PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN ANDALES, ACCUSED-APPELLANT.

G.R. No. 125994. January 18, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

On July 9, 1995, the following information was filed in court against the brothers Mauro Andales and Benjamin Andales for the death of Edgar Ibarondo, who was shot with two others on May 16, 1985 at barangay Bagong Sirang, Municipality of Pili, Camarines Sur:

> "That on or about the 16th day of May, 1985 at barangay Bagong Sirang, municipality of Pili, province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court the above-named accused, conspiring and confederating together and mutually helping one another and with intent to kill did then and there willfully, unlawfully and feloniously shoot one EDGAR IBARONDO with an armalite rifle, thereby inflicting upon the latter gunshot wounds on the different parts of his body which caused his death.
>
> That the crime charged herein was committed with the attendant circumstances of treachery and use of motor vehicle. And that with respect to the accused MAURO ANDALES, the crime committed by him is further aggravated by his taking advantage of his official position in committing the crime.
>
> ACTS CONTRARY TO LAW."[1]

The cases for multiple murder were ordered archived when the warrants of arrest could not be served. Benjamin Andales, herein accused-appellant, was finally arrested in 1993. His brother, Mauro Andales, still remains at large.

Benjamin Andales entered a plea of not guilty when arraigned.

The prosecution presented witnesses Ricky Canonico, who was riding with the victim Edgar Ibarondo when their truck was ambushed, Vicente Monte, who witnessed the shooting from the rooftop of his uncle's house, Magno Lecreo, Sr., who saw the two accused firing at the truck and witnessed the shooting of Edgar by Benjamin Andales as the former was alighting from the truck and Martin Bueson, who met the two accused in the house of their father shortly after the shooting.

The combined testimonies of the said witnesses were summarized by the trial court as follows:

> "In brief, the combined testimonies of said witnesses established that on May 16, 1985 at about 3:00 o'clock in the afternoon, at a barangay called Bagong Sirang, Municipality of Pili, Province of Camarines Sur, a certain Edgar Ibarondo was supervising the loading of harvested palay into a truck and among those doing the loading were prosecution witness Ricky Canonico and several others and after about one hundred (100) sacks of palay were already loaded in the truck, Edgar Ibarondo, the owner of the palay who was intending to bring said sacks of palay to the Pili Center or poblacion for weighing, boarded the truck together with the driver thereof and also a certain Dante Blasa, and the others who helped in the loading of the palay, with Edgar Ibarondo and Dante Blasa riding on the front seat of the truck with the driver thereof and the others at the back; that as the

> truck was proceeding on its way, a motorcycle with two men aboard was seen following the truck and after a while, as the truck neared the spill way on the road going to Pili, the two (2) persons aboard the motorcycle following the truck aforesaid were trying to cause it to stop and when it did not stop, they shot the tire of the truck until it stopped at the spillway and without further ceremony the two motorcycle riders fired upon those sitting on the front seat as the latter alighted, one by one from the truck until they were found lying down on the ground, already dead. The three (3) dead persons were identified to be the driver of the truck, Edgar Ibarondo, Dante Blasa and another identified only as Bobet who were hit by the successive burst of gunfire; later, the motorcycle with the two persons responsible for the shooting and already identified as the two (2) accused herein returned to the place of Bagong Sirang where they were seen by some persons; that also earlier in the afternoon of that day at around 1:00 o'clock p.m., the deceased Edgar Ibarondo and one of the accused or Mauro Andales were heard by Vicente Monte, another prosecution witness arguing with each other where the latter who is a military personnel was heard threatening the deceased Edgar Ibarondo that if he would not give what was being asked of him, he or Mauro Andales would harm him; this threat led to the deceased Edgar Ibarondo into giving six (6) sacks of palay at first to the Andaleses and when the latter protested that the same were not enough, caused Edgar Ibarondo to add another fourteen (14) sacks of palay which he left by the side of the road and where he instructed his father-in-law, prosecution witness, Martin Buison to inform the Andaleses at their house through their father Camilo Andales of this additional fourteen (14) sacks of palay; that however Martin Buison (sic) went a little later to the house of Camilo Andales and while he was there at about 3:30 already in that afternoon of May 16, 1985, the two (2) accused arrived above their motorcycle and Buison (sic) saw them both armed with guns or a long firearm and short firearm for Benjamin and Mauro respectively and after Buison (sic) was seen by the two (2) accused, Mauro even got the long firearm from his brother Benjamin and cocked it while looking at Buison (sic) directly such that the latter out of fear embraced Camilo Andales, the father of the two (2) accused and who pacified his son Mauro and then advised Bueson (sic) to go home already and which caused him to run to his home at Bagong Sirang where he eventually learned of the shooting of his son-in-law Edgar Ibarondo; another prosecution witness, namely: Magno Lecreo testified that he was then going to the vicinity of the spillway to see his carabao which he had tied earlier near the creek thereat and at a distance of around thirty (30) meters from the truck, he saw the deceased shot by the accused Benjamin Andales with a long gun or long firearm and he also declared that the motorcycle which was then following the truck was being rode by Benjamin Andales and his brother Mauro Andales with the latter operating or driving said motorcycle while Benjamin Andales was riding behind at the back and when the truck stopped, Lecreo categorically stated that he saw the two (2) accused brothers both firing at the truck while they were at the front thereof; xxx"[2]

