

EN BANC

[G.R. No. 127130, October 12, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO EBIAS Y MAGANA, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

This case is here on automatic review in view of the imposition by the Regional Trial Court, Branch 33, Siniloan, Laguna of the death penalty on accused-appellant Ernesto Ebias for the complex crime of murder with frustrated murder. A new trial is sought by accused-appellant on the ground of newly-discovered evidence.

The facts are as follows:

On December 13, 1994, accused-appellant Ebias and a John Doe were charged with murder with frustrated murder in an information^[1] filed by the Provincial Prosecutor of Laguna who alleged -

That on or about 12:00 o'clock noon on July 8, 1994 at Barangay Dambo, Municipality of Pangil, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused while conveniently armed with a deadly weapon (home made gauge 12 sulpak) with evident premeditation and with treachery and take advantage of superior strength, with intent to kill, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack, assault and shoot once Ronaldo Narez and Tirso Narez by the said weapon thereby inflicting upon Tirso Narez multiple gun shot wounds in the abdomen and right shoulder which caused his death, to the damage and prejudice of the surviving heirs of the victim; and Ronaldo Narez sustained gun shot wound in the right leg, thus, accused has performed all the acts of execution which could have also produced the felony of Murder as a consequence with respect to said victim which nevertheless did not produce the felony by reason of cause independent of the will of the accused, that is, due to the timely and able medical assistance rendered to said Ronaldo Narez which prevented his death and to his damages and prejudice.

That the qualifying and aggravating circumstances of treachery, evident premeditation and abuse of superior strength attended the commission of the crime.

When arraigned, accused-appellant Ernesto Ebias pleaded not guilty whereupon trial proceeded. Evidence was presented by the prosecution showing the following:

On July 7, 1994 at around 12 noon, Ronaldo Narez and his cousin, Tirso Narez, went

to get some jackfruit in Barangay Dambo, Pangil, Laguna. On their way, they saw two men sitting by the roadside. As they were nearing the place where the two men were, the latter waved at them. Ronaldo and Tirso Narez ignored the summon and continued walking. When they were about 15 meters from the men, they heard one of the men, who was brandishing a bolo, say "*Boy, tirahin mo na.*" The other man then drew his *sulpak* and shot them. Ronaldo and Tirso Narez ran towards the *kaingin*. Ronaldo Narez realized that his right leg was bleeding. Nonetheless, he managed to reach his house and told his father what had happened. Ronaldo was taken to the Pakil Hospital for treatment. Tirso, who had also been taken to the same hospital, suffered a gunshot wound on his stomach.^[2] He died from his injuries the next day, on July 9, 1994.^[3]

On July 11, 1994, Ronaldo Narez executed an affidavit identifying his assailant as a certain Boy Marantal. In his affidavit, marked as Exhibit B, Ronaldo stated:

- 2 : Ano ang dahilan at ikaw ay nandidito sa tanggapan ng Pulisiya ng Pangil, Laguna at ikaw ay kinukunan ng salaysay?
: Sa dahilan po na kami ay binaril na ang aking kasama ay namatay at ako ay may tama.
- 3 : Kailan at saan naman nangyari ang bagay na ito, kung iyong tanda?
: Noong pong petsa 8 ng Hulyo, 1994, humigit kumulang sa oras alas 12:00 ng tanghali sa Brgy. Dambo, Pangil, Laguna.
- 4 : Sino naman ang bumaril sa inyo, kung iyong nakikilala?
: Ang bumaril po sa amin ay akin po lamang nakilala sa alias Boy Marantal at kung aking makikitang muli ay aking maituturo.
- 5 : Maaari bang iyong isalaysay ang buong pangyayari sa ikaliliwanag ng imbistigasyong ito?
: Noong pong kami ay nasa karsada ay may nakita kaming dalawang tao na kami ay tinatawag at kinakawayan at kami po ay hindi naman lumapit at pagkatapos po ay sila ang lumapit sa amin at nang ang layo sa amin ay humigit kumulang na labing limang dipa ay aking narinig itong may dalang itak na mahaba na nakalagay sa kaluban na nakasukbit sa baywang at ang sabi dito sa kasama niya na nakasoot na patigue ang pangitaas ay "BOY TIRAHIN MO NA" at pagkatapos po ay may kinuha sa likod itong alias Boy sa kanyang likod na isang parang tobo at ito ay pumutok at kami pong dalawa ng aking kasama ay nanakbo na papuntang kaingin at sa pagtakbo naming iyon ay kami ay nagkahiwalay hanggang sa aking maramdaman na ang aking binti ay kumikirot at nang aking tingnan ay may sugat ito hanggang sa ako ay makarating sa aming bahay at sinabi ko sa aking Tatay na ako ay may tama ng baril at ako po ay dali-dali nilang inilabas sa karsada at ako ay kanilang dinala sa hospital ng Pakil, Laguna upang magamot at hindi pa ako gasinong natatagalan ay may dumating na isang traysikel at aking nakita na ang ibinababa ay ang aking pinsan at ito ay may tama din at nang kami po ay isakay sa Mobile ng Pangil PNP upang ilipat sa Sta. Cruz, Laguna sa hospital ay aking nakita na ang aking pinsan ay may tama sa tiyan at ibaba ng kanang balikat at pagkatapos po ay nitong madaling araw ng petsa 9 ng Hulyo 1994 ay namatay ang aking pinsan.

