

FIRST DIVISION

[G.R. No. 133267, August 08, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILFREDO PERALTA @ WILLIE, ACCUSED-APPELLANT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

On appeal is the decision^[1] dated November 10, 1997 of the Regional Trial Court of Quezon City, finding Wilfredo Peralta alias "Willie" guilty of murder and sentencing him to suffer an imprisonment term of *reclusion perpetua* and to pay the heirs of Chief PNP Inspector Arthur Rivera the sum of One Hundred Eighty Four Thousand Seven Hundred Fifteen Pesos (P184,715.00) as actual damages, Two Hundred Thousand Pesos (P200,000.00) in moral damages, and Fifty Thousand Pesos (P50,000.00) in indemnity damages.

The Information filed on September 22, 1994 accuses Wilfredo Peralta alias "Willie," Severo Espinosa, Jr., alias "Jun Berong" and several John Does for murder committed as follows:

"That on or about 02 April 1993 at around 5:30 o'clock in the afternoon at Sitio Tabane, Brgy. Aguso, Tarlac, Tarlac and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, qualified by treachery, evident premeditation, taking advantage of superior strength, with the aid of armed men or employing means to weaken the defense or of means or persons to insure or afford impunity, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously attack, assault and use violence upon the person of Chief Insp. Arthur Rivera by firing shots at him thereby causing his instantaneous death.

"CONTRARY TO LAW."^[2]

Upon arraignment on October 21, 1994, accused Wilfredo Peralta and Severo Espinosa, Jr. entered pleas of not guilty.^[3] Thereafter, trial ensued.^[4]

The prosecution presented the following witnesses: Myrna Borromeo, Francisco Rivera, Conrado Capitulo, Myrna Rivera, Danilo Castañeda, and Carlos Rocha.

Myrna Borromeo testified that accused Severo Espinosa, Jr. alias "Jun Berong" was her live-in partner from December 1990 to July 1994 while accused Wilfredo 'Willie' Peralta was their *compadre* who often visited their house in Brgy. Tibag, Tarlac, Tarlac^[5] ; that around the third week of March 1993, while serving Berong, Willie and two (2) others in one of their drinking sessions, she heard accused Willie Peralta say that Major Rivera was already scheduled to be killed;^[6] that on April 2, 1993, she noticed that Berong and their stainless owner jeep were not at their house; that later in the evening, she heard that Major Rivera was killed;^[7] that a week after the

death of Rivera, Willie went to their house and she heard him say to Berong that they needed to hide the vehicle while it was still hot ("*mainit pa*"); that Berong then hid the vehicle at the back of their house.^[8]

On cross-examination, Myrna admitted that Berong used to beat her up.^[9] This according to the defense was the reason why she wanted to get back at Berong by implicating him in the death of Rivera.^[10]

On redirect, Myrna admitted that on July 22, 1994, she filed a complaint before the police where she told them that if only she would be given a chance to tell the truth, she would report that "they used (Berong's) vehicle in killing Major Rivera."^[11]

Francisco Rivera, one of the four children of the victim, was thirteen (13) years old at the time of his testimony. He testified that on April 2, 1993 at around 4 o'clock in the afternoon, he and his brother Ferdinand went with their father to the town proper of Tarlac to get his bike; that with them was one of their helpers, Tano Basa; that they were riding their father's Ford Cortina and arrived at Tarlac, Tarlac at around 4:20 p.m.^[12] ; that he and his brother rode the bike alternately while the other stayed in the car together with their father and Tano Basa; that they passed through Kingburger, Matatalaib, Crisca Resort until they reached the sub-station going to Villa Soliman, where the car stopped; that there, his father decided to go to Tabane; that upon reaching Tabane, he saw the car of his father park along the shoulder of the road in front of the house of Apong Capitulo; that his father was still at the driver's seat; that soon after, he saw a man alight from a stainless owner jeep and shoot at his father;^[13] that a light green Sarao type passenger jeep without any plate number followed;^[14] that when the passenger jeep stopped, fires were shot from said vehicle; that the shots came from an armalite rifle;^[15] that the gunman was standing sideways with the gun placed beside his abdomen; that he was at least ten (10) meters from his father's car when the two (2) jeeps arrived; that he was only about five (5) meters from his father's car when he saw the gunman from the stainless jeep board the same which then sped away; that while Francisco admitted that he may not be able to identify the stainless jeep again nor the driver and the gunman from said vehicle,^[16] he was able to take a look at the man who shot his father from the passenger jeepney and identified accused Wilfredo Peralta;^[17] that after the vehicle sped away, he ran towards the car and saw his father with his face down covered with blood;^[18] that he had seen accused Peralta previously before the incident; that he saw him on the same day, at around noon, outside their gate on board a motorcycle with another man.^[19]

