

EN BANC

[G.R. No. 128106-07, January 24, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GONZALO BALDOGO, ACCUSED-APPELLANT.**

D E C I S I O N

CALLEJO, SR., J.:

This is an automatic review of the Joint Judgment,^[1] dated October 18, 1996, of the Regional Trial Court, Branch 52, Puerto Princesa City, finding accused-appellant Gonzalo Baldogo alias "*Baguio*" guilty beyond reasonable doubt of the crime of Murder in Criminal Case No. 12900 and Kidnapping in Criminal Case No. 12903. The trial court imposed on accused-appellant the supreme penalty of death in Criminal Case No. 12900 and *reclusion perpetua* in Criminal Case No. 12903.

I. The Indictments

Two Informations were filed against accused-appellant and Edgar Bermas alias "Bunso" which read:

"That on or about the 22nd day of February, 1996 in the evening at the residence of Mr. Julio Camacho of Iwahig Prison and Penal Farm, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused who were both convicted by final judgment of the offense of Homicide and while already serving sentence, committed the above name offense by conspiring and confederating together and mutually helping one another, with intent to kill, with treachery and evident premeditation and while armed with a bolo, did then and there wilfully, unlawfully and feloniously assault, attack and hack one JORGE CAMACHO, hitting him and inflicting upon him mortal wounds at the different parts of his body, which was the direct and immediate cause of his death shortly thereafter.

CONTRARY TO LAW, with the aggravating circumstances of treachery, evident[,] premeditation and recidivism. Puerto Princesa City, Philippines, March 5, 1996."^[2]

x x x

"That on Thursday, February 22, 1996 at more or less 8:15 in the evening at the Victim's residence, Iwahig Prison and Penal Farm, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused while serving sentence at the Central Sub-Colony both for the offense of Homicide, conspiring and confederating together and mutually helping one another, commits (*sic*) another offense,

kidnapping one JULIE E. CAMACHO, a girl 12 years of age, and brought her to the mountains, where said Julie E. Camacho was detained and deprived of her liberty fro [sic] more than five days.

CONTRARY TO LAW and attended by the aggravating circumstance of recidivism.”^[3]

Accused-appellant was arraigned on June 28, 1996 and entered a plea of not guilty to both charges.^[4] Edgardo Bermas died before he could be arraigned.^[5] The two cases were ordered consolidated and a joint trial thereafter ensued.

The prosecution presented four witnesses, namely, Julie Camacho, Dr. Edilberto Joaquin, Esteban Mamites and Julio Camacho, Sr., and offered documentary and object evidence on its evidence-in-chief.

II. The Antecedent Facts

Julio Camacho, Sr. and his wife, Heather Esteban, had four children, namely: Julio, Jr., a student of the Palawan State University in Puerto Princesa City and who stayed in Guaygo, Puerto Princesa City; Jorge, who was fourteen years old;^[6] Julie, who was 12 years old and a grade six elementary pupil at the Iwahig Elementary School and Jasper, who was eight years old. Julio Sr. was employed as a security guard in the Iwahig Prison and Penal Colony. He and his family lived in a compound inside the sub-colony. Edgardo Bermas alias “*Bunso*,” an inmate of the penal colony, was assigned as a domestic helper of the Camacho spouses. Accused-appellant alias “*Baguio*,” also an inmate of the colony, was assigned in January 1996 as a domestic helper of the Camacho family. Both helpers resided in a hut located about ten meters away from the house of the Camacho family.

In the evening of February 22, 1996, accused-appellant and Bermas served dinner to Julio Sr., Jorge and Julie in the house of the Camachos. At about 7:30 p.m., Julio Sr. left the house to attend a bible study at the dormitory in the Agronomy Section of the Penal Farm. Heather and her son, Jasper, were in Aborlan town. Only Jorge and his sister Julie were left in the house.

