

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. KENNETH CAÑEDO, ACCUSED-APPELLANT.

G.R. No. 128382. July 05, 2000

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from the decision of the Regional Trial Court of Cebu City, Branch 5, finding Kenneth Cañedo guilty of murder and sentencing him to suffer the penalty of reclusion perpetua.

Kenneth and his father, Baltazar “Billy” Cañedo, were indicted for murder in an information that alleged:

That on or about the 23rd day of October, 1994, at about 1:00 o’clock dawn, more or less at Sitio Tingkoro, Barangay Pakigne, Municipality of Minglanilla, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent to kill, by means of treachery, did then and there wilfully, unlawfully and feloniously attack, assault and stab VIRGILIO MAÑACAP with the use of a sharp bladed weapon, thereby inflicting upon the latter fatal wounds which caused his death immediately thereafter.”[1]

Both accused pled not guilty. After trial, the trial court acquitted Baltazar but convicted Kenneth.

The evidence adduced by the prosecution show that on October 22, 1994, a dance was held in the basketball court of Sitio Tingkoro, Pakigne, Minglanilla, Cebu on the observance of its fiesta. On this occasion, two commotions took place. The first transpired at about 12:00 midnight inside the basketball court. This was stopped by the barangay tanods at about 12:30 A.M. The second commotion, which ended the life of Virgilio Mañacap, occurred outside the basketball court at about 1:00 A.M.

Arjay Amistad, an alleged eyewitness, testified that during the commotion, he saw Baltazar apply an armlock on Virgilio. Then, Kenneth, with his right hand, stabbed Virgilio twice with a knife. The thrusts were directed on the breast and stomach of Virgilio. Virgilio fell down when Baltazar released his hold. Baltazar then pulled out his gun and fired a random shot.

Virgilio was put in a tricycle and rushed to a hospital.[2] The stabbing was reported to the Minglanilla police station and three policemen responded. They conducted an on the spot investigation where Arjay recounted what he saw. The police took him to their station to shed further light on the incident. After a while, Kenneth and Baltazar allegedly arrived at the station accompanied by policemen.[3] After identifying them, Arjay left the police station.[4]

Eric Mañacap and Venancio Bacus corroborated the testimony of Arjay. Eric alleged that he was three to four steps away when Kenneth stabbed Virgilio. Kenneth ran away after stabbing Virgilio. Together with Arjay, Joseph Gonzales, Ramil Rosal and Edoy Gacama, they lifted Virgilio to a tricycle. Eric then went to the Minglanilla police station and reported the incident. There, he pointed to Kenneth and Baltazar as the assailants. Allegedly, Kenneth admitted that he stabbed the victim. The two were detained at the police station.[5]

Venancio Bacus, who was then tending a store beside the basketball court, testified that at about 1:00 A.M. on October 23, 1994, a fight broke out inside the dancing place. The fight continued outside the basketball court where Kenneth stabbed Virgilio while armlocked by Baltazar. After the stabbing, Baltazar fired a shot and shouted “come who is brave”[6] while Kenneth ran away.[7]

SPO2 Gerardo Peñafort testified that Arturo Mañacap reported to him the stabbing incident. He dispatched Nestor Canlubio and Ramil Navarro to investigate at Sitio Tingkoro. Peñafort questioned Arjay, Eric, Arturo and Bendulo Espacio who claimed to have witnessed the incident. During the investigation, Kenneth and Baltazar were allegedly brought by Raul Pable, barangay captain of Pakigne, to the police station. Kenneth was identified by Arjay, Eric and Arturo as the culprit. When Peñafort asked Kenneth if he stabbed Virgilio, the latter denied it. Baltazar was given a paraffin test and was found positive for gun powder burns. Peñafort did not reduce his investigation into writing but he entered the incident in the police blotter.[8]