On cross examination, Francisco was shown the sworn statement he executed on June 9, 1993 at Brgy. Aguso, Tarlac.^[20] When asked what he did when he heard the gunshots, he answered that he alighted from his bike. When asked if he hid, he answered no and said he looked at the person who was firing at his father. At this point, counsel for the accused quoted from Francisco's previous statement, thus: "T - Nakarating ka ba at nakalapit sa paghihintayan sa iyo ng iyong Papa na si Maj. Rivera? S - Hindi po at bigla akong huminto at bumaba sa bisikleta, at nagtago sa damuhan." Francisco admitted that he hid because he was frightened and got confused.^[21]

Upon redirect, the witness described the grass where he took cover as only about eight (8) inches to two (2) feet tall.^[22]

The next witness presented by the prosecution was Conrado Capitulo. He testified as follows: In the afternoon of April 2, 1993, he and his wife were at the balcony of their house entertaining visitors when he noticed a car parked in front of their house more or less ten (10) meters from where they were. He saw a boy alight from the car and go to the rear portion of the car. When he went inside to get softdrinks for his visitors, he heard around three (3) successive shots coming from a gun. He immediately went to the balcony where his wife, visitors and grandchildren were. Then he saw a Sarao jeepney parked in front of his gate, on the right side of the road, with the engine on. There were five (5) passengers in the jeep, two (2) on both sides, plus the driver. Then he saw one of the occupants of the jeepney, the one seated at the right side of the Sarao at the rear portion, aim his M-16 armalite at the car parked in front of his house. After the man fired at the car, Conrado went near his gate because one of his grandchildren was there. He then shouted "dapa, dapa, dapa."^[23] The gunfire stopped for a while and the one firing the gun looked at him. Thereafter, the gunman removed his gaze from Conrado and continued firing successively until he ran out of bullets.^[24] All in all, there were three (3) initial shots followed by the shots from the armalite before the jeepney sped away.^[25] After the jeepney sped away, Conrado hurriedly went to the street because he wanted to see the plate number of the jeep.^[26] Then he flagged down an L-300 van going the direction of Baguio and asked its driver to go after the Sarao jeepney and get the plate number. Conrado called a tricycle which was going the direction of Manila and asked the driver to report the incident to the police sub-station at Salapungan. Afterwards, he went near the car and saw the driver with his face on the steering wheel. He recognized the victim as Major Rivera. The victim had his left hand on the steering wheel with blood oozing from his forehead and below the nape. The windshield of the victim's car was broken with the rear glass and the body of the car riddled with bullets. There was a hole at the doorknob beside the driver, and the rear tire was flat.^[27] Conrado was invited to Camp Crame in connection with the death of Major Arthur Rivera. There he identified accused Wilfredo Peralta, in a line up, as the one who shot an armalite from the passenger jeepney. A witness also pointed to Wilfredo Peralta in court as the man who fired at the victim.^[28]

