

FIRST DIVISION

[G.R. No. 181539, July 24, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN
ALEMAN Y LONGHAS, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Accused-appellant Edwin Aleman appeals from the Decision^[1] dated September 28, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02100 affirming the Decision^[2] dated November 16, 2005 of the Regional Trial Court (RTC) of Quezon City, Branch 76 in Criminal Case No. Q-03-118348 which found him guilty of the crime of robbery with homicide.

Accused-appellant was charged under the following Information:

That on or about the 10th day of February 2003, in Quezon City, Philippines, the said accused, conspiring and confederating with another person whose true name, identity and other personal circumstances have not as yet been ascertained and mutually helping each other, did then and there willfully, unlawfully and feloniously rob one RAMON JAIME BIROSEL y VILLA in the following manner, to wit: on the date and place aforementioned while said victim was inside his car having a conversation over his cellphone, the said accused suddenly appeared and with intent to gain and by means of violence approached the said vehicle and ordered said victim to open it and once opened thereafter stabbed the said victim with a bladed weapon hitting him on the thorax thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, and thereupon took, stole and carried away the following, to wit:

- a) Two (2) Nokia cellular phones
- b) One (1) brown leather wallet
- c) Undetermined amount of cash money
- d) One (1) necklace
- e) One (1) men's ring

all with undetermined value, belonging to said Ramon Jaime Birosel y Villa, to the damage and prejudice of the heirs of said Ramon Jaime Birosel y Villa.^[3]

Accused-appellant pleaded not guilty to the charge when arraigned.^[4] After pre-trial was conducted, trial ensued.

The prosecution established that, as shown in the medico-legal report prepared by Police Senior Inspector (P/S Insp.) Elizardo Daileg of the Philippine National Police (PNP) Crime Laboratory who autopsied the victim's cadaver, the cause of death was "hemorrhagic shock secondary to multiple stab wounds [in] the thorax." In particular, three penetrating stab wounds were inflicted on the upper left portion of the victim's chest, "piercing the upper lobe of the left lung and perforating the heart." He also suffered stab wounds in the right eye, stomach and left forearm and incised wounds in the left upper eyelid and left palm.^[5]

The victim, Ramon Jaime Birosel, was a 55-year old real estate broker at the time of his death. He was survived by his widow, Maria Filomena Birosel, with whom he had no child. Filomena spent a total of P477,054.30 in funeral expenses in connection with the burial of her deceased husband. Filomena stated that the Nokia 3315 and Siemens S-45 cellular phones taken away from Ramon were valued at P3,500.00 each, while the necklace snatched from him was worth P20,000.00.^[6]

The prosecution's case against accused-appellant hinges on the following eyewitness account of Mark Almodovar:

[O]n February 10, 2003[,] at about 7:00 o'clock in the evening, [Mark] went out of his house to play ball in the basketball court. He walked to the basketball court[, played there,] and at about 9:00 o'clock, he stopped playing as he then felt like urinating. He went to a place near the basketball court where there were five cars parked. While urinating, he saw a fat man walking towards a car. The fat man was talking on his cellular phone. He then noticed two men following the fat man, who entered a parked car. The two male persons who were then following the fat man then separated: one went to the left side of the fat man's car and stood by the door at the driver's side of the vehicle. While the other positioned himself by the door at the opposite side of the car. [Mark] made a diagram, rectangular shape and two circles on both sides, (Exhibit "L") depicting the car and the positions of the two men. The man who stood by the door at the driver's side had a knife while his companion was armed with a gun. He then witnessed the man with the knife in his hand stabbing the fat man repeatedly on different parts of his body, while the man with the gun fired once. After taking the fat man's personal belongings, including his ring, watch, wallet and cellular phone, the two men left. He followed them to a place which he described as far and there, he saw them buried the knife and covered it with soil. He made a drawing representing the place where he followed them (Exh. "M"). After burying the knife in the ground, the men left and he followed them again to a place which he described as near. While thereat, he saw one of the culprits uncovered his face. He recognized him as the person who went to the left side of the car and stabbed the victim who was later on identified as the accused Edwin Aleman. After which, the two men left. He decided not to follow them and went home instead. It was about 11:00 o'clock in the evening when he arrived home. After waking up at 8:00 o'clock the following morning, he returned to the scene of the incident. There were many people gathered in the area, including policemen. He saw a chubby girl and requested her to call the policemen.

