

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ESTANISLAW JABERTO Y TELOY AND MELVIN TIMTIM, ACCUSED,
ESTANISLAW JABERTO Y TELOY, APPELLANT.**

G.R. No. 128147. May 12, 1999

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-128147/>

PANGANIBAN, J.:

The following well-entrenched doctrines are used by this Court in rejecting this appeal: (1) the trial court's assessment of the credibility of a witness is generally binding on appellate courts; (2) discrepancies between the affidavit and the testimony of a witness do not necessarily discredit him; and (3) treachery is present if the attack on an unarmed and unsuspecting victim is swift and unexpected.

The Case

Estanislaw Jaberto appeals the August 26, 1996 Decision[1] in Criminal Case No. CBU-40141, promulgated by the Regional Trial Court of Cebu City, Branch 14, which convicted him of murder and sentenced him to reclusion perpetua.

In an Information dated December 27, 1995, Prosecutor Valentin B. Suan charged Estanislaw Jaberto and Melvin Timtim with murder allegedly committed as follows:

"That on or about the 24th day of December, 1995, at about 10:30 o'clock in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping one another, armed with a kitchen knife, with deliberate intent, with intent to kill, with treachery and evident premeditation, did then and there attack, assault and stab one PRIMITIVO DAGOC Y NESTAL with said kitchen knife on the vital part of his body and inflicting upon him physical injuries which caused the death of said Primitivo Dagoc y Nestal." [2]

At his arraignment, Appellant Jaberto, duly assisted by Atty. George P. Bragat, pleaded not guilty.[3] The other accused, Melvin Timtim, was and has remained at large.[4] Thus, trial proceeded against Appellant Jaberto alone. Thereafter, the court a quo rendered the assailed Decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered finding the accused Estanislaw Jaberto guilty beyond reasonable doubt as principal [in] the felony of murder; he is accordingly sentenced to the penalty of RECLUSION PERPETUA, and to pay unto the legal heirs of the deceased victim Primitivo Dagoc the sum of P50,000.00 as and by way of death indemnity. The costs of this instance shall be taxed against the said accused." [5]

In view of the penalty imposed, appellant filed his appeal directly with this Court.[6]

The Facts

Evidence for the Prosecution

In the Appellee's Brief,[7] the Office of the Solicitor General[8] presented the following narration of the facts.

"On December 24, 1995, at around 10:30 in the evening, Mardonio Pelonio and Franklin Dagoc were at one side of Lincoln Street, Cebu City, talking to each other (TSN, February 21, 1996, p. 3). On the other side of the street was Franklin's father, Primitivo Dagoc, who was then sitting on a stall, leaning on the door of their store, and napping (Ibid, pp. 3-4 & 8). While Primitivo Dagoc was in this restive state, Estanislav Jaberto and Melvin Timtim sneaked up on the sleeping Primitivo, and Estanislav Jaberto suddenly stabbed him on the right chest (Ibid, pp. 4, 9 & 10). This was witnessed by Franklin Dagoc, who was then talking to Mardonio Pelonio at the other side of the street, which was well lighted (Ibid, pp. 4 & 7).

"When Primitivo Dagoc growled that he was stabbed, Estanislav Jaberto and Melvin Timtim ran away (Ibid, p. 4). Mardonio Pelonio and Franklin Dagoc pursued them (Ibid). While they were being pursued, Estanislav Jaberto and Melvin Timtim took separate ways; Jaberto ran towards Magallanes, while Timtim toward Carbon [S]treet (TSN, January 22, 1996, p. 6). Mariano Pelonio and Franklin Dagoc decided to pursue the person who did the stabbing: Estanislav Jaberto (Ibid). While pursuing Estanislav Jaberto, Mardonio Pelonio and Franklin Dagoc noticed that there were barangay tanods on board a patrol car (TSN, February 21, 1996, pp. 4-5). They shouted for assistance (Ibid, p. 5).

"Eventually, the barangay tanods caught Estanislav Jaberto and recovered from him a knife. They brought him to the police authorities (Ibid).

"The police authorities brought Estanislav Jaberto to the Office of the City Prosecutor for investigation. There, Estanislav Jaberto admitted owning the knife and stabbing the victim (Ibid, p. 11).

