

## FIRST DIVISION

[ G.R. No. 201565, October 13, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EX-MAYOR CARLOS ESTONILO, SR., MAYOR REINARIO "REY" ESTONILO, EDELBRANDO ESTONILO A.K.A. "EDEL ESTONILO," EUTIQUIANO ITCOBANES A.K.A. "NONONG ITCOBANES," NONOY ESTONILO-AT LARGE, TITING BOOC-AT LARGE, GALI ITCOBANES-AT LARGE, ORLANDO TAGALOG MATERDAM A.K.A. "NEGRO MATERDAM," AND CALVIN DELA CRUZ A.K.A. "BULLDOG DELA CRUZ," ACCUSED,**

**EX-MAYOR CARLOS ESTONILO, SR., MAYOR REINARIO "REY" ESTONILO, EDELBRANDO ESTONILO A.K.A. "EDEL ESTONILO," EUTIQUIANO ITCOBANES A.K.A. "NONONG ITCOBANES," AND CALVIN DELA CRUZ A.K.A. "BULLDOG DELA CRUZ," ACCUSED-APPELLANTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

In this appeal, accused-appellants Ex-Mayor Carlos Estonilo, Sr. (**Carlos, Sr.**), Mayor Reinario Estonilo (**Rey**), Edelbrando Estonilo (**Edel**), Eutiquiano Itcobanes (**Nonong**), and Calvin Dela Cruz (**Bulldog**) seek liberty from the judgment<sup>[1]</sup> of conviction rendered by the Regional Trial Court (RTC), Branch 45, Manila, which found them guilty beyond reasonable doubt of the complex crime of Murder with Direct Assault in Criminal Case No. 05-238607.

The above-named accused-appellants, along with four others, namely: Nonoy Estonilo (**Nonoy**),<sup>[2]</sup> Titing Booc (**Titing**),<sup>[3]</sup> and Gali Itcobanes (**Gali**),<sup>[4]</sup> and Orlando Tagalog Materdam (**Negro**)<sup>[5]</sup> were all charged in an Information dated July 30, 2004 that reads:

That on or about April 5, 2004 at 8:00 o'clock in the evening thereof, at Celera Elementary School,<sup>[6]</sup> Brgy. Villa Inocencio, Municipality of Placer, Province of Masbate, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with firearms, conspiring, confederating and mutually helping one another, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot one FLORO A. CASAS, while in the performance of his duty being the District Supervisor of public schools, hitting the latter on the different parts of his body which caused his instantaneous death.<sup>[7]</sup>

On November 8, 2005, the prosecutor filed an Amended Information,<sup>[8]</sup> which provides:

That on or about April 5, 2004, at Celera Elementary School, Brgy. Villa Inocencio, Municipality of Placer, Province of Masbate, Philippines, and within the jurisdiction of the Honorable Court of Masbate, the above-named accused EX-MAYOR CARLOS ESTONILO, SR. and MAYOR REINARIO "REY" ESTONILO, conspiring and confederating together and helping one another, with intent to kill, and with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously induce their co-accused, EDELBRANDO ESTONILO AL[I]AS "EDEL ESTONILO[,]" EUTIQUIANO ITCOBANES AL[I]AS "NONONG ITCOBANES[,]" NONOY ESTONILO, TITING BOOC, GALI ITCOBANES, ORLANDO MATERDAM Y TAGALOG ALIAS "NEGRO MATERDAM[,]" [and] CALVIN DELA CRUZ AL[I]AS "BULLDOG DELA CRUZ[,]" who were all armed with firearms, to attack, assault and use personal violence upon the person of one FLORO A. CASAS, while in the performance of his duty being a District Supervisor of public schools, by then and there shooting the latter, hitting said FLORO A. CASAS on the different parts of his body which were the direct and immediate cause of his death thereafter.<sup>[9]</sup>

When they were arraigned on November 9, 2005, the accused-appellants pleaded not guilty to the crime charged. On the same date, the RTC issued a pre-trial order which stated, among others:

- a) Upon request by the prosecution, the defense admitted the following:
  - 1. The identities of the five (5) accused present;
  - 2. As to the jurisdiction of this Court, there was an Order from the Honorable Supreme Court as to the transfer of venue;
  - 3. The fact of death of Floro A. Casas;
  - 4. That the victim Floro A. Casas at the time of his death was a District Supervisor of the Department of Education.
- b) However, upon request by the defense, the prosecution did not admit that Ex-Mayor Carlos Estonilo, Sr. and Mayor Reinario Estonilo were not at the scene of the incident during the incident.<sup>[10]</sup>

