded not guilty.³ Munday remained at large.⁴

Pre-trial was conducted and trial on the merits then ensued.⁵

¹ *Rollo*, pp. 4–20. The Decision dated January 30, 2014 in CA-G.R. CEB CR-HC No. 01382 was penned by Associate Justice Carmelita Salandanan-Manahan, and concurred in by Associate Justices (now Associate Justice of the Supreme Court) Ramon Paul L. Hernando (Chairperson) and Ma. Luisa Quijano-Padilla of the Nineteenth Division, Court of Appeals, Cebu City.

² *CA rollo*, p. 29.

³ *Rollo*, p. 6.

⁴ *Id.* at 5.

⁵ *Id.* at 6.

The prosecution's version of events is as follows:

To respond to a call regarding a shooting incident at Brgy. Omio, Lemery, Iloilo involving Hernie's brother, Alberto Bruno (Alberto), police officers Julius Dacles (SPO4 Dacles), Nerio Alanan, and Venancio Rendon rode an ambulance driven by William Bolivar (Bolivar) to the scene of the shooting.⁶

SPO4 Dacles testified that at the time, Bolivar was working as an ambulance driver.⁷ They asked him to drive the ambulance because there was a victim at the scene of the shooting.⁸ Upon arriving at the barangay where the shooting incident occurred, they saw the dead body of Alberto lying on the road. SPO4 Dacles instructed Bolivar to park the ambulance so that they could load Alberto's body and conduct the investigation. Bolivar parked ten (10) or more meters away from the incident.⁹

Demetrio Jesura, Jr. (Jesura) testified that he knew Hernie and Munday and had been to their house.¹⁰ Furthermore, he also knew Bolivar, and is related to his wife.¹¹ He was with Bolivar at the time he was summoned to drive the ambulance,¹² and followed shortly to the scene of the shooting together with Police Officer Danilo Moreno.¹³ Regarding the circumstances of the scene upon their arrival, Jesura testified:

Q: The ambulance that was parked, was the headlights on?

.....

A: Yes, the headlights and the alarm light of the ambulance were on and during that time the headlights was focused on the dead body where the investigation was conducted.

PROS. GEDUSPAN:

.....

Q: When you proceeded to the ambulance which is about 15-20 meters away from the person lying dead in Brgy. Omio, Lemery, Iloilo, did you find somebody in that ambulance?

A: William was standing at the side of the ambulance, Sir.

Q: What did you do when you met William Bolivar?

A: We talk for a while about the dead person and later he told me that he is going to defecate because of stomachache, Sir.

⁶ CA rollo, p. 29.

⁷ TSN dated March 5, 2003, p.4.

⁸ Id.

⁹ CA rollo p. 29.

¹⁰ TSN dated February 19, 2003, pp. 2-3.

¹¹ Id. at 3.

¹² Id. at 4.

¹³ Id. at 5-6.

Q: And later, do you know where did William Bolivar go?

A: At a nearby place, Sir.

Q: How far from the ambulance did he go to defecate?

A: About four (4) meters, Sir.

Q: Could he be seen from the ambulance?

A: Yes because the light of the ambulance was bright.¹⁴

Regarding the circumstances of Bolivar's shooting, Jesura testified:

Q: What happened after this William Bolivar was defecating?

A: When William Bolivar was about to stand up, two (2) persons appeared and I heard gunfire, Sir.

Q: Where did these persons come from?

A: Somewhere near a house downhill.

Q: And when you heard gunfire, what happened?

A: I turned my head because I thought I was the one to whom the fire was aimed but it was not aimed at me and then I focused the flashlight on the two (2) persons and when I flashed the light to them, they immediately ran downhill and I even heard them saying "Get the firearm".

Q: When you focused your flashlight to the two (2) persons, were you able to recognize the two (2) persons?

A: They were Hernie Bruno and Munday Bruno.

Q: What were they actually doing when you focused your flashlight on them?

A: One was trying to frisk the body of William to pick his firearm.

Q: How about the other?

A: The other was holding a firearm, Sir.

Q: Could you recognize the person who was holding the firearm?

A: Hernie Bruno, Sir.

Q: How about the person who was trying to frisk William Bolivar?

A: The one who was frisking the body of William was Munday Bruno and both of them were armed.¹⁵

Later, Jesura clarified the distance between him, the ambulance, and where Bolivar standing when he was shot:

Q: And you mentioned that the victim William Bolivar walked about 4 meters from the place where the ambulance was located to defecate, is that correct?

A: Yes, Sir.

¹⁴ Id. at 7-8.

¹⁵ Id. at 8-9.

Q: From where you were seated to the place where William Bolivar defecated, could you please estimate?