After Julio Sr. had left the house, Julie went to the sala to study her assignment. Momentarily, Bermas called Julie from the kitchen saying: “*Jul, tawag ka ng kuya mo.*” Julie ignored him. After five minutes, Bermas called her again but Julie again ignored him. Julie was perturbed when she heard a loud sound, akin to a yell, “*Aahh! Ahh!*” coming from the kitchen located ten meters from the house. This prompted Julie to stand up and run to the kitchen. She was appalled to see Jorge sprawled on the ground near the kitchen, face down and bloodied. The vicinity was lighted by a fluorescent lamp. Standing over Jorge were accused-appellant and Bermas, each armed with a bolo.^[7] The shirt of Bermas was bloodied.^[8] Julie was horrified and so petrified that although she wanted to shout, she could not. She ran back to the sala with accused-appellant and Bermas in pursuit. Accused-appellant overtook Julie, tied her hands at her back with a torn t-shirt and placed a piece of cloth in her mouth to prevent her from shouting for help from their neighbors. Bermas went to the room of Julie’s brothers. Accused-appellant dragged Julie outside the house and towards the mountain. Bermas tarried in the house.

With the aid of a flashlight, accused-appellant, with Julie in tow, walked for hours towards the direction of the mountain. About a kilometer away from the house of the Camachos, accused-appellant and Julie stopped under a big tamarind tree at the foot of the mountain. After about thirty minutes, Bermas arrived with a kettle and raw rice. Accused-appellant and Bermas retrieved a bag containing their clothing and belongings from the trunk of the tamarind tree. They untied Julie and removed the gag from her mouth. The three then proceeded to climb the mountain and after walking for six hours or so, stopped under a big tree where they spent the night. When the three woke up in the morning of the following day, February 23, 1996, they continued their ascent of the mountain. Seven hours thereafter, they started to follow a descending route. Accused-appellant and Bermas told Julie that they would later release her. At about 3:00 p.m., Bermas left accused-appellant and Julie. However, accused-appellant did not let go of Julie. The two survived on sugar and rice cooked by accused-appellant. Once, they saw uniformed men looking for Julie. However, accused-appellant hid Julie behind the tree. She wanted to shout but he covered her mouth.

In the early morning of February 28, 1996, accused-appellant told Julie that he was leaving her as he was going to Puerto Princesa City. He told her to fend for herself and return to the lowland the next day. After their breakfast, accused-appellant left Julie alone to fend for herself. A few hours after accused-appellant had left, Julie decided to return to the lowlands. She found a river and followed its course toward Balsaham until she saw a hut. She called upon its occupant who introduced himself as Nicodemus. Julie sought help from him. When asked by Nicodemus if she was the girl whom the police authorities were looking for, she replied in the affirmative. Nicodemus brought Julie to Balsaham where they met some personnel of the penal colony and police officers, and Nicodemus turned Julie over for custody to them.

Meanwhile, Julio, Sr. arrived home after his bible study at about 9:00 p.m. on February 22, 1996. He noticed that the television set was switched on but no one was watching it. He looked for his children but they were nowhere to be found. He then proceeded to the hut occupied by accused-appellant and Bermas but he also failed to find them. Julio Sr. then rushed to the house of his older brother, Augusto Camacho, to look for his children, but Augusto told him that Jorge and Julie were not there. Julio Sr. then sought the help of Romualdo Esparagoza, a trustee of the penal farm. The two rushed back to the Camacho residence and proceeded to the kitchen where they noticed blood on the floor. The two proceeded to the dirty kitchen and saw the bloodied body of Jorge dumped about three meters away from the dirty kitchen. Julio Sr. and Esparagoza then brought Jorge to the Iwahig Hospital where he was pronounced dead on arrival at 12:40 a.m. of February 23, 1996. Dr. Edilberto Joaquin examined the cadaver and found that the victim was stabbed on the breast once and at the back seven times. He sustained a lacerated wound on the neck. The layers of the neck, trachea and esophagus of Jorge had been cut. Jorge did not sustain any defensive wound. Dr. Joaquin performed an autopsy of the cadaver and signed a medical certificate with his findings, thus:

"MEDICAL CERTIFICATE

GENERAL DATA:

JORGE CAMACHO y ESTEBAN, 14 years old, student, resident of Iwahig Prison and Penal Farm, approximately 5'3 inches in-height, was brought

to the hospital, (DOA) dead on arrival at 12:40 AM, 23 February 1996, approximate time of death 8:00 P.M. February 22, 1996.

FINDINGS

1. Stab wound, deep, penetrating, approximately 1 inch in length, at the level of the xyphoid process, anteriorly.
2. Stab wound, chest, back, approximately 1 inch length, right midclavicular line, level of the 3rd rib.
3. Stab wound, back, right midclavicular line, level of the 5th rib.
4. Stab wound, back, approximately 1 inch length level of the 5th rib, left midclavicular line.
5. Stab wound, back, approximately 1 inch length, right midclavicular line, 6th rib.
6. Stab wound, back, approximately 1 inch length, right midclavicular line, level of the 4th lumbar region.
7. Stab wound, back, approximately 1 inch in length, right third lumbar region, deep, penetrating involving the liver.
8. Stab wound, back, approximately 3/4 inch, at the level of the 2nd lumbar region.
9. Lacerated wound, neck, anteriorly, deep, penetrating, cutting the layers of the neck and the trachea and esophagus.

