

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRISPOLO VERANO Y MONTILLA ALIAS “DODONG”,
ACCUSED-APPELLANT.**

G.R. No. 110109. November 21, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

Eight-year old Jason Bagcal's young life had an untimely end in the afternoon of October 14, 1991 in a cemetery in Surigao del Sur. Charged with his murder were Edgar Siman, Benjamin Martinez and accused-appellant Crispolo Verano in an information which reads:

"That on the 14th day of October 1991 at about 4:30 o'clock in the afternoon, more or less, at Quezon St., Tandag, Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation, did, then and there, willfully, unlawfully and feloniously attack, assault and strike one Jason Bagcal, an eight year old boy, thereby inflicting upon the latter multiple wounds on his body, which wounds have caused the damage and prejudice of his heirs in the following amount:

P50,000.00 - as life indemnity of the victim;

P10,000.00 - as moral damages;

P10,000.00 - as exemplary damages;

CONTRARY TO LAW. (In violation of Article 248 of the Revised Penal Code), with the presence of the following aggravating circumstances:

1. Abuse of Superior Strength, the victim being a minor.

Tandag, Surigao del Sur, March 16, 1992."

Arraigned on April 8, 1992, the three accused all entered separate pleas of "Not Guilty."

The prosecution's evidence showed that in the afternoon of October 14, 1991, Roberto Cagampang and Fedelio Quezada were conversing in front of the latter's house near the entrance of the Catholic Cemetery at Dagocdoc, Tandag, Surigao del Sur. Just then, two of the accused, Edgar Siman and Benjamin Martinez arrived.[1] Martinez asked Cagampang and Quezada why they were still out, while Siman asked the two men for a match to light his cigarettes.[2] Cagampang knew Martinez to be a military man and Siman, the son-in-law of one Tessie Martinez, to whom he used to sell lumber. Just as Siman was lighting his cigarette, a "trisikad" (bicycle with a sidecar used as a passenger vehicle in Tandag) arrived driven by accused-appellant Crispulo Verano with the victim Jason Bagcal in the passenger seat. Cagampang knew Verano to be a neighbor of his at Barangay Awasian, Tandag where they both resided. Cagampang also knew Jason because he was the child of Fortunato Bagcal to whom he used to sell lumber.[3]

Martinez and Siman approached the "trisikad" and talked to Verano. Then the three men, together with Jason,

entered the cemetery. Cagampang and Quezada were surprised and a little apprehensive, as both Siman and Martinez carried firearms. However, they did not do anything and went upstairs to their house and slept.[4]

Early the next morning, Cagampang went back to Awasian. That evening, he heard that a child of a lumber dealer was found dead in the Catholic Cemetery at Tandag.[5] Meanwhile, in the evening of October 14, 1991, Yolanda Pineda, a waitress at the Bachelor Express Terminal Restaurant at Dagocdoc, Tandag was approached by accused-appellant, whom she knew because he was her neighbor, to pledge a gold-plated Seiko wrist watch for P65.00. The following morning, Verano came back with Renato Vistal, also a neighbor of Yolanda and likewise a "trisikad" driver, proposing to sell her the watch for an additional P185.00, to which she agreed. Yolanda's husband, Julieto Pineda, another "trisikad" driver, saw the watch and asked her how she got it. She told him that it was originally pledged and later sold to her by accused-appellant. Yolanda gave the watch to her husband, who wore it while driving his "trisikad." [6]

On November 28, 1991, at about 2:30 in the afternoon, Police Officer Rogelio Lorenzana saw the wrist watch worn by Julieto. Lorenzana informed Julieto that it was the same kind taken from a child who was recently murdered. The Pineda spouses were brought to the Municipal Hall for questioning and pointed to appellant as the person from whom Yolanda bought the watch.[7]

It was the victim's father Fortunato who led the police officer to the Pinedas. Earlier, while searching for witnesses to his son's death, he talked to Renato Vistal who told him that his son's wrist watch was sold by accused-appellant to Yolanda Pineda.[8]

Renato Vistal testified that in the early morning of October 15, 1992, while he was at his parent's house in Awasian, his neighbor and longtime friend, appellant Verano, invited him to go to Tandag assuring him that he had money. The two friends boarded a truck bound for Barangay Dagocdoc where they disembarked. From Dagocdoc, Vistal and appellant proceeded to the Bachelor Terminal Restaurant to see Yolanda Pineda.[9]

On their way to the restaurant, appellant suggested that they take the route going inside the cemetery which was near their destination to take a look at the cadaver of a young boy he had killed the night before. Vistal saw the lifeless body of a boy whose identity at that time was still unknown to him, with his backpack school bag still slung on his right shoulder.[10]