The accused Benjamin Andales claimed he was innocent of the charge. He put up the defense of denial and alibi, claiming he was in Manila at the time of the shooting incident. He declared that he had been staying in Manila since March 1977, working at various jobs and was employed as vulcanizer at the shop of Domingo Salcedo from 1983 up to 1986. Benjamin Andales testified that he has no contact with his brother Mauro since 1979, and came to know that he was charged with the killing of Edgar Ibarondo only in June, 1993 when he went home to Sto. Niño, Iriga City to attend the wake of his father. He denied knowing Edgar Ibarondo.[3]

Benjamin's defense was corroborated by Domingo Salcedo who testified that Benjamin was in his vulcanizing and welding shop on May 15, 16 and 17, 1993 and had no opportunity to leave the shop.[4]

The defense presented rebuttal witnesses Troadio Madara, Oscar Villanueva, and Ricky Canonico (who earlier testified for the prosecution) who testified on circumstantial matters that were intended to impeach the testimonies of the prosecution witnesses.

The prosecution thereafter presented its own set of rebuttal witnesses, namely Justiniano Repuesto, Felisa Doroin and Norma Matubis, to contradict the testimonies of the defense witnesses tending to establish the absence of Magno Lecreo and Vicente Monte at the scene of the shooting incident.

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The defense again presented sur-rebuttal witnesses Marcelino Aladano, Jose Felices and Atty. Henry Briguera, essentially focusing on the presence or absence of prosecution witness Vicente Monte at Bagong Sirang, Pili, Camarines Sur on May 16, 1985.

The trial court rendered judgment on May 29, 1996 convicting Benjamin Andales on the basis of the testimonies of Vicente Monte, Martin Bueson and Magno Lecreo. The dispositive portion of the judgment read:

> "WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the accused BENJAMIN ANDALES, guilty beyond reasonable doubt of the crime of MURDER and sentencing him to suffer the penalty of RECLUSION PERPETUA together with all the accessory penalties provided therefor and to pay one-half of the costs hereof.
>
> Said accused is further ordered by way of civil liability to pay the legal heirs of the late Edgar Ibarondo represented by his widow Ameriña Ibarondo, the sum of FIFTY THOUSAND PESOS (P50,000.00) as death indemnity.
>
> The case as to the other accused MAURO ANDALES will remain archived but to be revived upon his apprehension. Let the necessary alias warrant of arrest be issued against said accused to be served by the Office of the Director General of the Philippine National Police, Recaredo Sarmiento II.
>
> SO ORDERED."[5]

Benjamin Andales is now before this Court on appeal, claiming that the trial court erred as follows:

> - The lower court erred in not having given due consideration to the testimonies of Ricky Canonico as both prosecution and defense witness, in relation to the testimonies of supposed eye witnesses at the crime scene immediately before and after the incident.
>
> - The lower court erred in not having considered at all the major inconsistencies in testimonies of Vicente Monte, Amerinia Ibarondo, Magno Lecreo and Martin Bueson before the Municipal Trial Court of Pili and the Regional Trial Court.
>
> - The lower court erred in not having given due consideration to appellant’s defense of denial and alibi, notwithstanding the fact that he was able to show that he was at some other place for such period of time that it was impossible for him to have been at the place where the crime was committed at the time of the commission.
>
> - The lower court erred in concluding that appellant is guilty, because of his having "fled", notwithstanding the fact that there is no categorical showing that appellant indeed went on flight.
>
> - The lower court erred in taking hook line and sinker the prosecution’s claim that Vicente Monte was at Bagong Sirang, Pili, Camarines Sur, before, during and after the commission of the crime."[6]

Accused-Appellant prays for an acquittal.

