

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO CELESTINO ALIAS COMMANDER VALENCIA, ALIAS KA
COLAS, DEFENDANT WHOSE DEATH SENTENCE IS UNDER
AUTOMATIC REVIEW.**

G.R. No. L-44363. March 12, 1980

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PER CURIAM:

The Court of First Instance of Pangasinan, Lingayen Branch I, in its decision of July 13, 1976, sentenced to death Alfredo Celestino for the murder of Cipriano Guillermo and ordered him to indemnify the victim's heirs in the sum of twelve thousand pesos. The lower court also convicted Celestino of illegal possession of a deadly weapon (dagger) under Presidential Decree No. 9 (Criminal Cases Nos. 189 and 190).

This is an automatic review only of the murder case where the death penalty was imposed.

According to the prosecution's evidence, at about five o'clock in the afternoon of May 23, 1974, Cipriano (Cirilo) Guillermo, a twenty-year-old resident of Barrio San Rafael, San Nicolas, Pangasinan, arrived home from school. He took a bath and changed into a yellow Vonnel T-shirt, white-striped green pants and an American field jacket. He left his home at six o'clock in the evening. That was the last time his mother saw him alive.

Meanwhile, at six-thirty that same evening, Eusebio Layco, a farmer, was visited by Alfredo Celestino in the former's house in Barrio San Rafael. Celestino, a thirty--year-old resident of that barrio, invited Layco to go with him to Sitio Calupaan in the same vicinity. Celestino intimated to Layco that he wanted to talk with the gamblers at Sitio Calupaan who were suspected of cattle-rustling.

When they arrived at Sitio Calupaan at around seven o'clock, Layco and Celestino met Cipriano Guillermo near the house of Julian Laforteza. Celestino beamed his flashlight at Guillermo and asked Layco to call him.

Celestino and Guillermo had a conversation. Layco, who was near them, overheard their conversation. Celestino asked Guillermo who were his companions in stealing cattle. Guillermo answered that there was no one (50 tsn February 11, 1976).

Celestino told Layco and Guillermo to go with him to the house of Florencio Sarmiento. When they reached Sarmiento's yard, Celestino told Layco to get Sarmiento's gun. Sarmiento, armed with his Springfield rifle and accompanied by Layco, approached Celestino. The latter said that they would all go to Sitio Cader also in Barrio San Rafael.

As soon as they arrived in Sitio Cader, Celestino told Sarmiento to get a piece of wire and a shovel. When Sarmiento refused to obey, Celestino grabbed the Springfield rifle from Sarmiento and, while pointing the rifle at him, threatened to kill him (54 tsn February 11, 1976).

They were in an isolated place near an improvised canal. There was a hut in the open field about fifteen meters from where they were standing. From that hut which he owned, Sarmiento got a three-feet-long laundry wire and

a shovel. He handed them over to Celestino.

Celestino, while pointing the rifle at Sarmiento and Layco, ordered them to dig a hole in the ground. They dug a hole one meter long, one meter wide and two meters deep.

Although it was already nine o'clock in the evening they dug without the aid of a flashlight because it was a moonlit night. About two meters away from them, Celestino held Guillermo by his jacket.

When they finished digging, Celestino told Layco and Sarmiento to leave the place. After the two had stepped backward, Celestino ordered Guillermo to lie down near the hole and to place his hands behind his back. He asked Guillermo once more who were his companions in stealing cattle. Again, Guillermo replied in the negative (60 tsn February 11, 1976).

When Guillermo was in a prone position, Celestino hit him with the butt of the rifle. Afterwards, Celestino fired the rifle in the air and once again asked Guillermo who were his companions in stealing cattle. When he got the same reply from Guillermo, he turned the latter's body so that Guillermo was now lying on his back. Guillermo's jacket was unbuttoned.

Celestino stabbed Guillermo several times in the abdomen with a double-bladed dagger (Exh. D). Then, he pushed Guillermo's body into the hole. Celestino ordered Layco and Sarmiento to fill up the hole and cover Guillermo's body with earth.

While Celestino was committing those atrocities, Layco and Sarmiento could not do anything. They were afraid of Celestino who was armed with a .38 caliber revolver aside from the rifle and the dagger. After the burial of Guillermo, Celestino told his two companions to go home, warning them that if they squealed, he would kill them (66 tsn February 11, 1976).

When Guillermo failed to return home that night, his mother, Felicidad Alegre, reported the matter to the barrio captain, Apolonio Cayaban. Nothing was heard about Guillermo from that time on.

About three months later, or on August 15, 1974, intelligence operatives of the Constabulary raided the house of Evangeline Veloria in Barrio San Rafael in connection with alleged seditious or subversive activities. Found in Evangeline's house were a .38 caliber revolver with six live ammunitions, two grenades, a double-bladed dagger and subversive propaganda materials. Evangeline, who turned out to be Celestino's wife, claimed that they were owned by her husband.

When that dagger was shown to Layco by a Constabulary sergeant in Tayug, Pangasinan, Layco identified it as the weapon used by Celestino in stabbing Guillermo. At that time, Layco was detained in the stockade on suspicion of being a member of the New People's Army.

On October 16, 1974 Layco, accompanied by Constabulary soldiers, the municipal health officer, sanitary inspector and barrio captain of San Rafael and his wife, repaired to the place where Guillermo was killed.