INTERPRETER: Witness pointed to a distance to indicate the four (4) meters and to this Court is exactly about 4 meters.

ATTY. CERCADO:

Q: And how about you, how far were you from the place where the victim William Bolivar defecated?

A: I was also about four (4) meters away from him, Sir.¹⁶

Rogelio de la Cruz, Hernie's first cousin and Munday's nephew, testified that he knew Bolivar. As to the incident, he testified:

Q: How about you, where were you at that time William Bolivar went to defecate?

A: I was at the rear portion of the ambulance.

Q: When William Bolivar was defecating, what happened next?

A: When he was pulling up his trousers there was a gun fired.

Q: Do you know where that gunfire came from?

A: Downhill Sir.

Q: And do you know who caused that gunfire?

A: I saw him.

INTR.: Witness pointed to Hernie Bruno.

Q: Where was he when you saw him after you heard the shot?

A: After the gunfire I saw him running Sir.

Q: He was carrying anything?

A: Yes, Sir.

COURT:

Q: He was carrying what?

A: He was carrying a firearm.

Q: Long or short?

A: Long firearm, .12 gauge.

Q: Does he have any companions?

A: Yes, Sir.

Q: Who?

A: His uncle.

Q: Who is the name?

A: Reymundo Bruno.

¹⁶ Id. at 15.

PROS. GEDUSPAN:

- Q: What happened to William Bolivar when you heard that gunshot.
A: I even heard Raymundo Bruno remarked "touch his body he might have some firearm".
- Q: To whom did he say that?
A: To Hernie Bruno, I heard it when I was at the side of the ambulance.
- Q: Did Hernie Bruno comply with what Raymundo Bruno is telling him?
A: Yes, Sir.
- Q: What did he do?
A: He touched the body of William Bolivar and after knowing that the has no firearm they ran away.¹⁷

Later, de la Cruz testified:

COURT:

- Q: There was no altercation/exchanged of words between William Bolivar and Hernie Bruno before the shooting?
A: No, Your Honor.
- Q: In fact, the victim William Bolivar was not able to see the two (2) Roberto Bruno and Hernie Bruno?
A: He was not able to see the two (2).
- Q: They were not enemies also?
A: They are not enemies.
- Q: Can you say it is a mistake of identity?
A: It is possible that they mistakenly shot William Bolivar because they thought that he is one of their enemies but they intentionally shot William Bolivar¹⁸

SPO4 Dacles testified that, while the officers were examining the body of Alberto, they heard two (2) gunshots fired:

- A: We heard the two (2) gunshots coming from the ambulance.
- Q: After hearing the two (2) gunshots, what did you do?
A: We immediately hurriedly ran to the ambulance where the gunfire came from.
- Q: What did you find out?
A: After arriving the ambulance and I call the name of William Bolivar we heard the voice of William in a low voice.

¹⁷ TSN dated February 5, 2003, pp. 7-9.

¹⁸ Id. at 18-19.

Q: What did you do?

A: We immediately identify and we found out that he suffered gunshot wound.

Q: Where did you find him?

A: About three (3) meters away from where the ambulance was parked.

Q: What did you do after you find him having gunshot wound?

A: I immediately call the by stander and boarded William Bolivar and we immediately left proceeded towards the town.¹⁹

Bolivar was brought to the hospital, where he was pronounced dead on arrival. Later, the police received information that Hernie had shot Bolivar, and arrested him. His right hand tested positive for gunpowder nitrate.²⁰

The Autopsy Report on Bolivar's body stated that he died from a "hemorrhage secondary to seven (7) gunshot wounds."²¹

In his defense, Hernie testified that on the evening of August 8, 1999, he was at home, and did not leave the house. At around 5:00 a.m. the next morning, he learned that his younger brother had died, and immediately went to his younger brother's home. Once there, he panicked, found his brother's firearm, and fired it. Later that morning, police officers arrived at his house. They brought him to the town and conducted a paraffin test on him.²²

Hernie's wife, Soterania Bruno (Soterania), testified that on the evening of August 9, 1999, there was a commotion at a store around 80 meters from their home. A few moments later, she heard gunfire. Upon hearing, she and her family opted to stay inside their home. Around 30 minutes later, her aunt came to their house and told her that Hernie's younger brother had died.²³

Soterania left the house and was met by Mundoy and his son. Mundoy told her to turn her flashlight off and to go back home, expressing that something bad could happen to her. Upon noticing that they were armed, she then went back home and hid. At home, Hernie was drunk and asleep, Soterania did not wake him up to inform him about his brother's passing because she was afraid that he might leave the house and risk getting shot.²⁴

¹⁹ TSN, March 5, 2003, pp. 6-7.

²⁰ *Rollo*, p. 7.

²¹ *Id.*

²² TSN dated March 29, 2006, p.3.

