

EN BANC

[G.R. Nos. 127759-60, September 24, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PO3
NOEL FELICIANO, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

For automatic review is the consolidated decision dated September 19, 1996,^[1] of the Regional Trial Court of Isabela, Basilan, Branch 1, in Criminal Cases Nos. 2211-142, 2213-145, and 2214-146, finding appellant PO3 Noel Feliciano guilty of three counts of murder and sentencing him in Criminal Cases Nos. 2211-142 and 2213-145 to suffer the penalty of death and in Criminal Case No. 2214-146, to suffer the indeterminate penalty of imprisonment from twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months *of reclusion temporal* as maximum.

The Informations filed by the Provincial Prosecutor read:

In Criminal Case No. 2211- 142,

That on or about the 29th day of September, 1994, and within the jurisdiction of this Honorable Court, viz., at the Isabela Police Station, Marketsite, Barangay, Municipality of Isabela, Province of Basilan, Philippines, the above-named accused, armed with a .38 Cal. revolver, with treachery and evident premeditation and with intent to kill, did then and there willfully, unlawfully, and feloniously assault, attack and shoot P/Inspector Edgardo L. Miguel with the said firearm, thereby inflicting gunshot wound on the chest of the latter, which caused his instantaneous death.

Contrary to law.^[2]

In Criminal Case No. 2213-145,

That on or about the 29th day of September, 1994, and within the jurisdiction of this Honorable Court, viz., at the Isabela Police Station, Marketsite Barangay, Municipality of Isabela, Province of Basilan, Philippines, the above-named accused, armed with an Armalite (M16) rifle and a shot gun, with treachery and evident premeditation and with intent to kill, did then and there willfully, unlawfully and feloniously shoot PO3 Roberto Arabejo with the use of said firearms, thereby inflicting multiple gunshot wounds on the different parts of the body of the latter, which caused his death.

Contrary to law.^[3]

In Criminal Case No. 2214-146,

That on or about the 29th day of September, 1994, and within the jurisdiction of this Honorable Court, viz., at the Isabela Police Station, Marketsite Barangay, Municipality of Isabela, Province of Basilan, Philippines, the above-named accused, armed with an Armalite (M16) rifle and a shot gun, with treachery and evident premeditation and with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and shoot SPO4 Santiago Miguel with the use of said firearms, thereby inflicting multiple gunshot wounds on the different parts of the body of the latter, which caused his death.

Contrary to law.^[4]

When arraigned, appellant pleaded not guilty to all the charges. A joint trial followed.

SPO3 RUPERTO HUPIDA was the first witness for the prosecution. He testified that on September 29, 1994, past midnight, after their patrol, appellant PO3 Noel Feliciano, SPO1 Danilo Lubaton, PO3 Wilfredo^[5] Arguelles^[6] and he returned to their station. As he was entering the radio room to prepare his beddings he heard SPO4 Santiago Miguel shouting at appellant, who was then sitting on a long bench near the traffic table. SPO4 Miguel was shouting invectives in Chavacano, "*Coño voz nana voz, dao puerco y dao bata diutay vos ta llora, hende vos puede conmigo.*"^[7] (Vulva of your mother. You are like a pig and a small child crying. You cannot do that to me.) SPO4 Miguel grabbed his rifle and pointed it at appellant. Immediately, said SPO3 Hupida, he disarmed SPO4 Miguel. Meanwhile, P/Inspector Edgardo Miguel who heard the disturbance rushed in and disarmed appellant. The protagonists, however, continued their verbal tirade. P/Insp. Miguel then ordered SPO1 Danilo Lubaton and PO3 Roberto Arabejo to bring appellant home. When the two returned after a few minutes, Hupida remembered seeing P/Insp. Miguel go out of the office. After a few seconds Hupida heard a shot coming from outside the station. He looked out of the window and saw P/Insp. Miguel clutching his chest. He told SPO1 Lubaton to go out and check on P/Insp. Miguel. Lubaton rushed to P/Insp. Miguel. Hupida recalled that as he was on his way out, he saw appellant near the door of the station pointing a .38 caliber gun at him and Lubaton. Lubaton let go of P/Insp. Miguel and he and Hupida instinctively took cover behind a police car. After appellant entered the station, they helped P/Insp. Miguel who was still alive get into the patrol car. They again saw appellant pointing a rifle at them and they jumped back inside the patrol car. Appellant then aimed at the radio room. Hupida said that he heard four or five shots from an automatic M16 rifle, later discovered to be the M16 rifle issued to PO3 Arabejo who left it on top of the traffic desk during the confusion. Hupida added he borrowed a vehicle and reported the shooting to the Provincial Director of the Philippine National Police, who sent an alert team in a Hummer vehicle. In the station, Hupida saw appellant voluntarily surrendering to the Chief of Police. He was also told to check on the condition of P/Insp. Miguel and Arabejo at the Basilan Community Hospital. He later found out that the two died on arrival at the hospital.