Myrna Rivera, wife of the victim testified as follows: She and her husband had four (4) children namely, Ferdinand, Francisco, Imee and Mayavi. On April 2, 1993, at around 5:00 in the afternoon, she was on board a tricycle on her way to Agus, Tarlac, Tarlac when she saw many people and several policemen along the highway. She told the tricycle driver to slow down and upon seeing the car of her husband, told the driver to stop. She ran toward the car and saw her husband at the driver's seat full of blood. She pulled the head of her husband and saw a big hole on his forehead. She cried upon seeing her husband dead.^[29] They incurred several expenses in relation to the death of her husband, as follows: Twenty Five Thousand Pesos (P25,000.00) for the casket and funeral service; Seventy Seven Thousand Two Hundred Fifteen Pesos (P77,215.00) for the food during the wake; and Eighty Two Thousand Five Hundred Pesos (P82,500.00) for the burial expenses. Immediately before the death of her husband, they were earning Sixty Thousand Pesos (P60,000.00) a month from their business of buying and selling slightly used cars.^[30] As chief inspector, the victim was also receiving a monthly pay of Seven

Thousand Seven Hundred Twenty Four Pesos (P7,724.00).^[31] At the time of the death of her husband, her children were studying at Trinity College. Ferdinand was in second year college while Francisco was first year in high school.^[32] Because of the death of her husband, she suffered sleepless nights which if quantified would amount to One (1) Million Pesos (P1,000,000.00).^[33]

Dr. Saturnino Ferrer, the Municipal Health Officer of Tarlac, Tarlac who conducted the post-mortem examination on the body of Major Arthur Rivera, testified that the cause of death was a gunshot wound.^[34] He prepared the post mortem findings marked as Exhibit "B".^[35]

The prosecution also presented as witness, Danilo Castañeda, a self-confessed gun for hire.^[36] He testified that he knows the accused Wilfredo Peralta because they are both residents of Barangay Barsolingan in Tarlac; that Wilfredo Peralta, Aser Agosto, Ben Galo, and Severo Espinosa alias Ka Berong often met at his house to talk about a lot of things, one of which was the killing of Major Rivera at around March of 1993; that present during these conversations were Bong Pasuquin, Conrad Domingo, Anding Pineda, Jess Ilonga, and Boy Peralta;^[37] that a certain Nelson Torres, a minister of the Iglesia ni Cristo, who gave them assignments who to kill;^[38] that his group planned on killing Major Rivera at the house of Carlos Rocha, a neighbor, "Pinag-usapan po namin ang pagpatay kay Rivera;"^[39] that they planned on killing Rivera because accused Peralta was mad at him for driving them out of Barangay Aguso;^[40] that Willie Peralta, John Pasuquin, Conrad Domingo, Alvin Pineda and Jess Ilonga got their arms, two (2) M-16 Armalite and one (1) M-1, from a Recto Salvador of Barangay Aguso in the second week of March;^[41] that on April 2, 1993, his group went to their meeting place at Midway, which was the crossing going to Baguio, Makabulos and Mata Talahib Maliwalu; that one of the vehicles they used was actually a San Francisco passenger jeepney owned by the father of Bong Pasuquin which had a yellow and green stripes and a panel where the routes were written in black;^[42] that this passenger jeepney was parked in front of Shell Gasoline station along the highway; that meanwhile, Bong Pasuquin ordered him to park the other vehicle facing Makabulos while he waited for Major Rivera; that Bong then asked him to be a look out; that Bong Pasuquin was with him while they were waiting for Major Rivera from 5 to 6 p.m.;^[43] that upon seeing Major Rivera's car, Bong Pasuquin went to the passenger jeepney and told their companions "Parating na si Major" and to follow behind; that Major Rivera turned left at the Midway intersection and stopped at the City Trans Bus Station, formerly known as Pantrans, going to Baguio; that Bong Pasuquin followed the car and the witness followed him about a distance of one post away; that at the boulevard, Major Rivera stopped from time to time to assist his son who was riding a bike; that Major Rivera then moved forward stopping at Crisca Resort and at Villa Suliman; that afterwards, he went to Brgy. Aguso and stopped in front of the house of Brgy. Kagawad Capitulo; that Bong Pasuquin drove his jeep forward overtaking the car of Maj. Rivera and started firing at the car;^[44] that Aser Agosto, Willie Peralta, Conrad Domingo, Carding Pineda, Jessie Longa, Boy Peralta and Recto Salvador fired at Major Rivera; that later they went to the house of John Pasuquin where they talked about the killing of Rivera.^[45]