"The victim died due to the stab wound on his chest (Ibid, p. 15)."[9]

Evidence for the Defense

The trial court summarized the evidence presented by the defense in this wise.[10]

"Testifying in his defense, accused Estanislav Jaberto, 21 years old, married, jobless and a resident of Pansolan, Balogo, Guihulngan, Negros Oriental[,] declared that he came to Cebu a week before December 24, 1995, to look for a job; that he stayed in Talisay, Cebu[,] at the house of his wife's cousin; that on December 24, 1995, at about 8:00 o'clock p.m., Melvin Timtim, his wife's cousin, came to fetch him and brought him to Cebu City; that they roamed around Cebu City until 10:30 o'clock p.m. when they were at a place unfamiliar to him; that Melvin Timtim stabbed a man sitting outside a house by the road; that he stood at some distance from where Melvin Timtim stabbed that person; that he did not see what was used by Melvin Timtim when he stabbed the man whom he himself had not seen before; that when Melvin Timtim ran away he followed suit because there were persons chasing him; that he was caught after the chase because he did not know where to go; that he was mauled and was brought to the Waterfront Police Station; that at the said police station, a man who claimed to be the brother of the victim, struck him; that he was investigated at the station but he was not assisted by a lawyer and the investigation was not in writing; that he was forced to admit owning the knife (Exh. `A'), and stabbing the victim in this case because he was manhandled; that he owned the black wallet which fell from his pocket when he was beaten up; and the wallet contained some kind of certification from the [b]arangay [c]aptain of Mabunga, Negros Oriental; and that during his detention, Melvin Timtim[,] his co-accused, did not contact him by letter or otherwise."

Ruling of the Trial Court

Finding the testimonies of the prosecution eyewitnesses to be clear, convincing and consistent, the trial court concluded that appellant did indeed stab and kill the unsuspecting and defenseless victim, Primitivo Dagoc, who was then napping outside his store. The trial court likewise rejected appellant's "plea of passive presence"[11] for being self-serving and bereft of corroboration from any disinterested or impartial party. Moreover, appellant and co-accused Melvin Timtim's flight immediately after the stabbing incident belied their innocence.

Assignment of Errors

Appellant interposes the following errors allegedly committed by the trial court.

"I

The Honorable Trial Court erred in sweepingly declaring that the testimonies of `state witnesses Mardonio Pelonio and Franklin Dagoc whose vivid accounts of the incident were clear, consistent and forthright and credible,' considering that evidence is abundant on record that Mardonio Pelonio's account of the incident in his testimony in court vis-a-vis his joint affidavit with Franklin Dagoc, was never vivid, nor was it clear, consistent, forthright and credible, but, on the other hand, filled with inconsistencies and evasiveness, th[u]s creating serious doubts as [to] the culpability of Jaberto. The same [situation] can be said of Franklin Dagoc, aside from the clear bias of his testimony.

II

The Honorable Trial Court whose decision is assailed in this appeal, clearly erred in pronouncing that Estanislao Jaberto y Teloy employed `treachery' in relation to the crime for which he stands charged together with Melvin Timtim who until now has not been shown to have been brought to the bar of justice nor to have been pursued by the authorities."^[12]

In the main, appellant assails (1) the credibility of the prosecution witnesses and (2) the appreciation of treachery as a qualifying circumstance. In addition, he carps at alleged irregularities in the preliminary stages of the case.

The Court's Ruling

The appeal is devoid of merit.

Preliminary Issue:

Irregularities Before Trial

Preliminarily, appellant alleges irregularities in his detention and during the proceedings before the prosecutor's office.^[13] He alleges that he was detained beginning on December 24, 1995, but that the Information against him was filed only on December 27, 1995. Moreover, he claims that he was not given a chance to file a counter-affidavit before the Office of the Prosecutor. These contentions are utterly devoid of merit.

While this Court cautions public officers to be vigilant in safeguarding the custodial rights of detained persons and to observe and follow the regular procedures in investigating and prosecuting such cases, the alleged irregularities during the preliminary stages of the investigation are immaterial to the disposition of this case. These matters do not pertain to the guilt or the innocence of the accused or to material points regarding the crime itself. Equally important, the alleged irregularities were waived when appellant went to trial without raising his objections thereto.^[14]

First Issue:

Credibility of Witnesses

Appellant assails the credibility of Prosecution Eyewitnesses Mardonio Pelonio and Franklin Dagoc, citing discrepancies between their joint affidavit^[15] and their testimonies.