During cross-examination, Hupida added that appellant had returned to the station approximately ten minutes after being brought home after the altercation with SPO4 Miguel.^[8] He categorically stated that he witnessed the killing of SPO4 Miguel and

Arabejo.^[9]

The second witness, SPO1 DANILO LUBATON, corroborated the entire story of Hupida and added that he, too, only heard a shot just before he looked out of the window and saw P/Insp. Miguel outside the station, clutching his chest. He also recounted that appellant surrendered to his uncle-in-law, SPO4 Dereng Maldan. On cross-examination, he added that during the verbal exchange between appellant and SPO4 Miguel, he heard SPO4 Miguel utter, " *No mas boz man alboroto, ta durmi ya di aton hepe, ta respeta lang boz con Hupida con migo hende.*" (Do not be noisy, our chief is already sleeping, you only respect Hupida, but me you don't.)^[10] He said he also heard SPO4 Miguel taunt appellant, "*Daw bata voz ta llora.*"^[11] (You cry like a baby.)

PO3 WILFRIDO ARGUELLES, the third prosecution witness, likewise confirmed the story of SPO3 Hupida and SPO1 Lubaton. He recalled hearing SPO4 Miguel saying, "Keep quiet, you only respect SPO3 Hupida, Inspector Miguel is already sleeping. You are a pig, you cry like a child."^[12] When asked why SPO4 Miguel shouted at appellant to keep quiet, PO3 Arguelles answered that they were noisy.^[13] He said he witnessed appellant point a gun at SPO4 Miguel during the confrontation.^[14] He also added that when appellant returned to the station after the latter was sent home, appellant got hold of PO3 Arabejo's armalite and pointed it at him, although appellant let him leave after he explained that he was not at fault.^[15] PO3 Arguelles recalled that he ran outside towards Post 4, beside the Catholic church. At about nine to ten meters away from the station, he again heard automatic rifle gunfire and looked back. He saw appellant with an M16 rifle.^[16] Thereafter, he borrowed a motorcycle, went to Senior Inspector Bensali Jabarani and reported that a police officer had run amuck. They rushed back to the station. Arguelles said that he found his shotgun on the floor of the station with five spent bullets.

SPO4 VICENTE ALCAYRA, the fourth witness, testified that he was on-duty in the radio room when he overheard the heated argument between SPO4 Miguel and appellant. After a while, P/Insp. Miguel entered and handed him two armalite rifles to be turned over to the Chief of Police. Later, he saw Arabejo, Lubaton, and appellant leave the station in the police patrol car. At around 1:30 A.M., P/Insp. Miguel told him he was stepping outside to answer a call of nature. Suddenly, he heard gunfire. Then he heard P/Insp. Miguel shout, "I was hit!" He looked out of the window and saw P/Insp. Miguel. As he ran out of the radio room to go to P/Insp. Miguel, he met Arabejo and SPO4 Miguel who were rushing in. He tried to re-enter the radio room but the two had locked it, so he dashed to the comfort room where he heard more gunshots. When the gunshots stopped, he stepped out of the comfort room and heard the voice of SPO4 Dereng Maldan. He did not see appellant but he saw SPO4 Miguel already dead while Arabejo was still alive. He helped bring Arabejo and P/Insp. Miguel to the hospital. When he returned he found the service revolver of P/Insp. Miguel in the radio room and gave it to the investigator. During cross-examination, he revealed that appellant's house was within walking distance to the station and only around 100 to 200 meters away.^[17]

DR. JOSEPH GUEVARRA, a government physician, testified that he attended to the bodies of P/Insp. Miguel and PO3 Arabejo upon their arrival at the Basilan Community Hospital emergency room on September 29, 1994, at around 1:50 A.M.;

that he issued the death certificates for all three police officers; that the three died from cardio-respiratory arrest due to gunshot wounds or multiple gunshot wounds; [18] and that he also examined appellant and found him positive for alcohol. [19]

PO3 CELSO TAN SANCHEZ testified that when the incident started he was sleeping inside the Investigation Room. He recounted that he heard several gunshots coming from the adjacent radio room. He stood up and overheard appellant call SPO4 Miguel, "*Tiaging*." Then, he heard more shots and sensed that appellant was trying to open the door of the Investigation Room but was unable to. Appellant started shouting and calmed down only when his uncle-in-law, SPO4 Dereng Maldan, arrived. PO3 Sanchez said that after things settled down, he was assigned to investigate the incident. During his testimony he identified the firearms used during the shootings. They were: (a) one US caliber 5.56mm M16 rifle with Serial No.137439, issued to PO3 Roberto Arabejo; (b) one 12-gauge Armscor shotgun with Serial No.1051259, issued to PO3 Wilfredo Arguelles; and (c) one caliber .38 Squires Bingham revolver with Serial No. 955815, issued to appellant. [20] He also verified that the investigating team recovered ten fired .38 caliber cartridges, one .38 caliber misfired round, five 12-gauge cartridges, and forty-five 5.56mm spent rifle cartridges.

