

## SECOND DIVISION

[ G.R. No. 133569, December 01, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ANTONIO K. TEMPLO, ACCUSED-APPELLANT.**

### D E C I S I O N

**DE LEON, JR., J.:**

Before us on appeal is the Decision<sup>[1]</sup> of the Regional Trial Court of Quezon City, Metro Manila, Branch 95 in Criminal Case No. Q-96-64724 convicting herein appellant, Antonio Templo y Katigbak, of the crime of murder.

It appears that on September 11, 1988, at around 5:30 o'clock in the after noon, Alexander Reyes was shot twice in the chest with a .38 caliber gun near his residence in Lipa City, Batangas. He died as a result thereof. During the police investigation of the case, two (2) witnesses, namely, Jovita Constantino and Anicia Abogade, identified appellant Antonio K. Templo as responsible for killing the victim. In addition, the victim, Alexander Reyes, declared on two (2) separate occasions before he died that appellant Templo was his assailant.

On December 12, 1988, an Information for Murder against appellant Templo was filed with the Regional Trial Court, in Lipa City, Batangas, which also issued a warrant for his arrest. However, Templo evaded arrest and fled to the United States of America under the assumed name of Richard Barba after the shooting incident of September 11, 1988. He was deported to the Philippines on June 2, 1993 to answer the instant charge for murder after his capture outside his sister's office at Queens, New York, U.S.A. on July 8, 1992.

On June 10, 1993, an amended Information was filed against herein appellant Antonio Templo y Katigbak in Criminal Case No. Q-96-64724 which reads:

*"That on or about the 11th day of September 1988, in the City of Lipa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of treachery being then armed with an unlicensed firearm (.38 caliber pistol) did then and there with intent to kill willfully, unlawfully and feloniously attack, assault and shoot with said firearm one Alexander Reyes who was armless and defenseless, by then and there suddenly firing twice his unlicensed pistol pointblank at the offended party and in an unexpected manner to insure it execution without risk to himself arising from any defense from the deceased, thereby hitting said Alexander Reyes with bullets on the chest area and inflicting the following mortal wounds, to wit:*

1. `Gunshot wound No. 1, gunshot wound, sutured, with contusion collar, measuring 2 x 1 cm at the level of the 4th ICS along the mammary line, penetrating, with laceration at the lower lobe of the lung, laceration of the diaphragm, right, laceration of the liver, right, massive, with slug recovered at the psoas muscle along the right paravertebral line at the level of T12 and L1. No exit wound.

2. `Gunshot wound No. 2, gunshot wound, with contusion collar, measuring 0.8 x 0.6 cm just above the tip of the xyphoid, hitting the esophago-cardial junction, with massive hematoma on the omentum, severe laceration of the left liver, laceration of the aorta with a slug embedded at the psoas muscle embedded at level of T12 and L1. No exit wound.

Fresh blood evacuated from the abdominal cavity.

*Cause of death:*

*Cardio-respiratory arrest secondary to severe hemorrhage, to gunshot wounds, chest.*

*And while the victim was still alive, by deliberately and inhumanly augmenting the suffering of the victim by outraging and scoffing at his person by chasing the mortally injured victim, preventing early medical assistance, and making the victim raise his hands in surrender in full view of witnesses, all that time with the use of the firearm, which caused the death of the said Alexander Reyes shortly thereafter.*

*With aggravating and qualifying circumstances of treachery, and cruelty.*

*Contrary to the provisions of Article 248 of the Revised Penal Code."*

Upon being arraigned, the accused, assisted by his counsel, entered a plea of "not guilty".

Before trial on the merits commenced, the prosecution filed on January 24, 1995 a petition for change of venue which was initially denied by this Court on March 30, 1995. Upon filing of a motion for reconsideration, the court ordered the Regional Trial Court of Lipa City, Batangas to transfer the records of the case to the Regional Trial Court of Quezon City

The case was raffled to Branch 79 of the Regional Trial Court of Quezon City which was presided by Judge Godofredo Legaspi. Upon issuance of Administrative Order 51-95 by this Court, the case was eventually transferred to Branch 95 of the same trial court.

From the evidence adduced by the prosecution, it appears that on September 11, 1988 at around 5:30 o'clock in the afternoon, the victim, Alexander Reyes, a thirty-seven (37) year old resident of Lipa City, Batangas was seen outside his house at the corner of Solis and Katigbak Streets in Lipa City by prosecution witnesses Jovita

Constantino and Anicia Abogade.