Accused-appellant alleges that the trial court should have given credence to the testimony of Ricky Canonico, who testified both for the prosecution and for the defense, and who was the most credible witness, as he was not related to the accused-appellant nor to the victim. Accused-appellant points out that Canonico never identified the two persons riding in the motorcycle that followed the cargo truck which he was riding. Canonico also testified that he did not see any other person aside from his group, nor a carabao, within the immediate surrounding of the place where the shooting incident took place.

The accused-appellant also contends that the testimonies of prosecution witnesses Monte, Lecreo and Bueson deserve scant consideration as none of them immediately informed the authorities about what they purportedly

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witnessed. Lecreo, in particular, simply continued attending to his farm in the afternoon, as if nothing happened. As regards the testimony of Monte that he saw the incident from the rooftop of his uncle's house, rebuttal witnesses Madara and Villanueva categorically declared that the mango tree which he climbed to reach the roof was then "still too small in 1981", (as big as his [Madara's] leg).[7]

Accused-appellant also assails the court's rejection of the defense of denial and alibi in light of his positive testimony that he was working in Manila on May 16, 1985 in the shop of Domingo Salcedo, who corroborated his testimony. It is pointed out that Salcedo is a duly commissioned officer of the military, and that the travel by land or sea from Metro Manila to Bicol takes at least nine hours; thus the impossibility of the presence of accused-appellant at the scene of the crime.

Vicente Monte's presence at Bagong Sirang on the date in question which prosecution rebutted witness Norma Matubis[8] sought to establish by evidence of his enrollment in the school at Bagong Sirang, was controverted by Henry Briguera who secured a certification as to the proper official authorized to issue certification of school records of the students.[9]

Finally, the trial court's conclusion that the accused-appellant "fled", is assailed in appellant's brief. Accused-appellant was in Manila and only came to know of the fact that there was a warrant for his arrest when he went home to attend the interment of his father in 1993.

The appeal must fail.

We have examined with great care the evidence adduced by the prosecution and by the defense, and we are unable to find any cogent justification to overturn or set aside the conclusion of the trial court that based on "the entirety and totality of the evidence of the parties", the evidence of the prosecution has definitely established the guilt and culpability of the herein accused-appellant Benjamin Andales of the crime of murder beyond any reasonable doubt. The trial court gave full faith and credit to the declarations of the three prosecution witnesses, Vicente Monte, Martin Bueson and Magno Lecreo, whose testimonies "were given in a straightforward and credible manner" all positively identifying the accused-appellant and his brother Mauro as the persons on board a motorcycle which gave chase to the truck which Edgar Ibarondo and his laborers were riding in, and then firing at the occupants of the truck as they alighted therefrom.

Ricky Canonico declared in court that he was on top of the truck with one hundred cavans of palay, and that a few minutes after the truck left the house of Edgar Ibarondo, he saw a motorcycle with two persons riding on it; one of the person shot the tire causing the truck to stop. He went down the truck to hide and could not see outside the truck, which was "enclosed with walls", and was not able to recognize the two persons riding the motorcycle.[10] Vicente Monte supplied the deficiency when he declared in court that he recognized Mauro Andales and Benjamin Andales (whose brother is his close friend) as the two persons who were riding the motorcycle which followed the truck; he was then standing at the roadside after the truck passed by about three meters away, and he went up the roof of the house and saw the motorcycle following the truck, heard the gun shots, and saw the motorcycle return to the house. He went to the place where the truck stopped, saw Edgar and two others dead, and returned to tell Edgar's wife and relatives.[11] He saw the person riding behind who carried a gun on the left shoulder alight from the motorcycle, and drew a sketch of the position where the truck originated and the place where it was riddled with bullets.[12] Earlier, he had heard Mauro Andales arguing with the deceased in the Iriga dialect and threatening the latter with harm, and he went to his uncle's house after the motorcycle passed by "because (he) wanted to find out what will happen because of the utterances which (he) heard from Mauro".[13]

The identities of Mauro and Benjamin were established further by the testimony of Magno Lecreo who knew the two brothers because they are from the same barangay.[14] Magno testified that he was 30 meters away from the

truck, which was ascending from the spillway and he saw Benjamin Andales, who was in front of the truck shoot Edgar as the latter was alighting from the truck, using a long gun. Mauro was also in front of the truck firing shots.[15]