The prosecution presented nine witnesses, namely: Elsa Q. Casas (Elsa), the victim's wife; Felix Q. Casas (Felix), the victim's son; Dr. Ulysses P. Francisco (Dr. Francisco), the Municipal Health Officer, Placer, Masbate; Senior Police Officer 4 Restituto L. Lepatan, Sr. (SPO4 Lepatan), Placer Police Station; Serapion M. Bedrijo (Serapion), employee of Municipal Councilor candidate Boy dela Pisa; Carlo S. Antipolo (Antipolo), a resident of Placer, Masbate; Diego L. Casas (Diego), cousin of the victim; Rosalinda V. Dahonan (Rosalinda), a resident of Placer, Masbate; and

Servando P. Rosales (Servando), former employee of Ex-Mayor Carlos, Sr.<sup>[11]</sup>

The testimonies of the foregoing witnesses consisted of the following:

Felix narrated that on April 4, 2005, the day before his father, Floro Casas (Floro), was gunned down, he was with the latter and some teachers at the Celera Inocencio Elementary School, Placer, Masbate; that they were working on the closing ceremonies to be held the following day; that one Ranio Morales called on Floro and told him that Mayor Carlos, Sr. wanted to see him at his (Ranio) house; that Floro and Felix went to see Mayor Carlos, Sr.; that when they saw Mayor Carlos, Sr., he showed them (Floro and Felix) a program of a celebration of the Federation of 7<sup>th</sup> Day Adventist that contained the names of the governor, the congressman, and Placer mayoralty candidate Vicente Coterio (Coterio), as guests of the said activity; that Felix asked his father why Coterio's picture was so big while Mayor Carlos, Sr.'s name was not mentioned in the program; that Floro replied that he cannot help it because Coterio paid for the program; that the answer angered Mayor Carlos, Sr. and he scolded Floro; that Mayor Carlos, Sr. said *"you are now for Coterio but you're only Estonilo when you ask for my signature to sign the voucher. This is up to now that you will be the supervisor of Celera"*; that Floro responded *"when are you a superintendent when you don't have any scholastic standing. Just look if I will still vote for your son"*; that Mayor Carlos, Sr. replied *"let's see if you can still vote"*; and that the following day, Floro was shot to death.<sup>[12]</sup>

But prior to the April 4, 2005 incident, Felix recounted that on December 10, 2003, upon invitation of Nonoy, he joined the latter's group for a drinking spree at a videoke bar; that they talked about the death of one Titing Villester; that Nonoy told Felix that *"brod, do not be afraid, because others are supposed to be afraid [of] us because they believe that we were the ones who killed Titing Villester"*; that afterwards Felix and the group were fetched at the videoke bar by Edel, a messenger of Mayor Carlos, Sr.; that they were brought to the house of one Bobong Baldecir (a nephew of Mayor Carlos, Sr.) in Daraga; that upon arriving thereat, Rey uttered *"it's good that Dodong (Felix's nickname) is with you"*; that Nonoy then said *"who would not [be] otherwise, his father would be the next victim after Titing Villester"*;<sup>[13]</sup> that Rey then turned to Felix and said, *"it's very important that your father is with us because a District Supervisor has a big [role] in the Comelec's choice for those teachers who would become members of the Board of Election Inspectors"*; that Felix clarified that Rey was then the 2004 mayoralty candidate for Placer, Masbate; and that Felix went along with him since he was in Daraga, the bailiwick of the Estonilos.<sup>[14]</sup>

On cross examination, the counsel for the accused tried to discredit Felix by questioning him on why it took him a long time to execute an affidavit relative to his father's killing. Felix explained that he went to Cebu to stay away from Placer, which is under the Estonilo's jurisdiction.<sup>[15]</sup> The defense confronted Felix of a criminal case against him for illegal use of prohibited drugs, for which he was out on bail.<sup>[16]</sup>

On March 28, 2006, the prosecution presented two witnesses, Dr. Ulysses Francisco y Pedrano and SPO4 Restituto Lepatan, Sr. The prosecution and the defense

entered into stipulation of facts relative to their testimonies.

[Stipulation of Facts on Dr. Ulysses P. Francisco's testimony:]

1. That Dr. Ulysses P. Francisco, a Municipal Health Officer of Placer, Masbate, is expert in medicine;
2. That he was the one who conducted the Post-Mortem Examination on the dead body of Floro Casas y Baronda on April 6, 2004 at Katipunan, Placer, Masbate;
3. That in connection with his examination, he prepared the Post-Mortem Examination Report, marked as Exhibit "F," the printed name and signature of Dr. Ulysses P. Francisco, marked as Exhibit "F-1";
4. That he also prepared the Certificate of Death, marked as Exhibit "G" and the Sketch of a Human Body, marked as Exhibit "H";
5. The veracity and truthfulness of the Post-Mortem Findings indicated in the Post-Mortem Examination Report; and
6. In the course of the examination of the victim, the said witness recovered three slugs: the 1st slug was marked as Exhibit "I," the fragmented slug as Exhibit "I-1," and the metallic object consisting of two pieces of Exhibit "I-2."