SPO2 Ramil Navarro testified that between 1:00 to 2:00 A.M. on October 23, 1994, he, together with SPO2 Ferdinand Navales, SPO3 Allan Gabuton, SPO1 Nestor Canlubio and a driver named Hilarion Camacho were instructed by Peñafort to take Kenneth and Baltazar to the police station. They proceeded to the barangay hall of Pakigne where they saw Kenneth and Baltazar. Navarro invited them to go to the police station. Kenneth and Baltazar did not go with them but assured him that they would later drop by the police station.[9]

The autopsy conducted by Dr. Jesus. P. Cerna showed that the victim sustained one (1) stab wound on the chest with a length of two (2) centimeters and another on the right side of the abdomen with a length of three (3) centimeters. Both wounds were fatal. Dr. Cerna declared that the instrument used could have been a sharp pointed single bladed weapon. The location of the wounds suggested that the assailant and the victim could have been facing each other when they were inflicted.[10] He opined that it was possible that two weapons could have been used in the crime.[11]

The evidence of the defense is as follows:

In the evening of October 22, 1994, Kenneth and his friends were having a drinking spree at the store of Ana Mae Saavedra Sudaria located beside the basketball court where the dance was being held. A commotion took place inside the basketball court. Kenneth went inside the court to look for his cousins but as people were running away, he decided to return to the store of Ana Mae.

In the early morning of October 23, 1994, another commotion happened outside the basketball court. They stood and watched the fight. Someone told him, “Ken, your father is mauled (sic) by many persons.”[12] He saw his father surrounded by persons who were attacking him. He shouted for help and helped his father ward off his aggressors. He was able to hit one of the aggressors. Some barangay officials responded and those attacking his father fled. His father complained of an aching back. Kenneth heard that somebody was stabbed. About fifteen (15) meters away from them, they saw a person sprawled on the ground. The person was lifted to a tricycle and Kenneth directed the driver, a certain Socrates, to take him to a hospital. The victim was accompanied by barangay tanod Nap Alipin.

Kenneth and Baltazar remained at the scene of the incident for a while. Later, they proceeded to the barangay hall to report the incident. Kenneth then went to a bakery of his aunt. Lolit, a sister of the victim, accompanied by three policemen, came and identified him as the assailant. He was taken to the barangay hall. Thereafter, he went to the police station of Minglanilla for investigation accompanied by his father and their barangay captain, Raul Pable.

During the investigation, Arjay and Eric, who appeared to be drunk, pointed to Kenneth as the assailant. Baltazar

was not implicated. Kenneth denied that he stabbed Virgilio with his right hand. He claimed that he was left-handed. The police made him sign a waiver^[13] for his detention so that a preliminary investigation may be conducted. On January 3, 1995, an information for murder was filed against him and his father.^[14]

Baltazar, chief of the barangay tanods of Tingkoro, testified that they were tasked to maintain peace and order at the dance place. He proceeded to the basketball court during the first commotion. At the gate, he met Cesareo Vicente, one of the tanods, who was wounded on the face. Cesareo said that someone hit him with a belt buckle while he was pacifying the protagonists. Cesareo does not know who hit him. To make further inquiries, Baltazar went outside the basketball court and saw persons converging near the road. He identified himself and asked them who they were. He was immediately boxed on the head and surrounded by the group. He kept on parrying their blows. They struck him with a stone and he fell down. He suffered contusions and dislocation of his right shoulder.