Layco himself exhumed the body of Guillermo which was an odorous cadaver lying on the left side with legs flexed and hands tied with a piece of wire. Its bone structure was still complete. The underwear had disintegrated but the fatigue-colored jacket and dark green pants were intact (Exh. A; 7-8 tsn February 9, 1976).

Layco identified the cadaver as the remains of Guillermo because of a broken upper tooth on the left side of the skull (80 tsn). When the cadaver was brought to Guillermo's house, his mother recognized it to be that of her son also because of the broken upper tooth, long hair and the clothing (22 tsn March 15, 1976).

On October 23, 1974, Layco executed a sworn statement at the Constabulary headquarters in Tayug. He narrated

therein the incidents leading to the murder of Guillermo by Celestino (Exh. E).

The provincial fiscal filed on October 17, 1975 against Celestino two informations, one for murder and another for illegal possession of deadly weapon.

He interposed an alibi. He testified that on May 23, 1974, when the crime was allegedly committed, he was in Barrio Danso, Gerona, Tarlac. He arrived in that barrio on May 15, 1974. He worked there as a farm helper. He stayed in the house of Federico Toratos until the end of May.

He denied that he was called Commander Valencia or Ka Colas. He was investigated by the Constabulary authorities in Tayug, Pangasinan in connection with the killing of Guillermo. During that investigation, a certain Sergeant Pobre allegedly poked his gun at Celestino's abdomen and threatened to kill him if he did not sign certain papers (51 tsn March 17, 1976). (Those papers were never presented in court.)

From the Constabulary barracks, Celestino was brought to the municipal hall of Tayug where he, Layco and another person were investigated by the fiscal.

According to Celestino, when Layco was asked who killed Guillermo, Layco replied that his companion was the killer (55 tsn March 17, 1976). When that man, whose name was not known to Celestino, was asked the same question, he allegedly answered "yes" (56 tsn March 17, 1976).

When confronted with the dagger which was used in the killing, Celestino said that he had never seen that weapon. He denied that he killed Guillermo and he insisted that on May 23, 1974 he was in Barrio Danso. He admitted that Danso was about fifty kilometers away from the scene of the crime and that the two places are connected by an asphalted road which can be traversed in two hours' time (60 and 70-71 tsn).

Celestino said that he plowed the fields of Toratos and a certain Mejia in Barrio Danso but he could not recall how many days he worked for the latter. Neither could he remember how much exactly he was paid by his employers.

Celestino could not give any reason as to why Layco pointed to him as the killer of Guillermo. He knew Layco and used to see him on some occasions because Layco was a neighbor of his wife Evangeline. However, he said that his wife and Nely, Layco's wife, had quarrelled over Nely's debt to Evangeline. But he could not remember how much Nely owed Evangeline and the time when that fact was confided to him by his wife.

On July 13, 1976, the lower court rendered the afore-mentioned judgment of conviction. In this mandatory review, Celestino's counsel de oficio contends that the lower court erred in convicting him because of the weakness of his alibi and not because the prosecution had proven his guilt beyond reasonable doubt.

That contention was induced by the fact that the lower court lengthily discussed the flimsiness of Celestino's defense of alibi. But that discussion merely signifies that the lower court conscientiously considered the defense interposed by the accused. The weakness of his defense was not the main basis for conviction. The lower court gave much weight to Layco's positive identification of the accused as the perpetrator of the crime.

Counsel de oficio, impugning the credibility of Layco, points to inconsistencies in his testimony, such as that he and Celestino were neighbors and yet they seldom saw each other; that Layco pictured Celestino as an influential man in the barrio although "new" in that place and that Layco could not have had identified the dagger because the killing was committed at night.

These observations cannot weaken the probative value of Layco's testimony. There is no showing that he committed any prevarication and that he falsely incriminated Celestino. It is not probable that the supposed quarrel between the wives of Layco and Celestino would have provoked Layco to frame up Celestino.

Layco's failure to report the incident to the authorities for almost five months does not destroy his credibility. He kept silent because of the threat against his life made by Celestino. He did not want to suffer the same fate as Guillermo's. (See *People vs. Equal and Hernandez*, 121 Phil. 871.)

The trial court did not err in finding that the guilt of Celestino was proven beyond reasonable doubt. He is guilty of murder qualified by treachery because he killed Guillermo while the latter was lying down on the ground with his hands tied with a piece of wire. The killing was committed without any risk on Celestino's part arising from any defense Guillermo might have offered (*U.S. vs. Elicanal*, 35 Phil. 209).

Evident premeditation is aggravating because it may be inferred from the testimony of Layco that the liquidation of Guillermo was the product of long planning and mature re-flection and that there was sufficient time for Celestino's cons-cience to overcome the resolution of his will had he desired to hearken to its warnings.

Ignominy is also aggravating because the manner in which Guillermo was killed and buried added shame, disgrace and obloquy to the material injury caused by the crime (*U.S. vs. Abaigar*, 2 Phil. 417. See *U.S. vs. De Leon*, 1 Phil. 163).

There being two generic aggravating circumstances and no mitigating circumstances, the death penalty was pro-perly imposed by the trial court (Arts. 64[3] and 248, Revised Penal Code).

WHEREFORE, the judgment of the lower court imposing the death penalty on Alfredo Celestino is affirmed. Costs de oficio.

SO ORDERED.

Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.
Fernando, C.J., took no part.

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