- 6 : Ano pa ang sumunod na pangyayari, kung mayroon man?
: Wala na po akong alam.
- 7 : Paano mo naman nalaman na Boy Marantal ang pangalan nintong bumaril sa inyo?
: Dahil po sa iyon po ang aking pagkakilala sa kanya na aking natandaan.
- 8 : Ito bang si Boy Marantal na ito ay matagal mo nang nakikilala?
: Hindi ko po siya masyadong kilala pero isang beses ko na siyang nakita at pangalawa ay nang kami ay barilin.
- 9 : Alam mo ba naman kung tiga saan itong si Boy Marantal?
: Hindi po pero sa aking pong palagay sa naninirahan din sa Brgy. Dambo, Pangil, Laguna.
- 10 : Anong klasing baril naman ang ibinaril sa inyo, kung iyong alam?
: Isa pong de sabog na yari sa tobo na kung tawagin ay Sulpak.
- 11 : Ilan beses naman kayong binaril?
: Isa pong beses lamang.
- 12 : May mga nakakita ba naman sa pangyayari ng kayo ay barilin?
: Wala po dahil sa malayo sa kabahayan ang pinangyarihan.
- 13 : Ano naman ang tunay na pangalan ng iyong pinsan na namatay na iyong kasama ng barilin?
: Tirso Nariz po na nakatira sa Brgy. Dambo, Pangil, Laguna."

[4]

About a month later, on August 16, 1994, Ronaldo executed another affidavit (Exhibit F) in which he said that accused-appellant Ernesto Ebias was the same Boy Marantal who shot him and his cousin on July 8. Ronaldo said in his latest affidavit:

- 2 : Ano ang dahilan at ikaw ay nandidito sa tanggapan ng Pulisiya ng Pangil, Laguna at ikaw ay kinukunan ng salaysay?
: Sa dahilan po na nais kong ipabatid na nakilala at nakita ko na ang bumaril sa amin noong July 8, 1994, humigit kumulang sa oras alas 12:00 ng tanghali sa Brgy. Dambo, Pangil, Laguna.
- 3 : Kailan mo naman nakita o nakilala ang taong iyong sinasabi na bumaril sa inyo, kung iyong tanda?
: Noong pong petsa 15 ng Agosto, 1994, humigit kumulang sa oras alas 7:00 ng gabi sa Brgy. Dambo, Pangil, Laguna.
- 4 : Ano naman ang pangalan ng bumaril sa inyo, kung iyong nakikilala at iyong nakita?
: Napagalaman ko na lamang po dito sa Himpilan ng Pulisiya ng Pangil, Laguna na ang pangalan ay si Ernesto Ibeas na naninirahan sa Brgy. Dambo, Pangil, Laguna.
- 5 : Bakit mo naman ngayon lamang itinuro ang bumaril sa inyo, sa anong dahilan?
: Dahilan po na ngayon ko po lamang nakita ang taong bumaril sa amin.
- 6 : Bakit mo naman ngayon lamang nakita?
: Sa dahilan po na ako po ay nagtigil sa San Pablo City at nang ako po ay umuwi sa Brgy. Dambo, Pangil, Laguna ay doon ko po nakita ang bumaril sa amin.
- 7 : Ano naman ang ginawa mo nang iyong makita at makilala

- ang taong bumaril sa inyo?
: Nang aking pong makita ang taong bumaril sa amin ay aking pong ipinaalam sa Hepe ng Brgy. Tanod na si Jose de Guia.
- 8 : Inuulit ko sa iyo, may taong nandito sa aming Himpilan ng Pulisiya ng Pangil, Laguna, ito ba ang iyong nakikilala?
: Iyan pong taong iyan ang bumaril sa amin (Witness identified the person of ERNESTO EBIAS residing at Brgy. Dambo, Pangil, Laguna).
- 9 : Nang makilala mo ba na si Ernesto Ebias, ito ba ay mapapatunayan mo sa Husgado na siya na ang bumaril sa inyo?
: Opo.
- 10 : Hindi ka kaya nagkakamali sa pagkakilala mo kay Ernesto Ibeas na siya ang bumaril sa inyo?
: Hindi po.
- 11 : Sino ang kasama mo nang ikaw ay barilin?
: Ang akin pong pinsan na si Tirso Nares at ito ay namatay."^[5]