He heard a shout that somebody was stabbed. They went to the place where people were gathered and saw a person lying on the ground. Kenneth suggested that the victim be brought to a hospital. After the victim was put in a tricycle, Baltazar asked his companions if they recognized those who attacked him. No one did. They repaired to the barangay hall. Between 2:00 to 3:00 A.M., barangay captain Pable came accompanied by policemen. Pable requested that they go to the municipal building of Minglanilla. With other tanods, they proceeded to the office of the chief of police where they met two youths who appeared to be drunk. Baltazar was made to undergo a paraffin test. He returned home only at 6:00 A.M. Upon learning that Kenneth was detained, he returned to the police station. He met Christopher Enjambre who told him that he saw the real assailant. Baltazar relayed this information to the police but they did not believe him. Later, a warrant of arrest was served on him.^[15]

Christopher Enjambre who allegedly saw the real culprit described him as a small man wearing a black t-shirt and brown short pants. The assailant escaped after stabbing the victim. He testified that Baltazar was about Fifteen (15) meters away from Virgilio when the latter was stabbed. Kenneth was then not in sight. He only saw Kenneth at the scene when Kenneth ran to help his father. A woman followed Kenneth. He said that only four people were in the immediate vicinity when Virgilio was stabbed. Fearful that another commotion might take place, he proceeded home and met barangay captain Pable along the way. Christopher related to him the stabbing incident since Pable did not see it. At about 7:00 A.M., Pable asked Christopher to accompany him to the municipal hall where they met the parents of Kenneth.^[16]

Laurentino Vellila, a banrangay tanod of Pakigne, related that, together with Napoleon Alipin and Joel Parajes, they helped Baltazar when the latter was attacked. Kenneth came when the fight was about to end. After the aggressors of Baltazar ran away, they noticed that people were gathering around a person who had fallen on the ground twenty (20) meters away from them. Seeing that the person has been stabbed, Kenneth shouted that the victim be brought to a hospital.^[17]

Anna Mae Sudaria testified that she followed Kenneth when he ran to help his father. She was about three (3) meters behind him. While running, she saw a person slumped on the ground who was even stepped on by people scampering away. She also saw Kenneth warding off the persons attacking his father. They did not pass by the place where the victim was found lying. Then, she heard a shout that somebody was stabbed. She was about twenty meters (20) away from this person while Kenneth and his father were about 12-15 meters away.^[18]

Raul Pable, barangay captain of Pakigne, testified that three policemen went to his house at about 2:15 A.M. Police officer Canlubo informed him about the stabbing incident. They requested him to accompany them. Thus, they went to the barangay hall where they met Kenneth, some barangay tanods and some civilians. A certain Mr. Saavedra, a brother-in-law of the victim, suggested that they go to the municipal building since the discussion in

the barangay hall was becoming noisy. Kenneth volunteered to go with them as he heard that he was a suspect.

When they arrived at the municipal building at approximately 4:00 A.M., they were met by around seven (7) relatives of the victim. During the investigation, Arjay said that Kenneth stabbed the victim and had changed his clothes. Kenneth replied that he could not have changed his shirt as it still had bloodstains. Eric did not claim that he saw the stabbing incident but averred that Kenneth boxed him. Kenneth admitted that he boxed Eric but explained that Eric attacked his father.[19]

To explain the presence of gun powder burns on Baltazar, SPO2 Frederick Larrobis testified that on October 22, 1994, at about 1:30 P.M., Police Superintendent Augusto Larrobis and himself conducted a seminar about the use of firearms among the barangay captain and the tanods of Pakigne. They were taught how to dismantle and fire an armalite and a shotgun. Baltazar fired both firearms.[20]

As stated, the trial court acquitted Baltazar but convicted Kenneth. Appellant now contends:

I

THE LOWER COURT ERRED IN CONCLUDING THAT NO MOTIVE IMPELLED THE PROSECUTION'S WITNESSES, ERIC MAÑACAP AND ARJAY AMISTAD, IN FALSELY TESTIFYING AGAINST THE ACCUSED-APPELLANT.

II

THE LOWER COURT ERRED IN FINDING THAT ACCUSED-APPELLANT WAS "POSITIVELY IDENTIFIED" AS THE ASSAILANT OF THE VICTIM AND HIS DENIAL OF HAVING COMMITTED THE CRIME CHARGED CANNOT PREVAIL OVER HIS "POSITIVE IDENTIFICATION" BY THE PROSECUTION'S WITNESSES.