Carlos Rocha testified that he is a resident of Barsolingan, Gerona, Tarlac;^[46] that he knows Danilo Castañeda, Aser Agosto, Wilfredo Peralta, Recto Salvador and Conrado Domingo;^[47] that in the last week of January 1993, Willie Peralta went to his house with Aser Agosto, Conrad Domingo, Recto Salvador, Carding Pineda, a certain Gary from Dau, Jessie Longa and Bong Pasuquin to plan the killing of Benjamin Rivera, the father of Major Rivera; that Benjamin Rivera is the barangay chairman of Agusong Tarlac, Tarlac; that they wanted to kill Benjamin so that Recto Salvador will become the barangay chair;^[48] that the reason why the group later decided to kill Major Rivera instead of Benjamin was because the group thought if they killed Benjamin first, Major Rivera will investigate the crime; that by killing Major Rivera, there will be no one anymore who will investigate the killing;^[49] that four (4) meetings took place in his house regarding the killing of Major Rivera; that the last one took place sometime in March, about two (2) weeks before the killing of Major Rivera; that present in these meetings were Aser Agosto, Willie Peralta, Conrad Domingo, Bong Pasuquin, Carding Pineda, Jessie Longa, Danilo Castañeda, Recto Salvador and a certain Ray;^[50] that after the killing of Major Rivera, the group came to his house and asked him to keep their firearms, three (3) armalites and one (1) M-14; that the group would get these firearms from time to time until the PACC searched the houses in his barangay;^[51] that when the group suspected that he might squeal the matter to the police, they sprayed his house with bullets.^[52]

On cross-examination, Carlos admitted that he agreed to have the group use his house for the plotting of Major Rivera's killing;^[53] that he did not have any part in the killing nor did he propose any method, system or means in the killing of Arthur Rivera; that among those who attended the meetings, the most vocal was Aser Agosto;^[54] that after the killing, Aser, Willy Peralta, Conrad Domingo, Recto Salvador, Carding Pineda, Jessie Longa and Bong Pasuquin, and a certain Gary, went to his house, around 8 p.m., and stayed for about 30 minutes; that the group said, "patay na si Major. Tumahimik ka na lang, wag kang kikibo";^[55] that the wife of Castañeda is the niece of his wife.^[56]

For its part, the defense presented accused-appellant Wilfredo Peralta.

He testified as follows: He was at Barangay Barsolingan at the chapel of the Iglesia ni Cristo inviting friends on April 2, 1993, from 4:30 in the afternoon until 8 o'clock in the evening. At around 6 p.m., a woman arrived saying there was an accident at Barangay Agusong.^[57] However, he came to know about the details of the incident only two (2) or three (3) weeks after April 2. When he found out that it was Major Arthur Rivera who was killed, he even asked around what the possible reason could be since he knew that he was a good man.^[58] He and Major Rivera knew each other because he stayed in Brgy. Agusong for about a year and a half, but, they were not talking to each other.^[59] He did not kill Major Rivera. He did not know anything about his death nor about any suspect or investigation concerning his death. He was arrested by the PACC after searching his house and finding ammunitions there. He was then brought to Camp Crame for illegal possession of firearms. Later, a case was filed against him regarding the death of Major Rivera.^[60] Michael Rocha approached him and said several cases will be filed against him and it would be best for him therefore to turn state witness. He was also offered to be a state witness several times by Arman Rivera, brother of the victim. Arman told him that if he