The wife of the deceased Amerinia Ibarondo, also testified that she saw her husband board the truck for Pili which was followed by Mauro and Benjamin; the latter armed a long gun on his shoulder. After she heard the gunshots , she saw the motorcycle return with the two accused.[16]

We agree with the trial court that the participation of Benjamin Andales was convincingly established by the positive testimonies of the prosecution witnesses; the court stated:

> "In the first place, the testimonies and declarations of the three (3) prosecution witnesses, Vicente Monte, Martin Bueson and Magno Lecreo were given in a straight forward and credible manner all positively identifying the accused Benjamin Andales and his brother as the persons first on board a motorcycle following and giving chase to the truck where the deceased Edgar Ibarondo and his laborers were riding, and then shooting their guns or firearms at the occupants of said truck as they alighted therefrom, causing the latter to fall to the ground where they were found immediately thereafter three (3) dead and one injured, but later was also to die and thereafter, when the deed was done, the two returned to their house where one of them even cocked his gun and looked threateningly at Martin Bueson such that it caused him to seek refuge in the embrace of Camilo Andales who had to pacify his son Mauro and who apparently was disposed and ready to also shot him. No less than Monte, Bueson and Lecreo directly pointed to Benjamin Andales as one of those whom they saw shooting the deceased Edgar Ibarondo and they were quite positive and categorical in their assertions to this effect, that Benjamin Andales was one of the two (2) gun men directly responsible in firing and hitting said deceased Ibarondo. Such testimonies and declarations of the three (3) prosecution witnesses being quite credible the same are entitled to full faith and credit. Moreover, no contrary evidence other than the supposed non-presence or absence of prosecution witness Vicente Monte from the scene of the crime when it happened, was ever adduced by the defense. "No proof was adduced to show that the prosecution witnesses were moved by some evil motive to testify falsely against the accused". (People vs. Amaro, 235 SCRA 8) and "in the absence of any evidence that a witness was actuated by improper motive, his testimony must be accorded full evidence". (People vs. Capquian, 236 SCRA 655). The fact that Vicente Monte was the first cousin of the deceased and Martin Bueson, the father-in-law does not detract from the truthfulness of their respective testimonies as they would not just indiscriminately point to the two (2) accused as the perpetrators of this heinous crime, thus: "Witnesses who are blood relatives of the deceased would not just indiscriminately impute the crime to anybody but would necessarily identify and seek the conviction of the real culprit himself to obtain justice for the death of their relative." (People vs. Leonito Macagaling y Atillano, G. R. No. 109131-33, Oct. 3, 1994, 237 SCRA 300.[17]

The rebuttal evidence of the defense is far from conclusive. We find no basis for ruling that the court a quo erred in not relying on the witnesses presented by the defense to discredit the testimonies of Magno Lecreo and Vicente Monte, particularly on their presence or absence at the scene of the shooting incident that transpired on May 16, 1985. The defense attempted to show through witnesses Oscar Villamer and barangay captain Troadio Madara that Vicente Monte does not stay permanently in Bagong Sirang and was not there immediately before or after May 16, 1985[18] and that it would be difficult to climb the mango tree near the house of Elias Monte as it was still small and low in 1985[19] and that Magno Lecreo has a creek beside his house which never dried up.[20] Oscar Villamer however admitted in court that "until now, Benjamin Andales is a very close friend."[21] For his part, Troadio Madara admitted that he had never gone to the roof of the house of Elias Monte, and that his nephew has a case against Magno Lecreo[22] and that he was never in the vicinity of the place of the ambush at the spillway.[23] Notably, the prosecution presented its own rebuttal witnesses, Justiniano Repuesto, Felisa Doroin and Norma Matubis, to establish that Vicente Monte was staying with his uncle Elias Monte at the time of the incident,[24] and was studying at the Calancaan Community School at Bagong Sirang from Grade I-VI,[25] and

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that the creek beside the farm of Magno Lecreo had no water in April and May because it is summer.[26]

On the other hand, the court notes that the testimonies of the surrebuttal witnesses for the defense Marcelino Aladano[27] and Jose Felices[28] consisted merely of negative testimony, i.e. Marcelino Aladano testified that he did not notice Vicente Monte when Vicente purportedly went to the store of the son of Felisa Doroin to buy cigarettes.[29] Jose Felices stated in court that Vicente Monte was not staying in the house of Elias Monte on May 16, 1985, and that he never saw Vicente in Bagong Sirang in 1985.[30]