III

THE LOWER COURT ERRED IN HOLDING THAT TREACHERY 'ATTENDED' THE KILLING OF DECEASED VIRGILIO MAÑACAP.

IV

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER AND IN SENTENCING HIM TO SUFFER THE PENALTY OF RECLUSION PERPETUA WITH A DURATION OF FROM TWENTY (20) YEARS AND ONE (1) DAY TO FORTY (40) YEARS, PURSUANT TO SECTION 21 OF REP. ACT 7659, AMENDING ARTICLE 27 OF THE REVISED PENAL CODE.

We acquit on reasonable doubt.

First. The identification of the appellant by Arjay is not convincing.

On direct examination, Arjay testified that he identified the appellant and Baltazar as the assailants of the victim at the police station of Minglanilla.[21] On cross-examination, Arjay admitted that before appellant and Baltazar came to the police station, he described Baltazar to the policemen and the neighbors of the victim. He did not give Baltazar's name but merely described his built. Nevertheless, the records do not show how he described his built. Thereafter, an unnamed neighbor of the victim declared that the person described is Baltazar. A sister of the victim and a policeman accompanied him to the place where Baltazar repaired after the incident. He pointed to Baltazar who was immediately arrested.[22] Arjay described Baltazar in this manner:

Q-

Now, when did you know for the first time the accused Baltazar (Billy) Cañedo?

A-

I only recognized through his face (sic) at the time he held Virgilio Mañacap.

xxx

Q-

And when did you know for the first time his name?

A-

I knew his name when we were already inside the precinct of Minglanilla Police Station of Minglanilla (sic).

Q-

On what date was that?

A-

October 23 dawn.

Q-

How did you know that his name was Baltazar Cañedo?

A-

Because I described him.

Q-

You described him in his absence?

A-

Yes, in his absence.

Q-

And to whom did you relay your description of Baltazar Cañedo?

A-

To the policemen and to the neighbors of the victim.

Q-

You gave, how did you give his description, from head to foot?

A-

I described him through his built and I described him also as the person who fired a shot.

xxx

Q-

And after hearing your description of a person whom you did not know at that time[,] the police investigator immediately said that what (sic) you described was Baltazar Cañedo?

A-

No, sir.

Q-

So who mentioned the name of the person whom you described?

A-

The neighbors (sic) of the victim.

Q-

Who?

A-

I did not know, he is from Minglanilla.

xxx

Q-

Let's go back to the time you first gave the description of Baltazar Cañedo or Billy Cañedo, Cañedo was not yet there and then you gave the description to the police investigator and then somebody who was listening to you gave the name of that person whom you described (sic) and that the name given was Baltazar (Billy) Cañedo, correct?

A-

Yes, sir.”[23]

Appellant Kenneth was identified in the same way. Arjay allegedly gave appellant's description and the same unnamed neighbor of the victim said that it was appellant who was described by Arjay. Again, we note that Arjay did not testify how he described appellant. Of significance too is the fact that the unknown person who named both appellant and Baltazar was not at the scene of the stabbing incident. He only appeared at the police station and provided the names of appellant and Baltazar. He was not asked a single question why he named appellant

and Baltazar.[24] Thus, Arjay testified:

“Q-

What about Kenneth Cañete (sic), when did you know his name for the first time?

A-

At the Minglanilla police station.

Q-

When?

A-

October 23 dawn.

Q-

When you were also investigated?

A-

Yes, sir.

Q-

And you adopted the same procedure, you gave the description of the person?

A-

Yes, sir.

Q-

And somebody again identified his name, gave his name?

A-

Yes, somebody gave the name of Kenneth Cañedo.

Q-

And you do not know the name of that person who gave the name of Kenneth Cañedo?

A-

I can recognize his face.

Q-

He was the same person who gave the name of Baltazar?