When they reached the restaurant, appellant talked to Yolanda Pineda and received additional money for the wrist watch he had earlier pawned to her. With the additional money appellant received, he invited Vistal to the nearby Central market where they had a drinking spree.[11]

Accused-appellant was subsequently arrested and brought to the Police Headquarters where he was asked by Fortunato if he was involved in the killing of the latter's son Jason. Admitting his culpability, appellant stated that, for a monetary consideration and upon instructions of Siman, he fetched the victim from his school at St. Theresa's College at 4:30 in the afternoon and took Jason for a ride to Barangay Mabatang until 7:00 in the evening. However, instead of bringing him home, appellant brought the child to the cemetery where appellant's co-accused Benjamin Martinez and Edgar Siman were waiting. Siman then ordered appellant to beat the child to death. The motive given by Siman for the killing was that Jason's father, Fortunato, was the enemy of Siman's father-in-law.[12] Appellant also executed a sworn statement reiterating the above and further adding that Siman poked a .38 caliber revolver on his head and threatened to kill him if he refused to kill Jason in turn. He likewise admitted that he pulled a wooden cross from the ground and struck Jason with it, causing him to slump on the ground. When shown a gold-plated wrist watch recovered by the police from Julieto Pineda, appellant admitted that it was the same wrist watch he took from the victim.

The post mortem examination was conducted by Dr. Floripes A. Lim, Medical Officer III of the Provincial Health Office of Tandag. In his report dated October 17, 1991, Dr. Lim stated the cause of Jason's death as cerebral hemorrhage secondary to massive brain damage. He also said that the victim had already been dead for 48 hours when the cadaver was examined on October 16, 1991.[13]

The two accused, Martinez and Siman, interposed the defenses of denial and alibi. The trial court stated their version of the events as follows:

". . . According to accused Benjamin Martinez, the whole day on October 14, 1991, he stayed in the PC Barracks at Tandag. In the early evening, he was in his house, same Poblacion of Tandag, preparing snacks because the image of the Patron Saint of Perpetual Help was scheduled to be brought by the devotees to his house that evening. And because it was raining, after the prayer he decided to stay and did not go out the whole night. He learned sometime on November 10 or 12, 1992, from Chief of Police Romalito Yuhico of Tandag that he was implicated by accused Crispolo Verano in the killing of the child Jason Bagcal. He denied any such participation or involvement. On the contrary, according to him, he helped in the investigation of the killing and even picked up some suspects, who were however released later for lack of evidence. When he asked accused Crispolo Verano why the latter implicated him, he was told that the Police coerced said accused to implicate him and Edgar Siman. He claimed that from October 14 to December 26, 1991, when he was arrested, he did not leave the town.

Accused Edgar Siman also denied participation in the killing of Jason Bagcal. He claimed that the whole day on October 14, 1991, he worked on the cabinet in his house at Tandag. In the evening, he stayed home reading the lectures for the following day of the Southern Baptist Church of Tandag, of which he was a pastor for one month. He learned of the death of Jason Bagcal about a week later when the incident became the talk of the town. According to him, from October 14 to his arrest on December 17, 1991, he never left Tandag and performed his customary work. He believed he was implicated in the killing of the child Jason Bagcal because his mother-in-law, Tersie Martinez, was the competitor in the lumber business of the deceased's father, Fortunato Bagcal. When he talked to accused Crispolo Verano, he learned that the former was threatened with death by Nerio Bagcal, uncle of the deceased, and Police Officers Rogelio Lorenzana and Mario Balan when Crispolo refused to implicate him."

Accused-appellant waived presentation of evidence. The trial court convicted him of the crime of Murder but acquitted his co-accused Martinez and Siman. The dispositive portion of the decision states:

"WHEREFORE, finding accused Crispolo Verano y Montilla, alias 'Dodong' GUILTY beyond reasonable doubt of the crime of MURDER, qualified by treachery, and aggravated by nighttime and uninhabited place which facilitated the commission of the crime, without any mitigating circumstance to offset the same, and with the imposition of death penalty having been disallowed by the present Constitution until restored by law, the Court hereby sentences him to suffer the indivisible penalty of RECLUSION PERPETUA; to pay the heirs of the deceased-victim Jason Bagcal the sum of Fifty Thousand (P50,000.00) Pesos as life indemnity, Ten Thousand (P10,000.00) Pesos as moral damages and Ten Thousand (P10,000.00) Pesos as exemplary damages, without subsidiary imprisonment in case of insolvency; and to pay the cost. Being detained, he is credited in the service of his sentence with the full term of his preventive imprisonment if he signed the agreement whereby he would abide by the same disciplinary rules imposed on convicted prisoners, otherwise four-fifths (4/5) thereof.

