

**\*\*Title: Velasco vs. People of the Philippines, G.R. No. 167006\*\***

**\*\*Facts:\*\***

On April 19, 1998, at approximately 7:30 AM in Dagupan City, Frederick Maramba was cleaning his jeep when Rodolfo C. Velasco alighted from a tricycle and fired a .45 caliber pistol at him. The first shot missed, but the second shot hit Maramba's left upper arm. As Maramba fled, Velasco continued to shoot, missing additional shots.

The incident was reported to the police by Barangay Captain Dacasin. Officers pursued and apprehended Velasco, confiscating a gun, magazines, live ammunitions, and retrieving spent shells from the crime scene. Maramba identified Velasco at the police station and executed an affidavit naming him as the assailant.

Velasco was charged with attempted murder, pleaded not guilty, and was released on bond. At trial, prosecution witnesses Frederick and Armando Maramba testified, positively identifying Velasco. Velasco presented an alibi, claiming he was elsewhere when apprehended by police.

The RTC found Velasco guilty of attempted murder and sentenced him to 4-8 years imprisonment and to indemnify Maramba for damages. Velasco appealed to the Court of Appeals, which upheld the RTC's decision. He sought reconsideration, which was also denied, leading to this petition for review before the Supreme Court.

**\*\*Issues:\*\***

1. Whether the Court of Appeals erred in affirming the RTC's conviction of Velasco for attempted murder.
2. Whether the Court of Appeals erred in denying Velasco's motion for reconsideration.

**\*\*Court's Decision:\*\***

1. **\*\*Affirmation of Conviction:\*\***

The Supreme Court agreed with the findings of both lower courts, emphasizing that the trial court's assessment of witness credibility, particularly the positive identification by Frederick and Armando Maramba, outweighed Velasco's alibi. The Court reiterated that alibi is a weak defense, especially in light of positive identification.

2. **\*\*Denial of Motion for Reconsideration:\*\***

The Supreme Court found no merit in Velasco's arguments that the prosecution failed to establish his identity conclusively, that there was suppression of evidence, and that the

Barangay Captain's testimony was not presented. The Court noted that the absence of certain evidences, such as a ballistic report, did not affect the established fact that Velasco was identified as the assailant. Furthermore, the Court dismissed Velasco's claim of inconsistency in the testimonies and minor discrepancies regarding the incident details as insufficient to overturn the conviction.

3. **Treachery and Attempted Murder:**

The Court upheld the trial court's finding of treachery, noting that the suddenness of the attack left Maramba with no chance to defend himself. The intent to kill was evident from Velasco's actions despite the non-fatal result, prompting the charge of attempted murder rather than homicide.

**Doctrine:**

1. **Alibi:** Alibi is inherently weak, especially when positive identification by witnesses is present.
2. **Treachery:** Treachery exists when the attack is sudden, without provocation, and the victim is unable to defend himself.
3. **Ballistic Reports:** The absence of ballistic evidence does not preclude conviction when there is credible, positive eyewitness identification.
4. **Motive:** Lack of motive is not a defense when the identity of the assailant is positively established.

**Class Notes:**

- Elements of Attempted Murder: Intent to kill, overt acts commencing execution, failure to perform all acts of execution due to causes other than desistance.
- Treachery: Sudden and unexpected attack on an unarmed victim.
- Credibility of Witnesses: Positive identification by credible witnesses outweighs defenses like alibi.
- Alibi: Must demonstrate physical impossibility to be at the crime scene.
- Motive: Not necessary for conviction if identity is established.

Relevant Statutes:

- **Revised Penal Code Articles:**
- Art. 6: Defines attempted felonies.
- Art. 248: Penalty for murder.
- Art. 51: Penalty for attempted felonies.
- Indeterminate Sentence Law: Determining minimum and maximum penalties.

**\*\*Historical Background:\*\***

The case arose in the context of prevalent violent crimes in the Philippines, reflecting the judiciary's stance on upholding conviction based on positive identification. The case demonstrates the courts' adherence to evaluating the credibility of witnesses over technical defenses and emphasizes the principles underpinning the assessment of aggravating circumstances such as treachery.