A-

Yes, the same person.

Q-

Did you see the policeman who was asking question[s] from you, did you see him investigate that person who gave the name of Baltazar and Kenneth Cañedo?

A-

No, sir.

xxx

Q-

And that person also claimed having seen the incident, the stabbing incident?

A-

No, sir.

Q-

So, that person was not at the place of the incident?

xxx

WITNESS:

A-

He only went to the police station when I saw him there.”[25]

Arjay is consistent about his manner of identifying the appellant. Thus, he reiterated in his testimony:

Q-

So, in other words, in the course of the police questioning on you, on Eric, on Arturo and on a certain Lolit[,] not one of you told the police that Baltazar Cañedo was involved?

A-

None, sir. We only described the person.

Q-

And Baltazar Cañedo was immediately identified after the questioning of the four of you?

A-

We only learned the name of Baltazar Cañedo from the person in Minglanilla.

Q-

You referred to the person who butted in during the investigation and identified the name Billy Cañedo?

A-

Yes, sir.

Q-

And that person who mentioned the name of Billy and Kenneth Cañedo was not subjected to questioning by the police?

A-

No sir.”[26]

In fine, the records do not show how Arjay described appellant and which description enabled an anonymous person to point at appellant as the one who stabbed the victim. In the absence of these critical details of description, we can not adjudge whether the appellant was correctly and properly identified. We further note that the crime was committed when a dance was being held. The fight was a rumble, participated in by a lot of people. People were shouting and scampering for safety. All these circumstances should make the identification of appellant difficult and they counsel us to be extra careful in evaluating Arjay’s testimony. We are aware that the positive identification of malefactors should not be disregarded just because the names of some of them were supplied to the eyewitness.[27] But in such cases, the description of the criminal was detailed and fitted the accused. In the case at bar, these reliable details which could provide a good index for identification are missing.

We can not also rely on the identification made by Eric Mañacap which is similar to that of Arjay. He testified that he identified the appellant and Baltazar at the Minglanilla police station because they were pointed to them. Thus:

Q-

How about Kenneth Cañedo, when was the first time that you knew this fellow?

A-

Also in the police station of Minglanilla.

Q-

Why were you there in the police station of Minglanilla between 1:00 A.M. to 2:00 A.M.?

A-

I went there in order to tell that the persons who held and stabbed the victim were Baltazar Cañedo and Kenneth Cañedo.

Q-

Why, if you know, Baltazar and Kenneth, were there at the police station on October 23, 1994 at around 1:00 A.M. to 2:00 A.M.?

A-

They were the ones pointed to us.”[28]

Eric even changed his testimony by saying that appellant and Baltazar revealed their names during the investigation.[29]

The credibility of Arjay and Eric is further eroded for their story runs counter to the testimony of the investigating officer, SPO2 Peñafort, and one of the police officers dispatched to pick up appellant and Baltazar, SPO2 Navarro. Arjay said that, accompanied by a sister of Virgilio and a policeman, they returned to Sitio Tingkoro where Baltazar was posted. He pointed to Baltazar and the latter was arrested and brought to the police station. Navarro, however, testified that Peñafort ordered them to go to the barangay hall of Pakigne and invite appellant and Baltazar to the police station. He was accompanied by SPO2 Ferdinand Navales, SPO3 Allan Gabuton, SPO1 Nestor Canlubo and a civilian driver named Hilarion Camacho. He declared that Arjay and a sister of the victim were not with them. Contrary to the claim of Arjay, they did not arrest Baltazar. Rather, they merely asked appellant and Baltazar to go to the police station.[30] Peñafort also said that Arjay and Eric merely waited for the appellant and Baltazar to come to the police station.[31]

This is not all. Both Arjay and Eric testified that they identified appellant and Baltazar at the police station as the perpetrators of the crime.[32] Eric also said that the two were then detained at the police station. This conflicts with the testimony of Peñafort that Eric and Arjay only pointed to appellant as the culprit.[33] Even in the police blotter,[34] the name of Baltazar does not appear as a suspect. This is the reason why only appellant was detained.[35] Eric also alleged that appellant admitted that he stabbed the victim.[36] But Peñafort declared that appellant denied that he stabbed the victim during the investigation.[37] These numerous contradictions can not but induce doubt on the truthfulness of Arjay and Eric.