On ground of reasonable doubt, accused Benjamin Martinez and Edgar Siman are acquitted. No finding of civil liability against either of them.

The Bail Bond of accused Edgar Siman is cancelled and the documents attached thereto are ordered returned to his bondsman.

Accused Benjamin Martinez shall remain under detention it appearing that he is facing another or other criminal cases.

SO ORDERED.

IN CHAMBERS, this 7th day of August, 1992, at Tandag, Surigao del Sur, Philippines."

Accused-appellant assigns the following errors:

"I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT ON THE BASIS OF CIRCUMSTANTIAL EVIDENCE THAT CANNOT SURVIVE THE TEST OF REASON AND JUSTIFY MORAL CERTAINTY.

II

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON THE GROUND THAT, LIKE HIS TWO CO-ACCUSED, HIS GUILT HAD NOT BEEN PROVED BEYOND REASONABLE DOUBT."[14]

On the first assigned error, accused-appellant claims that the circumstances proved in the trial case are not enough to sustain a conviction.

We do not agree.

Although the evidence in the instant case is largely circumstantial, it is sufficient for conviction as it meets the following requirements:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.[15]

Circumstantial evidence is evidence of circumstances which are strong enough to cast suspicion upon the defendant and which are sufficiently strong to overcome the presumption of innocence, and to exclude every hypothesis except that of the guilt of the defendant.[16] Many decisions are to the effect that circumstantial evidence may be fully as satisfying as positive testimony and will sometimes outweigh it. In cases where the facts or circumstances which are proved are not only consistent with the guilt of defendant, but also inconsistent with his innocence, such evidence, in its weight and probative force, may surpass direct evidence in its effect upon the court.[17] We have said: "When circumstantial evidence constitutes an unbroken chain of natural and rational circumstances corroborating each other, it cannot be overcome by inconcrete doubtful evidence submitted by the opposite party.[18]

Below are the findings of the trial court.

"Close scrutiny of prosecution's evidence - accused Crispolo Verano waived presentation of evidence in his defense - it has been sufficiently established that (1) in the early evening of October 14, 1991, accused Crispolo Verano, then driving a trisikad with the deceased young boy Jason Bagcal as passenger, entered the Catholic Cemetery at Dagocdoc, Tandag, Surigao del Sur; (2) that same evening, he pledged for P65.00 a gold-plated seiko wrist watch to Yolanda Pineda at Bachelor Terminal Kitchenette, where she worked as waitress, and which Terminal was adjacent to the Catholic Cemetery; (3) early the following morning, Crispolo Verano, neighbor and long time friend of Renato Vistal went to the latter's residence at Barangay Awasian, same municipality, and requested the latter to accompany him to downtown Tandag, and while on their way to Bachelor Terminal, led Renato to the place at the Cemetery where, according to Crispolo, he killed a young boy the night before, whom they saw lying prostrate on the ground facing `as if looking at

(them); (4) proceeding afterwards to the nearby Bachelor Terminal Kitchenette, Crispolo asked for additional amount of P185.00 from Yolanda Pineda for the wrist watch he pledged the night before, which he decided to sell to her; (5) Yolanda gave the wrist watch to her husband, Julieta Pineda, who used it while driving his trisikad until the same was spotted by Policeman Lorenzana who, upon investigation, established that the wrist watch belonged to the deceased Jason Bagcal; (6) the deceased, who was discovered two days later, on October 16, 1991, was examined by Dr. Floripes A. Lim, who estimated the approximate time of death to be about 48 hours before; and (7) in the sworn statement he gave to Judge Jose M. Garcia of the Municipal Trial Court of Tandag, while the latter was conducting the preliminary investigation of the instant murder case, Crispolo Verano admitted authorship of the death of Jason Bagcal, admitted that he took the wrist watch of the deceased, which he later pledged and then sold to Yolanda Pineda, and admitted the exhibit wrist watch shown to him by Judge Garcia as the one he took from the deceased.

The above proved circumstances constitute an unbroken chain which leads to the only fair and reasonable conclusion which points to accused Crispolo Verano, to the exclusion of all others, as the guilty person." [19]

The concatenation of events and circumstances has been satisfactorily proven by the prosecution and their combination establishes beyond reasonable doubt the conclusion that appellant indeed killed Jason. [20] Against this phalanx of positive evidence, appellant's belated denial cannot prevail.