²³ TSN dated August 31, 2005, pp. 4-5.

²⁴ *Id.*

Hernie's son, Jeffrey, corroborated his defense of denial.²⁵

In a March 30, 2009 Decision,²⁶ the Regional Trial Court found Hernie guilty of murder.

The dispositive portion of the Decision read:

WHEREFORE, the Court hereby finds the accused Hernie Bruno guilty beyond reasonable doubt of the crime of Murder and hereby sentences the accused to suffer a penalty of reclusion perpetua and other accessory penalty provided by law, to indemnify the heirs of William Bolivar the sum of P50,000.00 by reason of his death, without subsidiary imprisonment in case of insolvency, and to pay the costs.

The period of time in which the accused was detained shall be deducted fully from the sentence herein imposed.

SO ORDERED.²⁷

Hernie filed a Notice of Appeal. In his brief before the Court of Appeals, he insisted that the prosecution failed to prove his guilt beyond reasonable doubt, maintaining that the trial court erred in relying on the testimonies of the prosecution witnesses because their statements contradicted each other.²⁸

In its Decision,²⁹ the Court of Appeals rejected Hernie's arguments and affirmed the Regional Trial Court Decision with modification. The dispositive portion of the Decision read:

WHEREFORE, premises considered, the Appeal is **DENIED**. The *Decision* dated 30 March 2009 of the Regional Trial Court, Branch 66, Barotac Viejo, Iloilo City in Criminal Case No. 1999-1100 finding accused-appellant Hernie Bruno guilty beyond reasonable doubt for the crime of Murder is hereby **AFFIRMED with MODIFICATION**. He is sentenced to suffer the penalty of *Reclusion Perpetua*, without eligibility for parole.

He is further ordered to pay the heirs of William Bolivar the amounts of Seventy-Five Thousand Pesos (Php 75,000.00) as civil indemnity, Fifty Thousand Pesos (Php 50,000.00) as moral damages, Thirty Thousand Pesos (Php 30,000.00) as exemplary damages and Twenty-Five Thousand Pesos (Php 25,000.00) as temperate damages. All monetary awards for damages shall earn interest at the legal rate of 6% per

²⁵ *Rollo*, p. 8.

²⁶ *CA rollo*, pp. 29-32. The Decision was penned by Judge Rogelio J. Amador of Branch 66, Regional Trial Court, Iloilo.

²⁷ *Id.* at 32.

²⁸ *Rollo*, pp. 8-9.

²⁹ *Id.* at 4-20.

annum from date of finality of this Decision until fully paid.

The Branch Clerk of Court, Branch 66, Barotac Viejo, Iloilo is ordered to furnish the Alias Warrant of Arrest for Alias Mundoy to the Warrant Officers of PNP Barotac Viejo and to the NBI Region VI for implementation within ten (10) days from receipt hereof.

SO ORDERED.³⁰

Hernie filed a Notice of Appeal,³¹ and the Court of Appeals elevated the records of the case to this Court.³² On September 3, 2015, the Office of the Solicitor General filed its Manifestation stating that it would no longer file any supplemental brief.³³ Hernie filed a similar Manifestation on October 19, 2015.³⁴

After considering accused-appellant's arguments and the records of this case, this Court resolves to affirm his conviction.

Article 248 of the Revised Penal Code defines and punishes the crime of murder as follows:

Article 248. Murder. – Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* in its maximum period to death, if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

As held by the Court of Appeals, the prosecution had established beyond reasonable doubt that accused-appellant and Mundoy acted in conspiracy and killed Bolivar. Witnesses positively identified them and testified having seen them armed near Bolivar's body—before and after hearing shots fired. They also testified seeing them frisk Bolivar's body after the shots had been fired.³⁵ Furthermore, accused-appellant tested positive for gunpowder nitrates.³⁶

The killing was attended by treachery considering that, Bolivar's particular state of vulnerability aside, he clearly had no opportunity to defend himself. Bolivar's body had seven (7) gunshot wounds, whereas

³⁰ Id. at 19–20.

³¹ Id. at 21.

³² Id. at 1.

³³ Id. at 28–29.

³⁴ Id. at 33–34.

³⁵ Id. at 9–10.

³⁶ Id. at 11.

accused-appellant was unscathed.³⁷ Thus, accused-appellant was properly convicted for the crime of murder.