If the testimonies of Arjay and Eric were bad, the testimony of Venancio, another alleged prosecution eyewitness, was worse. Venancio admitted that the mother of Virgilio prodded him to testify in May 1994. The crime was committed on October 23, 1994.[38] Venancio contradicted Arjay when he testified that no policeman responded after the incident. Incredibly, he did not see any barangay official at the scene and yet, he claimed to have stayed there from 2:00 A.M. to 5:00 A.M. When he was recalled to the witness stand, he further self-destruct when he declared that it was Baltazar who stabbed the victim. He added that when Baltazar fired his gun, no one was present except him and his wife.[39] Arjay and even Eric testified that they were present when Baltazar fired his gun.

There is more. The eyewitnesses claimed to be near the place of the incident,[40] yet they could not even agree on how the victim was stabbed. Arjay testified that the victim was stabbed firstly on the chest and then on the right of his navel.[41] In contrast, Eric said that appellant plunged the knife from down going up using his right hand.[42] Venancio averred that the the victim was stabbed only once on his chest. This is repudiated by the autopsy report which revealed that the victim suffered two stab wounds.[43]

Similarly disconcerting is the disagreement of Arjay and Eric on the statements they made in their joint affidavits as pointed out by the appellant. Arjay said that paragraph 6[44] of their joint affidavit is not correct.[45] He averred that he called the attention of the typist about the mistake but other persons whom he does not know

nevertheless included the statement. He also alleged that Assistant Provincial Prosecutor Ivan Herrero did not ask whether or not he read or understood his affidavit before he signed it. Neither was he required to swear before Prosecutor Herrero. Allegedly, the prosecutor immediately signed the statement.[46] Arjay even charged that Eric did not sign the affidavit before Prosecutor Herrero.[47] Eric testified that he protested paragraph 6 of their joint affidavit to the person who made the affidavit but the latter assured him that the statement was all right.[48] Contrary to Arjay's testimony, Eric testified that he signed the affidavit in the presence of Prosecutor Herrero.[49] These contradictions and inconsistencies are too many and taken as a whole, further weakened the prosecution evidence.

We also note that the prosecution claimed that appellant fled after the incident. But according to SPO2 Ramil Navarro, they found appellant and his father at the barangay hall of Pakigne. If indeed, appellant fled after stabbing the victim, why would he return to the barangay hall? Courts go by the biblical truism that the wicked flee when no man pursueth but the righteous are as bold as a lion.”[50]

There are other circumstances that engender reasonable doubt on the guilt of the appellant. For one, even the trial court found no motive on the part of appellant and his father in committing the crime. It held:

“The court painstakingly subjected the evidence adduced to an exacting examination, but finds no evidence to establish at least any motive why both accused (father and son) would conspire to kill the victim.

“Even the evidence for the prosecution shows that the victim did not participate in the mauling of accused Baltazar Cañedo. The prosecution evidence did not show that previous to or immediately before the stabbing incident, the victim quarrelled with or had a misunderstanding with either or both accused.