Appellant's contention is clearly erroneous. The alleged inconsistencies between the joint affidavit and the testimonies of the two prosecution witnesses do not destroy their credibility and truthfulness. "The general rule has always been that discrepancies between the statements of the affiant in his affidavit and those made by him on the witness stand do not necessarily discredit him"^[16] because "affidavits, being taken ex parte are almost always incomplete and often inaccurate xxx."^[17]

Thus, the joint affidavit stating that Primitivo Dagoc was sitting when he was stabbed^[18] was merely less precise

than the testimony of Pelonio that the victim was sleeping in a sitting position.[19] Similarly, we find no material inconsistency between the statement in the affidavit that the witnesses saw Jaberto take a "kitchen knife"[20] from his waist, and Pelonio's testimony that he saw the appellant draw from his waist "something"[21] which he used to stab the victim. More important, the alleged inconsistencies pertain to insignificant matters which do not detract from the testimonies of the prosecution eyewitnesses that they saw appellant stab the victim.[22] A witness is not expected to remember perfectly all the minute details of an occurrence.[23]

In this light, the trial court correctly appreciated the testimony of Pelonio pointing to appellant as the culprit who stabbed Primitivo Dagoc.

"Court: By the way, what time did the stabbing take place?

A: About 10:30, December 24, 1995.

Court: Is that scene of the incident lighted?

A: Very bright because of mercury lights.

Court: In other words, you actually saw the person who stabbed the victim?

A: Yes, sir.

Court: Look around you if he is here.

A:

Yes, Your Honor.

Court: Will you please point to him.

A: The one to his right, no. 25, Estanislav Jaberto."[24]

Pelonio's testimony was corroborated by Franklin Dagoc, who also positively identified appellant as the perpetrator.[25]

"Q By the way, is the accused inside the court room now?

A Yes, sir.

Q Will you please point to him?

(The witness has pointed to the accused, one of the persons seated at the bench previously identified as Estanislao Jaberto).

PROS. SOLIMA: DIRECT EXAMINATION:

Q Is he the same accused xxx whom you saw [stab] your father?

A Yes, sir.

COURT: At the time you saw this accused [stab] your father, how far were you from the accused?

A More or less 10 meters.

COURT: Was that area lighted?

A Yes, your Honor.

COURT:

What kind of light?

A Mercury light, your Honor."

The trial court, which had the opportunity to hear directly the testimony of the two prosecution witnesses, gave credence to their assertion that they saw appellant stab the victim. Time and again, this Court has ruled that "the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude. Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted." [26]

It should be noted that Franklin Dagoc was the son of the deceased. Thus, his natural reaction was to pinpoint the real perpetrator and not to let the guilty go free. Furthermore, appellant did not allege, much less prove, that Franklin Dagoc and Mardonio Pelonio had any ill motive to testify falsely against him. Appellant's defense is further belied by the fact that he fled from the scene of the crime immediately after the stabbing, but was caught by those who pursued him and his co-accused Melvin Timtim.

Second Issue: Treachery

Citing *People v. Hubilla*, [27] appellant argues that treachery could not qualify the killing to murder, because the attack was not sudden. Appellant contends that, based on the testimony of Franklin Dagoc, the attacker was merely walking casually when he approached the victim.

Contrary to the claim of the appellant, the trial court correctly appreciated treachery, the essence of which "is the swift and unexpected attack on an unarmed victim without the slightest provocation" [28] on the part of the latter. In the present case, it is clear that treachery was employed, because the attackers stealthily approached the sleeping and unaware victim and then swiftly stabbed him. Thus, "the means, method and forms of execution employed gave the person attacked no opportunity to defend himself or to retaliate." [29]

Crime and Punishment

As the prosecution has not proven any generic aggravating circumstance (other than the qualifying circumstance of treachery), the trial court correctly imposed on appellant the penalty of reclusion perpetua, not death. Likewise, we affirm the award of P50,000 as indemnity ex delicto, consonant with prevailing jurisprudence. [30]

WHEREFORE, the appeal is DENIED and the assailed Decision of the Regional Trial Court is hereby

AFFIRMED. Costs against appellant.

SO ORDERED.