Jovita Constantino, a security guard of a glove factory owned by Alexander Reyes in Lipa City, testified that she earlier inquired from Abogade, a househelper of Reyes, if her "Kuya" Alex was at home. She had planned to meet with the victim to ask for an advance payment of her salary. On her way to the victim's residence, she stopped at the corner of Solis and Katigbak Streets because she saw Reyes, who was about eighteen (18) to twenty (20) meters away, at the opposite corner of the intersection allegedly having a jovial conversation with accused Antonio Templo who was then on board his red owner-type jeep. She also saw inside the jeep a woman seated beside Templo. The victim appeared smiling at the accused. At the same time, the victim was tapping the accused's shoulder with his right hand while his left hand was holding the handle of the left side mirror of the jeep. His left foot was resting on the running board of the jeep.<sup>[2]</sup> From her vantage point, she could see the accused who was then facing the victim.<sup>[3]</sup>

Jovita recalled that Templo was holding a gun when she heard two (2) successive shots. She saw the victim bleeding profusely on his chest as he ran towards the opposite side of the intersection where she was standing to mount a passenger jeepney. He occupied the seat beside the driver. Templo alighted from the red jeep, and poked the gun at the driver who dismounted and ran away. Reyes also alighted from the jeepney but Templo obstructed his path and pointed the gun at him, and at this instance Constantino heard Templo asked Reyes if he still wanted to fight. With his hands raised, the victim replied, "Suko na ako, pare." Then, the lady on board the red owner type jeep of Templo shouted, "Tama na, tama na!" Templo went back to his jeep, and drove toward Labac, Batangas.<sup>[4]</sup>

Anicia Abogade corroborated the eyewitness account of Jovita Constantino. Before the shooting incident, Abogade was sent by his "Kuya" Alex to get some Pop Cola bottles at the glove factory. On her way back at the intersection of Solis and Katigbak Streets, she noticed her "Kuya" Alex from a distance of about fifteen (15) meters from her talking to Antonio Templo who was on board an owner-type jeep. Reyes, she said, appeared smiling at Templo. The victim's right hand was apparently tapping the accused's shoulder while the left hand was holding the handle of the left side of the jeep. She momentarily turned her attention away from the victim and proceeded to cross the intersection.<sup>[5]</sup>

After about two (2) seconds, she heard two (2) gunshot coming from the direction of Reyes and Templo. Reyes was bleeding on his chest as he hurriedly walked across the intersection of Solis and Katigbak Streets. He boarded a parked jeepney and sat beside the driver.<sup>[6]</sup>

Appellant Templo was holding a short firearm when he alighted from his owner-type jeep. Templo followed Reyes to the passenger jeepney whose driver ran away. Reyes also dismounted and attempted to escape but the appellant poked his gun at Reyes. The victim raised his hands in surrender and Abogade heard him pleading, "Suko na ako, pare, hindi ko na kaya." Then, the lady inside the owner-type jeep of Templo shouted, "Tama na naman, tama na!" Templo went back to his jeep and drove toward Labac, Batangas. The injured Reyes boarded a passenger jeep to go to N.L. Villa Memorial Hospital.<sup>[7]</sup>

After the incident, Abogade went back to Reyes' house. She came to know about Reyes' death from their neighbor in a telephone conversation. Thereafter, she went to the hospital.<sup>[8]</sup>

John Marfilla testified that he saw his godfather, Alexander Reyes, being brought to N.L. Villa Memorial Hospital in Lipa City, Batangas. He approached the victim and inquired who shot him. Although injured and in pain, the victim replied, "Si Tony." While Marfilla was bringing Reyes inside the hospital, the victim asked his godson if he knew "Tony Templo". John replied in the negative although he knew him by face even before the incident. Reyes instructed Marfilla to check his car because it was left unattended at that time.<sup>[9]</sup>

SPO3 Reynaldo Saludo of the Lipa City Police also testified that on September 11, 1988 at about 6:00 o'clock in the evening, he received a report from the N.L. Villa Memorial Hospital that a patient was rushed to the hospital due to gunshot wounds. Together with a certain SPO2 Rogelio Mayo, he went to the hospital to get Reyes' ante-mortem statement.<sup>[10]</sup>

At the emergency room, SPO3 Saludo asked the victim's name to which the latter responded "Alexander Reyes, po." Saludo also inquired how the victim acquired his wounds and Reyes answered that he was shot. When asked who shot him, Reyes replied "Tony Templo." SPO3 Saludo then asked Reyes if he would die of his wound. And the latter answered, "Hindi ko po alam." The series of questions and answers was reduced in writing by SPO3 Saludo. As the victim was already too weak to sign the document, Reyes placed his thumbmark at the lower portion of the document using his own blood.<sup>[11]</sup>