He rode in a car with the police officers and the chubby girl. They went to a house in a far place, but no one was there. He recognized and identified the face of the fat man depicted in the picture (Exhibit "N") shown to him.

On cross-examination, he stated that he did not receive any death threat. In the year 2003, his grandfather died in Nueva Ecija and he attended the wake. He stayed there until his father, grandmother and another person, whom he does not know but of the same age as that of his father, fetched him on September 12, 2003. He was taken to Antipolo where he stayed at the house of the relatives of the victim until December 10, 2003, the day he initially testified in court. There was no sign language interpreter in the said house. The relatives of the victim gave him some money which he used to buy for two shirts, two pants and a pair of shoes.

Before going to the basketball court which is a little farther from their house at 7:00 o'clock in the evening, he already ate his evening meal at 6:00 o'clock. There were six of them, boys and girls playing basketball. The basketball court was a full court but they were not playing a real game, just running and shooting. At about 8:00 o'clock, they stopped playing, they sat down and had soft drinks. After finishing his soft drink, he urinated in the shrubbery near the five parked cars.

He added that he is familiar with Sikatuna Bliss but he does not know what building in Sikatuna Bliss was fronting the five cars that were parked near the basketball court. It was the first time that he saw the fat man and the two male persons who wore black bonnets which covered their whole face. The fat man was already inside his car when he was repeatedly stabbed. The fat man was not using his cell phone when the one with the knife knocked twice on the window of the car. The window of the car was half-opened when the fat man was immediately stabbed. The man with a gun was on the other side of the car when he fired his gun once. He did not notice any argument between the fat man and his attacker. He kept a distance of about eight to ten meters between him and the two men as he followed them. There were no persons around when the two men attacked the fat man. After witnessing the stabbing, his initial reaction was to follow the culprits. He did not call his playmates because they were still playing. In fleeing, the two male persons did not run. They just walk[ed] fast. He had been [on] their trail for about nine minutes before they removed their bonnets. He followed them for about thirty minutes.

When he gave his statements to the police, he did not tell them that the knife was buried under the ground. It was 9:56 o'clock when the men took off their bonnets. The man with the knife removed the bloodstained white t-shirt that he was wearing and, along with his bonnet, threw it away in a place he described as flowing or running water. At about 10:00 o'clock, the two men boarded a motorcycle and left. It was the man with the gun who drove the motorcycle. He took the same route when he walked back home. It was about 10:00 o'clock when he passed by the car of the fat man again. There were no persons when he went back to

the basketball court. Thus, he just went home to sleep and the following morning, he gave his statement to the police.

On re-direct examination, he was asked and he made a drawing (Exhibit "O") showing the basketball court (Exhibit "O-1"), the five parked cars near the place where he urinated (Exhibit "O-2"), the exact spot where he urinated (Exhibit "O-3") and the car of the fat man (Exhibit "O-4"). When asked how he was able to see the face of the accused, he answered that "there was light in the area which he described as near the flowing water where the accused removed his bonnet." He stated that the light near the flowing water came from a light bulb and the distance from the witness stand up to second door outside the courtroom represents how far he was from the man with the knife when [the latter] took off his bonnet.^[7]

Mark was 14 years old when he testified. He is a deaf-mute. He was assisted in his testimony by Daniel Catinguil, a licensed sign language interpreter from the Philippine Registry of Interpreters for the Deaf who has been teaching in the Philippine School for the Deaf since 1990. Catinguil had also completed a five-year course at the Philippine Normal University with a degree in teaching special education children.^[8]

Accused-appellant was 26 years old and a resident of Area 6, Barangay Botocan, Project 2, Quezon City when he testified. He interposed denial and alibi as his defenses. He claimed that, at the time the incident happened on February 10, 2003, he was at the billiards hall which was a 15-minute walk from his residence. A road separates the billiards hall from Sikatuna Bliss.^[9]