Romero (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[*] Spelled "Tiloy" in the Information filled in the court a quo; "Teloy" was, however, used in the assailed decision and in the appellant's Brief.*

[1] Written by Judge Renato C. Dacudao; rollo, pp. 17-21; records, pp. 61-65.

[2] Rollo, p. 5; records, p. 1.

[3] Records, p. 13.

[4] Assailed Decision, p. 1; rollo, p. 17.

[5] Assailed Decision, p. 5; rollo, p. 21.

[6] The appeal was deemed submitted for resolution on January 26, 1999, upon receipt by this Court of the Appellee's Brief. The filing of a reply brief was deemed waived, as none was filed within the reglementary period.

[7] Rollo, pp. 118-127.

[8] The Appellee's Brief was signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Pio C. Guerrero and Solicitor Roland C. Villaluz.

[9] Appellee's Brief, pp. 2-4; rollo, pp. 119-121.

[10] Assailed Decision, p. 4; rollo, p. 20. The statement of facts in the appellant's Brief, signed by Atty. George P. Bragat, focused on incidents after the commission of the crime (rollo, pp. 58-84).

[11] Assailed Decision, p. 4; rollo, p. 20.

[12] Appellant's Brief, p. 1; rollo, p. 61. This was signed by Atty. George P. Bragat.

[13] Appellant's Brief, pp. 5-6; rollo, pp. 65-66.

[14] *People v. Court of Appeals*, 242 SCRA 645, March 23, 1995; *People v. Nitcha*, 240 SCRA 283, January 19, 1995.

[15] Marked Exhibit "C"; records, p. 7.

[16] *People v. Calegan*, 233 SCRA 537, 544-545, June 30, 1994, per Bellosillo, J.

[17] *People v. Villanueva*, 215 SCRA 22, 28, October 21, 1992, per Feliciano, J.

[18] Records, p. 6.

[19] TSN, February 21, 1996, p. 8.

[20] Records, p. 6.

[21] TSN, February 21, 1996, p. 4.

[22] *People v. Patawaran*, GR No. 108616, 6, June 19, 1997, per Torres, J.

[23] *Seerino Antonio v. CA*, citing *People v. Daen*, GR No. 100513, 10, June 13, 1997, per *Hermosisima, J.*

[24] TSN, February 21, 1996.

[25] TSN, March 5, 1996, pp. 4-5.

[26] *People v. Oliano*, GR No. 119013, March 6, 1998, per *Panganiban, J.* See also *People v. Gaurana*, GR Nos. 109138-39, April 27, 1998; *People v. Bersabe*, GR No. 122768, April 27, 1998; *People v. Tulop*, GR No. 124829, April 21, 1998; *People v. Castillo*, GR No. 120282, April 20, 1998; *People v. Siguin*, GR No. 126517, November 24, 1998; *People v. Sta. Ana*, GR Nos. 115657-59, June 26, 1998; *People v. Villamor*, 284 SCRA 184, January 16, 1998 and *People v. Bahatan*, 285 SCRA 282, January 28, 1998.

[27] 252 SCRA 471, January 29, 1996.

[28] *People v. Oliano*, GR No. 119013, March 6, 1998, per *Panganiban J.* See also *People v. Villamor*, 284 SCRA 184, January 16, 1998; *People v. Sumalpong*, 284 SCRA 464, January 20, 1998; *People v. Andres*, GR No. 122735, September 25, 1998 and *People v. Navarro*, GR No. 129566, October 7, 1998.

[29] *People v. Castillo*, GR No. 120282, April 20, 1998 per *Panganiban, J.* See also *People v. Pallarco*, GR No. 119971, March 26, 1998; *People v. Molina*, GR Nos. 115835-36, July 22, 1998; *People v. Sabalones*, GR No. 123485, August 31, 1998; *People v. Cawaling*, GR No. 117970, July 28, 1998 and *People v. Sumalpong*, 284 SCRA 464, January 20, 1998.

[30] *People v. Quitlong*, GR. No. 121562, July 10, 1998; *People v. Lagarteja*, GR No. 127095, June 22, 1998; *People v. Obello*, GR No. 108772, January 14, 1998; *People v. Marollano*, GR No. 105004, July 24, 1997; and *People v. Caballes*, GR No. 102723-24, June 19, 1997.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.