CAUSE OF DEATH

Hypovolemia due to severe hemorrhage secondary to multiple stab wounds and laceration of the neck.”^[9]

Wounds numbers 7 and 9 were fatal. It was possible that two sharp-edged and sharp pointed weapons were used in stabbing Jorge and that two assailants stabbed the victim.^[10]

On February 29, 1996, Julie gave her sworn statement and a supplemental sworn statement to the police investigators.^[11] Julio Sr. suffered mental anguish and sleepless nights because of the death of Jorge.

The prosecution adduced in evidence excerpts of the personal file of accused-appellant kept in the penal colony showing that he had been convicted of homicide by the Regional Trial Court of Baguio City and that he commenced serving sentence on November 19, 1992 and that the minimum term of his penalty was to expire on August 16, 1997.^[12]

III. The Defenses and Evidence of Accused-Appellant

Accused-appellant denied killing Jorge and kidnapping Julie. Accused-appellant asserted that Julie implicated him because she was coached and rehearsed. He testified that he was assigned as a helper in the house of Augusto Camacho, the Chief of the Industrial Section of the colony and the older brother of Julio Sr. Augusto told accused-appellant that his brother, Julio Sr., wanted to have accused-appellant transferred as his domestic helper. However, accused-appellant balked because he had heard from Edgardo Bermas, the helper of Julio Sr., that the latter was cruel and had been maltreating Bermas. Nonetheless, in December 1995, accused-appellant was transferred as a domestic helper of Julio Sr. Accused-appellant confirmed that indeed Julio Sr. was cruel because whenever the latter was angry, he maltreated accused-appellant by spanking and boxing him. These would occur about two times a week.

On February 22, 1996, at about 6:30 p.m., accused-appellant took his dinner in the kitchen. At about 7:00 p.m., while he was already in his quarters and preparing to sleep, Bermas arrived, armed with a bloodied bolo measuring about 1½ feet long and told accused-appellant that he (Bermas) had just killed Jorge to avenge the maltreatment he received from Julio Sr. Bermas warned accused-appellant not to shout, otherwise he will also kill him. Petrified, accused-appellant kept silent. Bermas then brought accused-appellant to the kitchen in the house of the Camachos where accused-appellant saw the bloodied body of Jorge sprawled near the kitchen. Bermas called Julie three times, telling her that her brother was calling for her but Julie at first ignored Bermas. Julie later relented and went to the kitchen where Bermas grabbed her and threatened to kill her if she shouted. Bermas tied the hands of Julie with a piece of cloth and placed a piece of cloth around her face to prevent her from shouting.

Bermas, still armed with his bolo tucked on his waist and a knife on his hand, brought accused-appellant and Julie outside the house. The three then trekked towards the mountain. On the way, Bermas picked a bag containing food provisions and his and accused-appellant's clothings. Accused-appellant thought of escaping but could not because Bermas was watching him. With the help of a flashlight brought by Bermas, the three walked towards the mountain, with Julie walking ahead of accused-appellant and Bermas. After walking for hours, they stopped by a tree to which Bermas tied Julie. At one time, while Bermas and accused-appellant were scouring for water, Bermas kicked accused-appellant and pushed him into a ten feet deep ravine. The right hand and foot of accused-appellant sustained bruises. He likewise sustained a sprain on his foot. Bermas left accused-appellant and Julie after 1½ days.

In the meantime, accused-appellant managed to climb out of the ravine and heard Julie calling his name. Julie later told accused-appellant that before Bermas left, the latter told her that he was going to kill accused-appellant.

Accused-appellant and Julie remained in the mountain after Bermas had left. At one time, accused-appellant and Julie saw soldiers who were looking for her. Accused-appellant did not reveal his and Julie's location to the soldiers because he was afraid that he might be killed. On February 25, 1996, accused-appellant untied Julie. He told her that he will set her free as soon as his foot shall have healed.

On February 27, 1996, accused-appellant told Julie that she can go home already.