

SECOND DIVISION

[G.R. Nos. 83437-38, July 17, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILFREDO GUARIN Y REYES, ACCUSED-APPELLANT.**

DECISION

REGALADO, J.:

Accused-appellant Wilfredo Guarin has come to this Court on appeal from dual convictions handed down by the Regional Trial Court, Branch 39, Lingayen, Pangasinan^[1] after a joint trial of Criminal Case No. L-3339 for murder, and Criminal Case No. L-3340 for frustrated murder. He imputes error to the court *a quo* for believing the prosecution witnesses, appreciating treachery and evident premeditation in the commission of the offenses charged, rejecting his plea of self-defense, and finding him guilty as charged.^[2]

The information filed in Criminal Case No. L-3339 is reproduced hereunder to provide the factual basis for that charge, and also to illustrate how a criminal indictment should *never* be formulated in a melange of accusatory allegations and evidentiary details resulting in unusual prolixity:

That on or about the 30th day of June 1985, in the evening, in barangay Quibaol, municipality of Lingayen, province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with M16 armalite rifle with Serial No. RP 107024 issued to him as a former member of the Mangatarem INP, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously shoot Orlando Reyes, inflicting upon him the following injuries:

INTERNAL PHYSICAL EXAMINATION ON THE BODY OF THE VICTIM SHOWS:

- Nine (9) GSW's in different parts of the body. EIGHT (8) POINT OF ENTRANCES AND ONE POINT OF EXIT.

- Of the eight (8) point of entrances seven (7) of the slugs entered the left side of the body. One (1) on the upper (L) shoulder; Three (3) on the (L) middle 3rd of the body, lateral aspect and three (3) on the (L) buttocks. The other point of entrance is the Middle Chest, one of the most fatal shots.

- The lone point of exit is over the (R) Axilla, lateral aspect.

THE GUNSHOT WOUNDS

- The GSW at the Mid-Thoracic (Chest) or between the two (2) breasts. The point of entrance is about 1/3 of an inch in diameter, no powder burns, is directed forwards, medially any downwards measuring (course) of the slug by (probing) and may account for the embedded slug found in the epigastrium between the rectus abdominis muscle and the skin.

- GSW # 2 at the Mid Trunk, Lat. aspect, along the Mid-Axillary Line, point of entrance of the same diameter as GSW # 1; no powder burns and directed forwards and slightly upwards with point of exit measuring about 1 1/3 inch below and lat. to the (R) Axilla.

- GSW # 3 is about two (2) inches below and lat. to the above GSW # 2 point of entrance of the same diameter; no powder burns; is directed forwards and upwards towards the (R) axilla measuring about 11 inches and may account for the slug recovered about 2 inches act. to the (point of exit) (R) Axilla.

- GSW # 4 about 1 3/4 inches below & medial to GSW # 3, along the Mid-axillary line. Point of entrance of the same diameter as above GSW # 3. No powder burns, directed forwards and upwards in the direction of the (R) axilla, point exit. The same as GSW # 2.

- GSW # 5 at the upper medial aspect of the (L) shoulder. Point of entrance measuring same as the above entrances. No powder burns. Directed forwards and inwards measuring about 4 1/2-5 inches the slug has not been recovered.

- GSW # 6 at the upper 3rd (L) buttocks — point of entrance same caliber as of the above mentioned. (navel to asis 1st aspect along the tost-axilla line). No powder burns, directed forwards & slightly downwards about ten (10) inches in length towards the hypogastricus may account for the recovered slug in the rectus abdominis muscle in the hypogastric(u)m, mid portion.

- GSW # 7 about four (4) inches below and medially to the above GSW # 6, about the mid buttocks, point of entrance of the same caliber as above GSW's. No powder burns. Directed forwards and slightly upwards, and measuring about ten (10) inches along its course towards the hypogastrium. The slug has not been recovered.

- GSW # 8 at the lower 3rd of buttocks about 3 1/2 below & lat. to the above GSW # 7. Point of entrance of the same caliber. No powder burns. Directed forwards & slightly upwards towards the lumbar vertebra, about six (6) in depth. No slug recovered.

INTERNAL EXAMINATION: On opening the thoracic cavity shows:

- accumulated blood, fresh and clotted of about 800 to 1000 cc in the thoracic cavity.

- slug found embe(d)ded between the pectoralis muscle and the skin 3 1/2

inches below and medial to the (R) nipple possibly the slug that originated from GSW # T.

- shattered pieces of liver tissues involving the upper medial lobe probably from GSW's # 1, 2, 3, and penetrating and perforating involving the (R) atrium and (R) ventricle, lower portion probably from GSW # T.
- The lower lobes of the (L) & (R) lungs are perforated probably from GSW's 2, 3, & 4.

ON OPENING THE ABDOMINAL CAVITY SHOWS:

- Perforated loops of small intestines and descending colon and pieces of shattered vert(e)bral body, probably from GSW's 6, 7 & 8.
- The left (L) humerus, surgical neck is fractured, comminuted complete fracture.
- Slug found embedded in the (pectoralis) muscle and the skin underneath the (R) axilla. Probably from GSW # 3.
- Another slug embedded between the pectus abdominis and the skin over the hypogastrium, mid portion. Probably from GSW # 6 determined by the direction of the probe.