Dr. Elviro Africa, M.D., Assistant City Health Officer of Lipa City, Batangas, conducted a post mortem examination on the body of Alexander Reyes. The autopsy report shows the following findings:

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*"Gunshot wound No. 1, gunshot wound, sutured, with contusion collar, measuring 2x1 cm at the level of the 4<sup>th</sup> ICS along the mammary line, penetrating with laceration at the lower lobe of the lung, right laceration of the diaphragm, right, laceration of the liver, right, massive, with slug recovered at the psoas muscle along the right paravertebral line at the level of T12 and L1. No exit wound.*

*Gunshot wound No. 2, gunshot wound, with contusion collar, measuring 0.8 x 0.6 cm. Just below the tip of the xyphoid, hitting the esophage-cardial junction with massive hematoma of the omentum, severe laceration of the left liver, laceration of aorta with a slug embedded at the psoas muscle recovered at the level of T12 and L1. No exit wound.*

*Fresh blood evacuated at the abdominal cavity.*

*Cause of death is cardio respiratory arrest secondary to severe hemorrhage, secondary to gunshot wounds, chest (sic)."*<sup>[12]</sup>

According to Dr. Africa, Gunshot Wound No. 1 entered between the 3<sup>rd</sup> and 4<sup>th</sup> ribs, while Gunshot Wound No. 2 entered the tip of the breastbone.<sup>[13]</sup> Both gunshot wounds were fatal, specially Gunshot Wound No. 2 which hit the major vessel, the liver and the esophage-cardial junction causing massive bleeding and eventually the victim's death.<sup>[14]</sup>

National Bureau of Investigation Ballistic Expert Brandeis C. Flores testified that the two (2) bullets recovered by Dr. Africa from the body of the victim were fired from the same gun. He identified the bullets as coming from a .38 caliber gun.<sup>[15]</sup>

Romeo Reyes, the brother of the victim Alexander Reyes, testified that he personally knew Antonio Templo inasmuch as he was his childhood friend. Together with police officers, he searched for the whereabouts of Templo after the shooting incident. They searched for Templo in Bataan and Mindoro before they learned that he had fled to stay with his sister in the United States of America.<sup>[16]</sup>

On July 8, 1992, the U.S. authorities arrested Templo for being an illegal alien at his sister's office in Queens, New York, Roosevelt Avenue, U.S. Templo denied the charge, alleging that his name was Richard Barba. When Romeo Reyes Called Templo by his nickname "Tony", the latter looked at him and then remembered him. Inside his prison cell at the U.S. Immigration Office, Templo approached Romeo Reyes and asked for forgiveness.<sup>[17]</sup> Templo was eventually deported to the Philippines on June 2, 1993.<sup>[18]</sup>

For his defense, Antonio Templo testified that: In the afternoon of September 11, 1988, he drove her 13 year old daughter, Maria Antoinette Templo, to the place of a certain Mr. Vega who would type her daughter's term paper. Upon reaching the corner of Solis and Katigbak Streets, his jeep was stopped by Alexander Reyes and then berated him: "Putang ina mo, bakit ganyan?" With a .38 caliber revolver, Reyes pistol whipped Templo on the left side of his nape. Reyes told him to alight from his jeep. After he alighted, Templo's first reaction was to leave his daughter. He ran to the crowd but suddenly stopped upon hearing two (2) gunshots. Reyes was not there anymore when Templo went back. He then drove the jeep to the place of Mr. Vega. He only found out from his brother-in-law, Ramon Ternate, Sr., that Alexander Reyes was shot dead.<sup>[19]</sup>

Appellant denied challenging Alexander Reyes to a fight because, according to him, it would not look good in the presence of his daughter.<sup>[20]</sup> Templo surmised that Reyes pistol-whipped him because he did not pay the five thousand (P5,000.00) peso membership fee in the gun club of the deceased. He claimed that Reyes had many enemies for the reason that he was a mischievous ("pilyo") person. For example, he killed a helper of one Rene Gloria for disclosing his illegal activities. He also had a rift with the del Rio family, two (2) of whose members were killed.<sup>[21]</sup>

Templo left the Philippines together with his family to avoid the members of the New People's Army who used to visit his farm in Batangas.<sup>[22]</sup> He denied any knowledge