ANNABELLA MIGUEL, widow of P/Insp. Edgardo Miguel, testified that her husband was the sole breadwinner in their family with three children. She also claimed that she spent P28,000.00 for the coffin of her husband, evidenced by a receipt from the Basilan Memorial Chapel, P25,000.00 more or less for expenses during the vigil and prayer nights, P28,000.00 for the burial, P25,000.00 for the last prayer night or the *Ultimo*, and P20,000.00 for the tomb. [21]

ESTER M. ABAYON, widow of SPO4 Santiago Miguel, testified that she and her husband had been married for 24 years; that they have three children; and that she had incurred a total of P25,000.00 expenses to bury her husband. [22]

MA. SOCORRO ARABEJO, widow of SPO1 Roberto Arabejo, testified that she spent P25,000.00 for the coffin and interment of her husband, P5,000.00 for his tomb, and P25,000.00 during the wake and last night of prayers. [23]

ALET VIRTUCIO, Head of the Crime Laboratory and Ballistics, PNP, in Sotero, Cebu City, testified that sometime in February 1995, he received a request for ballistics examination on pieces of firearms and ammunitions from the PNP Crime Laboratory in Region 9 in Zamboanga. [24] The ballistics tests showed that the .38 caliber rounds found at the crime scene were fired from the Squires Bingham caliber .38 revolver with Serial No. 955815, while the shotgun cartridges were fired from the 12-gauge Armscor shotgun with Serial No. 1051259. All of the spent rifle rounds were fired from the M16 assault rifle with Serial No. 137439. [25]

SPO1 RODOLFO V. GRAFIA, of the laboratory unit in Zamboanga City, was tasked to mark the empty bullet shells, slugs, cartridges and firearms recovered at the crime scene. In his testimony, he identified these objects and admitted that he was the custodian of these pieces of evidence.

DR. ROSSANA PARAGUYA, a rural health physician of the Basilan Integrated

Provincial Health Office, performed a post-mortem examination on the bodies of the three victims. She reported that: (1) P/Insp. Miguel sustained two fatal gunshot wounds in the center of his chest; (2) SPO4 Miguel sustained multiple gunshot wounds, with at least ten entry wounds and six exit wounds in various portions of his body; and (3) PO3 Arabejo suffered four gunshot wounds in different parts of his body.^[26]

DR. RODOLFO M. VALMORIA, Chief Medico Legal Officer of the PNP Crime Laboratory of Regional Command No. IX, testified that he conducted an autopsy on the cadaver of P/Insp. Edgardo Miguel after a request to exhume the body of the deceased was allowed. He said that he recovered two slugs from a .38 caliber revolver embedded in the lungs of the deceased. He also described the result of the ballistics tests on the slugs and compared them with the slugs from the three firearms recovered from the scene of the shooting.^[27]

SPO3 ARMANDO UDIN PELAEZ, one of the investigators, testified that he took pictures of the door and the room where SPO4 Miguel and PO3 Arabejo were found dead. He described in detail the holes and bullet marks on the windows and walls in the photographs of the room which he himself took.

For the defense, the first witness was appellant PO3 NOEL FELICIANO himself. He recounted that on the early hours of September 29, 1994, as he made preparations to sleep on a long bench near the traffic desk, SPO4 Santiago Miguel came out of the toilet, kicked his foot, and angrily shouted at him demanding why he was noisy. Appellant protested he was not, but SPO4 Miguel started cursing him repeatedly with such invectives as "*Baboy voz.*" (You are a pig.), "*Coño voz nana voz.*" (Vulva of your mother.), "*Torpe vos.*" (You are a fool.), "*Mangco vos.*" (Deformed arm.), "*Butot vos.*" (Big stomach.), "*Ichura puerco vos.*" (You look like a pig.), "*Bueno con vos man training ole.*" (It would be good for you to re-train.), and "*Nusirbi nada vos de pulis.*" (You are a useless policeman.).^[28] Appellant claims that he kept quiet.

Appellant further testified that SPO4 Miguel, apparently piqued by appellant's refusal to be perturbed, grabbed his M16 assault rifle from his table, cocked it and poked it at appellant's head. The tip of the rifle's barrel hit appellant's temple. Appellant said he "blackened out", stood up and was about to grab his rifle, when SPO4 Miguel repeated, "*Coño vos nana vos. Mata yo con vos.*" (Vulva of your mother, I will kill you.).^[29] P/Insp. Miguel suddenly appeared and immediately grabbed appellant's rifle while SPO3 Hupida disarmed SPO4 Miguel. P/Insp. Miguel then ordered appellant to go home. SPO1 Lubaton and PO3 Arabejo, who had earlier returned, drove appellant to his house near the police station. Appellant recounted that upon reaching home, he hurriedly got his .38 caliber Squires Bingham revolver and bullets. As he went downstairs, he met his uncle-in-law, SPO4 Dereng Maldan, who, sensing that something was wrong since he appeared distraught and weeping, tried to wrestle the handgun from him. Unable to control his anger, he said, he shoved Maldan out of his way and ran towards the front door. His mother and sister blocked the door to stop him from leaving the house, but he managed to leave through the back door and reach the police station in ten minutes.^[30]

He recounted that as soon as he entered the PNP compound, he saw a man just outside the station building. He fired at this man, hitting him twice in the chest. He soon realized he mistook P/Insp. Edgardo Miguel for SPO4 Santiago Miguel, since