[Stipulation of Facts on SPO4 Restituto L. Lepatan, Sr.'s testimony:]

1. That there exists a Police Blotter in the Record/Blotter Book of the Placer, Masbate Police Station relative to the shooting incident that occurred on April 5, 2004 at Celera Elementary School. Said Police Blotter was requested to be marked by the prosecution as Exhibit "J";
2. That said witness prepared the Police Report dated April 17, 2004 relative to the blotter written on the Blotter Book. Said Police Report was requested to be marked as Exhibit "J-1" and the signature of Sr. Police Officer IV Restituto L. Lepatan, Sr. as Exhibit "J-1-a";
3. The existence of the Police Blotter as appearing in the Blotter Book page number 325. Said Police Blotter book page 325 was requested to be marked as Exh. "K" and the bracketed portion thereof as Exh. "K-1."<sup>[17]</sup>

According to Dr. Francisco, Floro sustained gunshot wounds caused by more than one firearm based on the sizes of the slugs recovered and that some of them were

fired at close range. The counsel for the accused waived his cross examination.<sup>[18]</sup>

Prosecution witness Serapion testified that while he was printing the name of Municipal Councilor candidate Boy dela Pisa on the street facing the Celera Elementary School on the night of April 5, 2004, he heard gunshots coming from inside the compound of the school; that after two or three minutes, he saw more or less six persons coming out of the school; that he was able to identify three of them as present in the courtroom: Edel, Nonoy, and Nonong; that he saw the six men approach Mayor Carlos, Sr.'s vehicle, which was parked near the school; that Mayor Carlos, Sr. and Rey came out of a house nearby; that upon reaching the vehicle, Serapion heard Nonoy say to Mayor Carlos, Sr. "*mission accomplished, sir*"; that Mayor Carlos, Sr. ordered Nonoy and his group to escape, which they did using two motorbikes towards the direction of Cataingan; and thereafter, that Mayor Carlos, Sr. and Rey drove towards the direction of Daraga.<sup>[19]</sup>

During his cross examination, the defense tried to discredit Serapion by confronting him with the fact that he has a pending criminal case for frustrated murder and that he was out on bail.<sup>[20]</sup>

Antipolo testified that on April 5, 2004, he was riding his motorcycle and passing by the gate of the Celera Elementary School when he heard gunshots and someone shouted that Floro was shot; that he stopped, alighted from his motorcycle, went to the gate, and saw four persons holding short firearms; that he identified Nonoy and Negro as the two who fired at Floro about seven times; that he identified Edel and Nonong as the two other gun holders; that at that moment, Gali shouted "*sir, that's enough, escape!*"; that Gali was accompanied by someone named Ace, Titing and Bulldog; that right after Gali shouted for them to escape, all of them hurriedly left the school compound; that he saw Mayor Carlos, Sr.'s pick-up vehicle arrive soon thereafter; that Mayor Carlos, Sr., Rey and Negro alighted from the vehicle and watched the proceedings; that he heard Mayor Carlos, Sr. say "leave it because it's already dead"; and that afterwards, the police officers arrived.<sup>[21]</sup>

In an attempt to discredit Antipolo, the defense counsel confronted him with a criminal case against him for homicide of one Edgardo Estonilo (brother of accused-appellant Edel) that happened on October 30, 2005.<sup>[22]</sup>

Elsa was presented to testify on the probable motive for the killing of Floro, the circumstances surrounding the killing and its discovery, their family background, her husband's line of work, how she felt on their loss, and the expenses relative to his killing. She testified that she heard there were people who were jealous of Floro's position because he could bring voters to his side during election time; that Placer mayoralty candidate Coterio donated medals for the 2003-2004 closing ceremony of the entire district of public schools; that during the closing ceremony, the donor's name was announced, which angered then Mayor Carlos, Sr.;<sup>[23]</sup> that when Floro was processing a voucher worth P70,000.00, Mayor Carlos, Sr. refused to sign the same and even threw the voucher on the floor saying "*let this be signed by Vicente Coterio*"; and that Floro's cousin, Diego Casas, helped Floro secure the Mayor's signature by ensuring Mayor Carlos, Sr. that Floro was for him, and only then did Mayor Carlos, Sr. agree to sign the voucher.<sup>[24]</sup>