We agree with the trial court's finding on the contradictory testimonies regarding the supposed absence of Vicente Monte from the scene at Bagong Sirang at the time of the incident:

> "xxx the attempt of accused to discredit the testimonies of the prosecution witnesses, particularly Vicente Monte by alleging that he left the scene of the crime long before the occurrence thereof cannot persuade this Court in the face of Monte's own declarations in open court in the course of his testimony, as well as the documents attesting to his enrollment at the elementary school of Calangcaan at Bagong Sirang, Pili, Camarines Sur from 1981 up to 1984 (Exhibit N) and the Record of Promotions (Exhibit S) showing his name listed thereon (Exhibit S-1). Instead of impugning the authority of Jesusa Imperial the class adviser for school year 1983-1984 to issue said documents as certified true copies, the accused should have presented evidence totally and absolutely discrediting and demolishing the authenticity or even existence of said documents (Exhibits N & S)."[31]

We also affirm the trial court's rejection of the defense of alibi in this wise:

> "xxx the defense put by the accused which is that of denial and alibi and which is concededly the weakest of all possible defenses an accused may avail of cannot prevail in the face of the direct and positive identification made of him by the three (3) prosecution witnesses as one of the perpetrators of the crime. Although, the accused has tried to demonstrate that he was far away in Metro Manila when the shooting incident happened on May 16, 1985, and this was corroborated by a witness Domingo Salcedo, yet this Court is not disposed to give such alibi much credence since aforesaid, there was positive identification of the accused as of the authors of the killing of Edgar Ibarondo by the prosecution witnesses and also because of certain inconsistencies and lapses in the corroborating testimony of defense witness Domingo Salcedo, supposedly a military or police officer. Although he was then assigned allegedly with the PNP Mobile Force Unit at Iriga City, he appeared in the court even without the benefit of a subpoena and was not even in the proper military uniform when he testified. Then, although accused Benjamin Andales declared that he worked with Salcedo at his vulcanizing shop at Western Bicutan, Taguig,Metro Manila on May 16, 1985, yet Domingo Salcedo declared that in 1985, his vulcanizing and welding shop was located at Barangay Mayamot, Sumulong Highway, Antipolo, Rizal and which is quite different and distinct from Western Bicutan, Taguig, Metro Manila. Also, although accused claimed to be an employee of Domingo Salcedo in his shop, since 1983 up to 1986, he was never duly registered as such employee with the Social Security System, since supposedly, he did not want to be so covered according to his alleged employer Domingo Salcedo thus raising doubt as to whether he was really such an employee of the latter. Accused should know that he is bound to prove with at least a degree of certainty the basis of his alibi if the same is to be given any consideration by this Court. If really he was such an employee, not only would the registration with the Social Security System serve as valid basis for such a claim, but other credible evidence to establish such fact could have been produced by accused such as payrolls, vales receipts of salary or other memoranda indicative thereof but sad to state, he never did so, relying merely on the testimony of Domingo Salcedo which is quite doubtful and unsatisfactory."[32]

Although the trial court's observation that Domingo Salcedo was not even in uniform when he testified may be misplaced, the irreconcilable discrepancy between the testimony of Benjamin Andales that the vulcanizing shop of Salcedo was in Western Bicutan, Taguig, Metro Manila on May 16, 1985[33] and that of Salcedo himself that his welding shop was located at Barangay Mayamot, Sumulong Highway, Mandaluyong, Rizal[34] is a serious

inconsistency that cannot be ignored and which discredits the defense of alibi.

The testimony of Ricky Canonico did not contradict the testimony of other prosecution witnesses. While he declared that he did not see any other person at the scene of the crime, he testified that he and his companions immediately ran away and fled from the place of the incident upon seeing the dead bodies of the victims, and he stated that he was scared and shocked and did not know what to do.[35] The Solicitor General correctly noted in the appellee's brief:

> "This testimony of Ricky Canonico is in harmony with that of other prosecution witnesses. All of them testified that only the dead bodies of the victims were left when they approached the ill-fated truck (TSN January 20,1994, p. 19; February 8, 1994, p. 14).
>
> Note must be made that successive bursts of gunfire were heard immediately before the culprits left the place (TSN, February 8, 1994, pp. 12-14; January 20,1994, p. 18). Equally scared as Ricky Canonico, the other prosecution witnesses approached the victims only upon being sure that the culprits who were armed with guns had already left the place (TSN, January 20, 1994, p. 17; February 8, 1994, pp. 15-16).
>
> The same can be said of the prosecution witnesses' failure to immediately report the incident to the authorities. The culprits were their barriomates. Moreover, Mauro Andales (the co-accused who is still at large) was known by them to be a military man. Fear of reprisal was the underlying reason for their silence.[36]

The contention of appellant that he did not flee from the crime is belied by the record. Appellant evaded the law for eight years despite numerous warrants issued for his arrest. His claim that he was not aware of the charge against him because he had no communication with his family is not believable, because he testified that he donated one of his kidneys to his brother Jose in 1986, and even stayed with him after the operation. We agree with the trial court that the flight of accused-appellant is indicative of guilt.[37]

In fine, we must stress that the core issue and peripheral matters raised by the accused-appellant in his brief involve the question of credibility of witnesses. The doctrinal rule is that findings of facts made by the trial court, which had the opportunity to directly observe the witnesses, and to determine the probative value of other testimonies, are entitled to great weight and respect because the trial court is in a better position to assess the same, an opportunity not equally open to an appellate court.[38] We are satisfied from our own examination of the evidence that the trial court did not err in finding the accused guilty as charged.

The penalty for murder is reclusion perpetua to death.[39] Contrary to the finding of the trial court that evident premeditation was proven no such aggravating circumstance attended the commission of the crime.[40]

Accordingly, the imposable penalty is reclusion perpetua.[41]

WHEREFORE, the judgment convicting Benjamin Andales of murder and sentencing him to suffer the penalty of reclusion perpetua, and to pay P50,000.00 by way of civil indemnity, is AFFIRMED in toto.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban and Purisima, JJ., concur.

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[1] Rollo, p. 25.

[2] Rollo, pp. 51-53.

[3] Tsn., February 9, 1995.

[4] Tsn., December 12, 1994.

[5] Rollo, p. 65.

[6] Rollo, pp. 96-97.

[7] Tsn., September 28, 1994, p. 12, testimony of Troadio Madara; Tsn., December 2, 1994, p. 16, testimony of Oscar Villanueva.

[8] Tsn., July 10, 1995.

[9] Exh. "7"; Tsn., December 13, 1995.

[10] Tsn., January 17, 1994, at pp. 9; 25.

[11] Tsn., January 20, 1994.

[12] Exh. "1"; Tsn., January 24, 1994.

[13] Tsn., January 20, 1994, p. 13.

[14] Tsn., February 8, 1994, p. 9.

[15] At pp. 7-9.

[16] Tsn., February 22, 1994, p. 22.

[17] Rollo, 62-63.

[18] Tsn., September 28, 1994, p. 8.

[19] At p. 13; Tsn., December 2, 1994, p. 16.

[20] Tsn., December 8, 1994, p. 13.

[21] Tsn., December 2, 1994, at p. 22.

[22] Tsn., September 28, 1994 at pp. 33-34.

[23] At p. 35.

[24] Tsn., May 18, 1995 at pp. 8-9; testimony of Felisa Doroin.

[25] Tsn., July 10, 1995, pp. 30-31; testimony of Norma Matubis.

[26] Tsn., May 16, 1995, p. 8; pp. 23-24.

[27] Tsn., October 16, 1995.

[28] Tsn., November 27, 1995.

[29] At p. 5.

[30] Tsn., November 27, 1998, at p. 10.

[31] Rollo, p. 64.

[32] Rollo, pp. 63-64.

[33] Tsn., February 9, 1995, at p. 23.

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[34] Tsn., December 12, 1994, p. 30.

[35] Tsn., February 17, 1994, p. 12.

[36] Appellee's Brief, pp. 9-10.

[37] People vs. Reunir, 157 SCRA 686.

[38] People vs. Escandor, 265 SCRA 444.

[39] Art. 248, Revised Penal Code, as amended by R. A. 7659.

[40] The requisites for evident premeditation are: (1) the time when the offender determined to commit the crime, (2) an act manifestly indicating that he clung to his determination, and (3) a sufficient lapse of time between determination and execution to allow himself to reflect upon the consequences of his act.

[41] Article 63, Revised Penal Code.

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