On that particular night, accused-appellant went to the billiards hall at around 7:00 in the evening and played billiards against a certain Ruben. They played until around 10:00 in the evening. Just as they were finished playing, accused-appellant's sister, Hilda Aleman, arrived to fetch him for dinner. He went home with her. The following morning, after having breakfast, he watched a basketball game and talked to his friends. At around noon, while on his way back to his house, a neighbor, Vangie Barsaga, called him and informed him that police officers came to his house looking for him. At around 3:00 in the afternoon of that day, he went to the nearest police station, Camp Karingal, where he presented himself to Senior Police Officer (SPO) 1, at that time Police Officer 3, Leonardo Pasco of that station's District Police Intelligence Unit. He asked SPO1 Pasco if they were looking for a certain Edwin Aleman and, upon receiving a positive answer, he introduced himself. He was informed that he was a suspect in a killing incident. He was told to stay put while they were waiting for the alleged eyewitness to arrive. On February 13, 2003, he was twice made to join a police line-up together with five others. In both instances, they were ordered to turn around several times and they complied. Thereafter, he was given a spot report: re: Voluntary Surrender of Alleged Suspect in a Robbery w/ Homicide Case by a police officer and was informed that he would be turned over to the custody of the Criminal Investigation Division of Camp Karingal.^[10]

Accused-appellant's testimony that he was at the billiards hall on February 10, 2003

playing against Ruben until around 10:00 in the evening was corroborated by Filomena Fungo, grandmother of Ruben, who saw accused-appellant and Ruben playing when she went to the billiards hall twice that night to fetch Ruben.^[11] Hilda, accused-appellant's sister, also corroborated accused-appellant's testimony that she fetched him from the billiards hall at around 10:00 in the evening of February 10, 2003. She further stated that, upon getting home, she and accused-appellant ate dinner together and, thereafter, watched some television shows until accused-appellant went to sleep some 30 minutes later.^[12]

Accused-appellant also attempted to show that the eyewitness, Mark, failed to identify him during the police line-up. Defense witness SPO1 Leonardo Pasco stated that he was the one who prepared the spot report although it was his superior who signed it. He further stated that Mark failed to identify accused-appellant during the police line-up. Another defense witness, *barangay kagawad* Ricofredo Barrientos, stated that he was with Mark on February 13, 2003 when Mark was asked to identify the robber-killer of the victim from a line-up. According to Barrientos, a police officer made a gesture to Mark by slashing his throat with the use of his hand and, after viewing the persons in the line-up, Mark shook his head. The line-up was presented to Mark twice and he shook his head in both instances.^[13]

After studying the parties' respective evidence, the trial court rejected the defenses of accused-appellant for their inherent weakness and implausibility. On the other hand, it viewed the prosecution's evidence favorably, particularly the eyewitness testimony of Mark and his positive identification of accused-appellant as the one who stabbed the victim. In particular, the trial court found Mark's testimony simple and credible. He had no ill motive that would make him testify falsely against accused-appellant. While there were minor inconsistencies in his testimony, the discrepancies were inconsequential and did not affect the truthfulness of Mark's narration. Thus, in its Decision dated November 16, 2005, the trial court found accused-appellant guilty beyond reasonable doubt of the crime of robbery with homicide. The dispositive portion of the Decision reads:

WHEREFORE, finding the accused Edwin Aleman guilty beyond reasonable doubt of the crime of Robbery with Homicide, described and penalized under Article 294 of the Revised Penal Code, as amended by Republic Act 7659, in relation to Article 63 of the Revised Penal Code, the court hereby sentences him to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of Ramon Jaime Birosel as follows:

1. The amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of the victim;
2. The amount of Fifty Thousand Pesos (P50,000.00) as moral damages; and
3. The amount of Four Hundred Seventy-Seven Thousand Fifty-Four Pesos and Thirty Centavos (P477,054.30) as actual damages.

He is also ordered to reimburse the heirs of the victim the amount of Three Thousand Five Hundred Pesos (P3,500.00) representing the value