During the trial, Ronaldo Narez reiterated in open court that accused-appellant Ernesto Ebias and Boy Marantal were one and the same person.^[6] However, he could not identify accused-appellant's companion as the latter's face was covered with a yellow handkerchief.^[7]

Accused-appellant's defense consisted of denial and alibi. A defense witness, Isagani Maray, claimed that accused-appellant Ebias, together with several laborers, was working in a citrus plantation in Pangil, Laguna on the day in question.^[8] Maray admitted, however, that the plantation where accused-appellant was allegedly working was only around 10 meters from the place of the incident.^[9] Accused-appellant claimed that he was at the Vista Villamayor Citrus Plantation at the time of the commission of the crime. At around 12 noon of that day, when the shooting took place, he ate lunch at his house with Isagani Maray and other members of his family.^[10]

On May 15, 1996, the court rendered a decision, finding accused-appellant guilty of the crime of murder with frustrated murder. The dispositive portion of its decision reads:

WHEREFORE, premises considered, judgment is hereby rendered, finding accused ERNESTO EBIAS y MAGANA guilty beyond reasonable doubt of the complex crime of "MURDER with FRUSTRATED MURDER" as charged, qualified by the qualifying circumstance of treachery, without any mitigating or aggravating circumstance, and pursuant to the provision of Art. 48 of the Revised Penal Code, hereby sentences him the maximum penalty of death. To indemnify the heirs of Tirso Narez, in his death the amount of P50,000.00 and as actual damages the amount of P12,000.00 representing the amount spent in the wake, funeral and for coffin. To indemnify Ronaldo Narez as actual damages the amount of P2,000.00 representing medical expenses. To pay the cost.

SO ORDERED.^[11]

On appeal to this Court, accused-appellant maintained that the prosecution failed to comply with the rules for the protection of the rights of the accused during confrontations with alleged eyewitnesses before the police. He further contended that the trial court erroneously gave credence to the testimony of a perjured eyewitness upon whose sole testimony hinged the entire case against him. Lastly, he argued that the trial court failed to appreciate uncontroverted facts established by the defense as well as admissions against interests made by the prosecution witnesses.^[12]

On November 20, 1998, accused-appellant filed a motion seeking the appointment of a counsel de oficio for Leonardo Eliseo, a death convict at the National Bilibid Prison, who wrote a letter confessing to the commission of the crime for which accused-appellant was held liable.^[13] In a resolution, dated April 27, 1999, the Court denied accused-appellant's motion for lack of merit.^[14] On February 3, 2000, accused-appellant moved for new trial on the ground of newly-discovered evidence. Accused-appellant averred that new and material evidence had been discovered by the defense, consisting of a confession made by Leonardo Eliseo, also a death row convict, that he committed the crime for which accused-appellant was convicted and sentenced to death. Accused-appellant further alleged that such evidence could not have been discovered and produced during his trial because it was only after his conviction that he came to know of Eliseo's responsibility for the crime and his willingness to confess. Accused-appellant asserted that Eliseo's confession would probably change the judgment if it was introduced in evidence.^[15]

Attached to accused-appellant's motion for new trial was an affidavit^[16] executed by Leonardo Eliseo narrating his participation in the shooting of Tirso and Ronaldo Narez. The affidavit reads in full as follows:

AKO, si bilanggong LEONARDO ELISEO Y SAN LUIS, 33 taong gulang, kasalukuyang nakakulong dito sa Pambansang Piitan at nakaselda sa I-B, Maximum Security Compound, Muntinlupa City, matapos makapanumpa ng ayon sa Saligang Batas, ay malayang nagsasalaysay ng mga sumusunod:

1. Na noong ika-20 ng Hunyo 1994, pumunta kami sa Barangay Lambak, Mabitak, Laguna sa bahay ng aking kumpare na si Berting mga ganap na alas 9:00 ng gabi na kasama ang aking kaibigan na si Boy, para mag-inuman.
2. Na may isang bisita si Berting na hindi ko na matandaan ang pangalan na nagkwento na may isa daw Bombay sa kanilang barrio na maganda daw holdapin dahil pag nadale daw namin ito at tiba-tiba kami dahil kadalasan ay marami daw itong dalang pera at alahas;
3. Na aming tinandaan ito at kinabukasan ay minatiyagan na namin itong bombay at pinagplanuhan naming holdapin ito. Hinanap namin ang lugar na madalas niyang puntahan at may nag-tip sa amin kung kailan ang magandang petsa na siguradong may dala itong malaking pera. At natiyak namin sa ika-8 ng Hulyo 1994 ay