Accused-appellant insists that his guilt was not established beyond reasonable doubt. He points out that, although all witnesses testified that they saw him and Munday after Bolivar was shot, they were inconsistent in identifying who was frisking Bolivar's body. Dela Cruz said that it was accused-appellant who he saw frisking Bolivar, whereas Jesura said it was Munday.³⁸

Moreover, both Dela Cruz and Jesura saw accused-appellant and Munday only after having heard the shot. There is no testimony as to accused-appellant and Munday's acts before and during the shooting. Neither Dela Cruz nor Jesura testified as to who actually fired the shot, and there is no testimony showing how they acted in pursuit of any common design.³⁹

On top of that, assuming that Jesura saw accused-appellant and Munday Bruno when he shone his flashlight onto them, it is improbable that the two would have proceeded to frisk Bolivar's body instead of hiding.⁴⁰ Finally, accused-appellant points out that the prosecution witnesses testified that the incident happened on August 8, 1999, but the date alleged in the Information is August 9, 1999.⁴¹

These arguments pertain largely to the credibility of the testimonies of the prosecution witnesses, and the probative weight accorded to them. These matters are best left to trial courts, which have the opportunity to observe the conduct of the witnesses. The trial court's conclusions based on these factual findings are given the highest respect. Thus, this Court will not re-examine these findings when they are affirmed by the Court of Appeals. In *People v. Castel*,⁴² this Court reiterated:

Findings of facts and assessment of credibility of witnesses are matters best left to the trial court. What militates against the claim of appellant is the time-honored rule that the findings of facts and assessment of credibility of witnesses are matters best left to the trial court. The trial court has the unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full

³⁷ Id.

³⁸ CA rollo, pp. 22-23.

³⁹ Id.

⁴⁰ Id. at 23.

⁴¹ Id. at 24-25.

⁴² 593 Phil. 288 (2008) [Per J. Reyes, En Banc].

realization of an oath — all of which are useful aids for an accurate determination of a witness' honesty and sincerity.⁴³ (Citation omitted, emphasis in the original)

Further, as correctly appreciated by the Court of Appeals, minor inconsistencies do not detract from the essential credibility of the witnesses presented, as long as they substantially coincide and corroborate each other, making a consistent narrative.⁴⁴

As to the question of conspiracy, the Court of Appeals correctly reasoned that conspiracy may be proved by circumstantial evidence. It explained how the circumstances in this case sufficiently established conspiracy between accused-appellant and his brother Mundoy:

As such, the trial court, opined that the circumstances of the shooting appears more of a mistaken identity because it can be inferred from the facts that the accused wanted to retaliate or avenge the death of their brother Roberto Bruno who was shot by an unidentified person, earlier that evening. Both assailants were armed when they arrived in the place of the incident and helped each other in assaulting the victim. Immediately after the two (2) assailants saw the victim who was defecating, they, apparently coordinated, launched an attack with accused shooting the victim at the right side several times when the latter was just closing his trousers to prevent him from repelling their assault. When accused saw one of the witnesses, they hurriedly left and disappeared. Indeed, the foregoing concerted actions reveal that both accused have purposely sought the victim, each one participating to attain the purpose for which they singled out the victim by coordinately assaulting the latter with gunshots that eventually caused the latter's death.

... In this case, both accused have shown a clear common objective to kill the victim, hence, the conspiracy which was properly alleged in the Information and duly proven at the trial must be upheld.⁴⁵

Finally, on the alleged discrepancy between the date of the offense as alleged in the Information *vis-à-vis* the date the prosecution witnesses testified it occurred, the Court of Appeals properly noted that time is not an essential element of the crime of murder, and it is sufficient that the Information allege the approximate date that the offense was committed.⁴⁶

Thus, we affirm accused-appellant's conviction.

⁴³ Id. at 315–316.

⁴⁴ *Rollo*, pp. 9–10.

⁴⁵ Id. at 14.

⁴⁶ Id. at 12–13.

However this Court modifies the award of damages pursuant to recent jurisprudence.⁴⁷ Considering that the imposable penalty given the circumstances of the crime in this case is *reclusion perpetua*, accused-appellant is liable for ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages to the victim.

WHEREFORE, this Court **AFFIRMS with MODIFICATION** the Court of Appeals January 30, 2014 Decision in CA-G.R. CEB CR-HC No. 01382, affirming with modification the March 30, 2009 Decision of the Regional Trial Court in Criminal Case No. 1999-1100. Accused-appellant Hernie Bruno is hereby found **GUILTY** beyond reasonable doubt of the crime of murder. He is sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole and to indemnify William Bolivar's heirs ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages to the victim. Interest at the rate of six percent (6%) per annum are imposed on all damages awarded from the date of finality of this Resolution until fully paid.⁴⁸

SO ORDERED.” (Gaerlan, J., on leave.)

Very truly yours,

Misael Domingo C. Battung III
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Division Clerk of Court
GER
4124120

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The Presiding Judge
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(Crim. Case No. 1999-1100)

⁴⁷ See *People v. Jugueta*, 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

⁴⁸ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

The Superintendent
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