CAUSE OF DEATH:

- Cardio-Respiratory Failure due to multiple gun shot wounds on different parts of the body and mainly from GSW's # 1, 2, 3, & 4 and secondary to GSW # 5 due to shock from los(s) of blood due to Hemorrhage and the pain from fracture of the surgical neck of the Humerus, (L).
- which injuries caused his death as a consequence, to the damage and prejudice of his heirs.^[3]

The ministers of our national prosecution service would do well to prevent repetitions of such unnecessary wordiness and concomitant loss of government time in the preparation of a simple legal form. Felicitously, the information in Criminal Case No. L-3340 follows the conventional format and merely alleges -

That on or about the 30th day of June 1985, in the evening, in barangay Quibaol, municipality of Lingayen, province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with M16 armalite rifle with Serial No. RP 107024 issued to him as a former member of the Mangatarem INP, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously shoot Alicia Reyes, inflicting upon her "gunshot wound - POE - 0.5 x 0.5 cm., 3rd ICS anterior axillary line left", thus performing all the acts of execution which would

have produced the crime of Murder as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the accused, that is the timely medical assistance rendered to said Alicia Reyes which prevented her death, to her damage and prejudice.^[4]

Upon arraignment, appellant pleaded not guilty to both charges and interposed the defense that he was just defending himself from the unlawful aggression of the deceased. After several hearings, the trial court rendered a joint decision adjudging as follows:

WHEREFORE, in the light of the foregoing considerations, judgment is hereby rendered, finding accused WILFREDO GUARIN, guilty of the crime of Murder and Frustrated Murder, respectively, beyond reasonable doubt, as charged in the two informations, and therefore, sentences him as follows:

1. In Criminal Case No. L-3339 for Murder, to suffer an imprisonment of Reclusion Perpetua with the accessories provided for by law and to pay the costs. He is also ordered to indemnify the heirs of the victim in the amount of P30,000.00 without subsidiary imprisonment in case of insolvency;
2. In Criminal Case No. L-3340 for Frustrated Murder to suffer an indeterminate Imprisonment of TEN (10) YEARS and ONE (1) DAY of Prison Mayor as MINIMUM to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Reclusion Temporal as MAXIMUM with the accessories provided for by law and to pay the costs;
3. Accused is further ordered to pay the amount of P6,000.00 as actual damages incurred by the heirs of the victim, without subsidiary imprisonment in case of insolvency. Likewise, he is ordered to pay the sum of P1,000.00 to Alicia Reyes as actual expenses for her treatment, also without subsidiary imprisonment in case of insolvency; and
4. It appearing that he is a detention prisoner, he should be credited the full period of his temporary detention, pursuant to the provisions of Art. 29 of the Revised Penal Code.^[5]

In seeking the reversal of his conviction by the lower court, appellant, who was reportedly a policeman on detached service with the 152nd PC Company at the time of the killing, gave his version of what allegedly transpired on the night of June 30, 1985. Since by his admission that he shot the victims the *onus probandi* to justify his act was shifted to him, we shall first assess his credibility from his own lips, and this can best be done by a reproduction of his pertinent testimony instead of just the usual summary:

Q In the afternoon of June 30, 1985, where were you?

A I was at our residence at Barangay Quibaol, Lingayen, Pangasinan, sir

Q While you were there, do you remember if before 7:00 o'clock of that date in the evening, there was anything

unusual which occurred that called your attention?

A Yes, sir, there was.

Q What was that?

A Person by the name of (Or)lando Reyes passed by our residence and challenging me to come out from my house, sir, for a fight.

Q Now, this Orlando Reyes referred to by you, did you know him before he challenge(d) you for a fight?

A Yes, sir, I know him.

x x x

Q You said that he was challenging you, how did he challenge you?

A He shouted on top of his voice asking me to come out by saying in Pangasinan dialect, "I will kill you Fred."

x x x

Q To that challenge of his, what was your answer?

A I told him, sir, to go home because he was already drunk.

Q When you told him to go home, what did he do?

A He moved a little bit away and then returned back and challenged me and told me (sic) invectives.

x x x

Q What next happened after that?

A My wife advised me to go to the place of my assignment in order to avoid such trouble that may arise, sir.

x x x

Q What next did you do after your wife told you that?

A I immediately answered, went upstairs and changed my attire.

Q After you have changed your attire, what next, did you do, if any?

A I took my motorcycle and proceeded to the headquarters sir.

Q What did you bring with you?

A I brought with me my issued firearm, my revolver and armalite, sir.

x x x

Q While you were on your way to the headquarters, riding on a motorcycle, and carrying with you, according to you, your armalite and other service weapons, do you know if there was anything which happened?

A While on my way to the headquarters, along the barangay road in Quibaol, just in front of the house of Orlando Reyes, Orlando Reyes accosted me by brandishing his bolo while in the middle of the road, sir.

x x x

Q What did you do when he accosted you with a bolo?

A When I noticed that he is armed with a bolo, I slowed down my motorcycle in order to avoid hitting him.