

THE PEOPLE OF THE PHILIPPINES, PLAINTIFFS-APPELLEE, VS. DAVID TUBO ALIAS “CARLOS” ALIAS “KALOY” OR “CARLO”, ACCUSED-APPELLANT.

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BORJA, J.,:

This treats of appellant’s Motion for Reconsideration[1] of this Court’s March 15, 2013 Decision which denied the appeal and affirmed with modification the RTC’s January 23, 2009 Decision. [2]

In his motion, movant alleges that the assailed Decision of this Court is not in accord with the facts and the law. Basically, movant contends that the testimony of Emerito Zamoras was biased and self-serving. This is allegedly because Zamoras is the nephew of private complainant Susana Billones Toroba. Also, it is contended that Zamoras’s testimony was contrary to human nature and should not have been given credence. Zamoras’s testimony was thus not a strong basis for convicting appellant.

Movant’s contentions have already been discussed and passed upon in the assailed Decision. This Court said –

Appellant points out that the lower court relied heavily on the testimony of Emerito Zamoras, which appellant characterizes as “contrary to human experience”. Appellant contends that –

On direct testimony, he [Emerito Zamoras] allegedly saw the accused throwing a lighter on the house which was already wet with gasoline x x x. When asked whether the accused was alone during the night the burning happened, Zamoras said that the accused was accompanied by someone whom he does not know x x x. Zamoras allegedly recognized the accused because he clearly saw David Tubo with the aid of the light coming from the fire and that the accused stayed there for three (3) minutes after throwing the said lighter. Considering that the size of the house (2.96 meters by 4.20 meters x x x) and the materials of the house is made of (mainly, light materials and can be easily burned), it does not stand to reason that the accused will stay there for 3 long minutes before leaving the area. It is uncommon for an arsonist to stay in the place of burning for such a long time when he had completely done what he planned. Perpetrators try every effort not to be identified. What was narrated by Zamoras, is therefore contrary to common experience.

Further, if it were true that Zamoras saw the accused because of the light coming from the fire, he could have also identified or at least recognized the companion of the accused. In his testimony, he was only about 8 meters away from the accused, a distance too short not for him to recognized the accused companion.

The Court is not convinced.

To the mind of the Court, there is nothing improbable or implausible in the behavior of the appellant as testified to by Emerito Zamoras. It is true that, as a general rule, “perpetrators try every effort not to be identified.” In the case at bench, however, it is perfectly patent that appellant did not care about being identified as the perpetrator of the arson. Quite the contrary, he was making a lot of noise and drawing attention to himself by shouting and challenging the occupants of the house “to go down and fight him”. This was, in fact, what woke Zamoras up and prompted him to jump out of the house. There is nothing whatsoever contrary to human nature in such behavior.

Appellant assails Zamoras’s failure to identify appellant’s companion because the witness was only 8 meters

away from the said companion whose face was lit up by the fire.

This is a non-sequitur. Appellant's contention is predicated on the witness's failure to identify the companion because he could not sufficiently see the face of the companion. But this is not the case at all. As Zamoras testified:

Q Was [Tubo] the only one that you saw?

A He has a companion but I do not know who is this companion.

In other words, Zamoras's failure to identify was not due to his inability to see the companion's face but to identify him. The companion was a complete stranger to Zamoras.

At any rate, well-entrenched in our jurisprudence is the doctrine that the assessment of the credibility of witnesses lies within the province and competence of trial courts. This doctrine is based on the time-honored rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh the testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between truth and falsehood. Thus, appellate courts will not disturb the credence accorded by the trial court to the testimonies of witnesses unless it is clearly shown that the trial court has overlooked or disregarded arbitrarily facts and circumstances of significance in the case. The Court discerns none of the exceptions here.

x x x

[Citations omitted]

In fine, there is no cogent reason for this Court to disturb the March 15, 2013 Decision.

ACCORDINGLY, movant's Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.

Jacob and [*]Inting, JJ., concur.

[*] Vice J. Ma. Luisa Q. Padilla per raffle dated July 23, 2013.

[1] Rollo, pp. 143-148.

[1] Rollo, pp. 121-135.

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