Appellant further claims that certain portions of the testimonies of the prosecution's witnesses contained inconsistencies, citing the following:

1) Witness Cagampang stated on direct examination that he only became aware of what happened to the child that appellant took inside the cemetery on the night of October 15, 1991, when he was informed by a barangay mate that a child had been found dead therein. However, on cross-examination, he stated that he received the said information in the afternoon of that date.

2) Witness Yolanda Pineda said that the watch was pledged to her for P65.00 and that she later gave P185.00 to pay off the item making the total price of the watch to be P250.00. However, Renato Vistal said that Yolanda Pineda gave P50.00 to appellant as a final purchase price, meaning that the pledge was for P150.00 and not P65.00. Later, Vistal said the watch was pawned for P75.00 initially and then later P175.00 was paid for it.

Witness Julieta Pineda, in his sworn statement, gave another amount saying that appellant added P115.00 to the amount he originally paid Yolanda. During trial, he testified that the additional amount given was P100.00.

The Court finds these alleged inconsistencies to be minor and as such, do not affect the credibility of the witnesses. [21] As for the supposedly conflicting statements in the various affidavits, we have opined in *People v. Villanueva*, that: [22]

" . . . It has often been noted by this Court that an affidavit being taken ex-parte is almost always incomplete and often inaccurate, sometimes from partial suggestions and sometimes from want of suggestions and inquiries, . . . Moreover, affidavits are frequently not complete reproductions of what the declarants had in mind, considering that the affidavits are frequently prepared by the administering officer and cast in the latter's language as the latter's understanding of what the affiant had said . . . "

Time and again, we have held that minor lapses even enhance the veracity of the testimonies of witnesses as they erase any suspicion of a rehearsed declaration. [23]

Appellant also impugns the credibility of witness Renato Vistal's testimony that he (appellant) told the latter about killing Jason. We see no cogent reason to disturb the trial court's acceptance of said testimony. It is this Court's bounden duty to refrain from reviewing findings of fact by the lower court, considering that it has all the opportunity to directly observe the witnesses and to determine by their demeanor on the stand the probative value

of their testimonies.[24] Furthermore, the fact that Vistal did not immediately reveal to the authorities what he knew of the killing does not affect his credibility. It is not uncommon for a witness to a crime to show reluctance about getting involved in a criminal case, as in fact the natural reticence of most people to get involved is of judicial notice.[25] This is especially true in this case where the parties involved are not just townmates but immediate neighbors.[26]

WHEREFORE, in view of the foregoing, the decision appealed from is hereby **AFFIRMED**.

SO ORDERED.

Regalado (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] TSN, April 8, 1992, pp. 28-30.

[2] TSN, p. 31, *ibid*.

[3] TSN, pp. 32-34, *ibid*.

[4] TSN, pp. 34 and 39, *ibid*.

[5] TSN, pp. 34-35, *ibid*.

[6] TSN, April 10, 1992, pp. 5-8.

[7] TSN, pp. 2-3, *ibid*

[8] TSN, pp. 12-13, *ibid*

[9] TSN, April 8, 1992, pp. 6-7.

[10] TSN, pp. 7-9, *ibid*

[11] TSN, pp. 10-11, *ibid*.

[12] TSN, pp. 16-17, *ibid*

[13] TSN, April 8, 1992, pp. 3-4; TSN, April 10, 1992, pp. 26-27.

[14] p. 8, Brief for Appellant, Rollo, p. 39.

[15] Rule 133, Sec. 5, Rules of Court.

[16] *U.S. v. Douglass*, 2 Phil. 462.

[17] *Bowie v. State*, 185 Ark. 834, 49 S.W. (2d) 1049, 83 A.L.R.

[18] *Erlanger and Galinger v. Exconle*, G.R. No. L-4792, September 30, 1953.

[19] Rollo, pp. 21-22.

[20] *People v. Bracamonte*, G.R. No. 95939, June 17, 1996.

[21] *People v. Jumanog*, 221 SCRA 334.

[22] G.R. No. 96469, October 21, 1992.

[23] *People v. Beltran*, G.R. No. 119306, July 31, 1996; *People v. de la Cruz*, 251 SCRA 77 (1995).

[24] People v. Bracamonte, *ibid*; People v. Gomez, 229 SCRA 138, 144 (1994).

[25] People v. Rubio, G.R. No. 118315, June 30, 1996.

[26] *Ibid.*; People v. Sabillano, 198 SCRA 196 (1991).

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