

EN BANC

[G.R. NO. 174775, October 11, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MAMERTO DULAY,
APPELLANT.**

R E S O L U T I O N

CARPIO, J.:

Before the Court is an appeal from the 30 June 2006 Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00486.

Mamerto Dulay (appellant) and his co-accused Diosdado Camat (Camat), John Laurean (Laurean), Rogelio Campos, Ibot Campos, Henry Caoile (Caoile), Serafin Dulay (Dulay), and Junior Lopez (Lopez) were charged with (1) Murder with the Use of Unlicensed Firearms docketed as Criminal Case No. U-10498^[2] for the death of Elmer Hidalgo; (2) Murder with the Use of Unlicensed Firearms docketed as Criminal Case No. U-10499^[3] for the death of Marcelina Hidalgo; and (3) Frustrated Murder docketed as Criminal Case No. U-10502^[4] for the attempt against the life of Pedro Hidalgo. Camat, Caoile, and Lopez remained at large. Appellant and the other accused entered their pleas of not guilty to the charges.

On 3 November 1999, at around 3:00 p.m., in Barangay Anis, Laoac, Pangasinan, Corazon Domingo, Ricardo, Pedro, Juanito, Abelardo, Anastacio, Lydia, Aurelio, Marcelina, and Elmer, all surnamed Hidalgo, were sitting on a bench in front of the house of Juanito. They were conversing when the motorcycle driven by Rogelio Campos passed by. On the third time, a certain Pilo Cabingas was backriding on the motorcycle. Shortly thereafter, shots were heard and the witnesses saw all of the accused firing long and short firearms at the direction of those sitting on the bench. The witnesses positively identified appellant and Camat as the ones holding long firearms while the other accused as the ones holding short firearms. As a result of the shooting incident, Marcelina and Elmer Hidalgo were killed while Juanito and Pedro Hidalgo were wounded.

All the accused denied the charges against them. Appellant alleged that at the time of the incident, he was at the place of his brother Maximo Dulay at Salcedo, Ilocos Sur. He was borrowing money for his wife's placement fee. Appellant alleged that, together with Bong De Guia and Marcos Suyat, he helped his brother dry "palay" from 12:00 noon to 5:00 p.m.

The Regional Trial Court of Urdaneta City, Pangasinan, Branch 46 (trial court) acquitted Laurean, Rogelio Campos, Ibot Campos, and Dulay. However, the trial court found appellant guilty beyond reasonable doubt of the charges against him. The dispositive portion of the trial court's Decision^[5] reads:

WHEREFORE, JUDGMENT is hereby rendered:

1. In CRIM. CASE NO. U-10499, CONVICTING beyond reasonable doubt MAMERTO DULAY of the crime of Murder with the Use of Unlicensed Firearm and the Court sentences him to suffer the penalty of DEATH to be implemented in the manner as provided for by law; the Court, likewise, orders him to indemnify the heirs of Marcelina Hidalgo the sum of P75,000.00, as moral damages; P50,000.00 as exemplary damages plus P22,000.00 as actual damages.

Accused Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean are hereby ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

2. In CRIM. CASE NO. U-10498, CONVICTING beyond reasonable doubt MAMERTO DULAY of the crime of Murder with the Use of Unlicensed Firearm and the Court sentences him to suffer the penalty of DEATH to be implemented in the manner as provided for by law; the Court, likewise, orders him to indemnify the heirs of Elmer Hidalgo the sum of P75,000.00 as moral damages and the further sum of P50,000.00 as exemplary damages;

Accused Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean are hereby ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

3. In CRIM. CASE NO. U-10502, CONVICTING beyond reasonable doubt MAMERTO DULAY of the crime of Frustrated Murder and the Court sentences him to suffer an imprisonment of ten years and one day of Prision Mayor as minimum to twenty years of Reclusion Temporal as maximum; the Court, likewise, orders him to indemnify the heirs of Pedro Hidalgo the sum of P50,000.00 as moral damages and the further sum of P20,000.00 as exemplary damages.

Accused Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean are ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt.

The Clerk of Court is hereby ordered to prepare the mitimus and to transmit the complete records of Criminal Cases Nos. U-10498 and U-10499 to the Honorable Supreme Court of the Philippines for automatic review immediately.

The jail Warden, Bureau of Jail Management and Penology (BJMP), Urdaneta District Jail, Urdaneta City is hereby ordered to deliver the living person of Mamerto Dulay to the National Bilibid Prison, Muntinlupa City, immediately upon receipt of this Decision.

On the other hand, the Jail Warden, Bureau of Jail Management and Penology, Urdaneta District Jail, Urdaneta City, is hereby ordered to release from detention the living persons of Ibot Campos, Rogelio Campos, Serafin Dulay and John Laurean immediately upon receipt of this Decision, unless they are being detained for another lawful cause/s.

Let alias warrants of arrest be issued against Diosdado Camat, Henry Caoile and Junior Lopez for their apprehension.

SO ORDERED.^[6]

The records of the cases were forwarded to this Court for automatic review and docketed as G.R. Nos. 148880-82. In a Resolution dated 1 December 2004,^[7] the cases were transferred to the Court of Appeals pursuant to the Decision of this Court in *People v. Mateo*.^[8] In its 30 June 2006 Decision, the Court of Appeals affirmed the trial court's Decision.

Hence, the appeal before this Court.

The main issue is whether appellant's guilt was proven beyond reasonable doubt.

The appeal has no merit.

Appellant argues that he was convicted based on contradictory and improbable testimonies of prosecution witnesses. He argues that it was improbable for the witnesses to look at the faces of the persons firing at them when they were more concerned with taking cover for their safety. Appellant further argues that since his supposed co-conspirators were acquitted, he should also be acquitted since they were alleged to have conspired to commit the crimes charged.

We do not agree. A few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details do not impair their credibility.^[9] Minor inconsistencies even tend to strengthen the credibility of a witness because they discount the possibility that the testimony was rehearsed.^[10] As regards the actuations of the witnesses at the time of the incident, it is settled that there is simply no standard form of behavioral response that can be expected from anyone when confronted with a strange, startling, or frightful occurrence.^[11]

We agree with the Court of Appeals that we may no longer review the acquittal of the other accused. A verdict of acquittal is immediately final.^[12] However, the acquittal of his co-accused does not necessarily benefit appellant. In *People v. Uganap*,^[13] appellant questioned the trial court's decision which convicted him alone of murder and acquitted the rest of the accused. The Court ruled that appellant may not invoke the acquittal of the other conspirators to merit the reversal of his conviction.^[14] The Court declared:

There is nothing irregular with the acquittal of one of the supposed co-conspirators and the conviction of another. Generally, conspiracy is only a means by which a crime is committed as the mere act of conspiring is not by itself punishable. Hence, it does not follow that one person alone cannot be convicted when there is a finding of conspiracy. As long as the acquittal of a co-conspirator does not remove the basis of a charge of conspiracy, one defendant may be found guilty of the offense.^[15]

We also reject appellant's defense of alibi. Positive identification, where categorical, consistent, and not attended by any showing of ill motive on the part of the