“The question that confronts and bothers the court is why would the two accused get rid of Virgilio Mañacap, or what is their motive in killing the victim.

xxx

“There is also no evidence that accused Kenneth Cañedo has a motive to kill Virgilio Mañacap. However, proof of motive is not indispensable as against accused Kenneth Cañedo because he was positively identified as the person who stabbed the victim in this case. In other words, motive need not be established if the identity of the accused is otherwise shown beyond reasonable doubt. (Pp. vs. Sespene, G.R. No. 9346, Oct. 30, 1957; Pp. vs. Divinagracia, G.R. No. 10611, March 13, 1959; Pp. vs. Arcillas, G.R. No. 11797, June 30, 1959; Pp. vs. Regales, G.R. No. 17531, Nov. 30, 1962; Pp. vs. Judice, et al., G.R. No. 18071-72, Jan. 31, 1964; and Pp. vs. Ragsac, 61 Phil 146).

Besides, it is a matter of judicial knowledge that nowadays the impulsiveness of the youth has given way to mature thinking; that people have been killed or assaulted for lesser or no reason at all; that others are killed even in an argument for a traffic violation.”[51]

Surely, motive need not be proved if an accused has been identified beyond reasonable doubt. But in the case at bar, the identification of appellant is extremely tenuous, hence, proof of motive is essential.[52]

Finally, the version of the appellant is corroborated by several witnesses whose impartiality can not be assailed. Raul Pable is the barangay captain of Pakigne; Laurentino Vellila is a barangay tanod; Anna Mae Sudaria is a childhood friend of the wife of the victim and SPO2 Larrobis is a member of the Philippine National Police. Their testimonies do not bear out the usual badges of fraud. They dovetailed in various significant details.

It is a basic rule that the guilt of an accused must be proved beyond reasonable doubt. Before he is convicted, there should be moral certainty-a certainty that convinces and satisfies the reason and conscience of those who are to act upon it[53] that he is guilty of the crime charged. In the case at bar, the prosecution failed to prove the guilt

of appellant beyond reasonable doubt.

IN VIEW WHEREOF the decision of the regional trial court convicting appellant is REVERSED. Appellant Kenneth Cañedo is ACQUITTED on the ground of reasonable doubt. His immediate release is ordered unless he is held for other legal cause.

The Director of Prisons is ordered to report within ten (10) days his compliance with this decision.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Rollo, pp. 12-13.

[2] TSN, April 24, 1995, pp. 4-8, 11-12.

[3] Ibid.

[4] Ibid., pp. 12-14.

[5] TSN, June 14, 1995, pp. 4-6.

[6] TSN, June 13, 1995, p. 16.

[7] Ibid., pp. 8-17.

[8] TSN, April 26, 1995, pp. 4-5.

[9] TSN, June 15, 1995, pp. 16-17.

[10] TSN, August 23, 1995, pp. 3-10.

[11] Ibid. p. 11.

[12] TSN, October 18, 1995, p. 13.

[13] Records, p. 28.

[14] TSN, October 18, 1995, pp. 2-12.

[15] TSN, November 16, 1995, pp. 3-16.

[16] TSN, October 17, 1995, p. 5-11.

[17] TSN, October 9, 1995, pp. 8, 10, 15-18.

[18] TSN, October 11, 1995, pp. 23, 25.

[19] Ibid., pp. 3-8.

[20] TSN, December 20, 1995, pp. 8-11.

[21] TSN, April 24, 1995, p. 13.

[22] Ibid., pp. 23-26.

[23] TSN, April 24, 1995, pp. 23-25.

- [24] TSN, April 24, 1995, pp. 23-28.
- [25] Ibid., pp. 26-28.
- [26] TSN, April 25, 1995, p. 5.
- [27] *People vs. Barredo*, 297 SCRA 246 (1998).
- [28] TSN, June 14, 1995, p. 6.
- [29] TSN, June 15, 1995, p. 12.
- [30] TSN, June 15, 1995, pp. 16-17.
- [31] TSN, April 26, 1995, p. 15.
- [32] TSN, April 24, 1995, p. 18; TSN, June 14, 1995, p. 6.
- [33] TSN, April 26, 1995, p. 7
- [34] Records, p. 7.
- [35] Ibid., p. 8.
- [36] TSN, June 14, 1995, p. 6.
- [37] TSN, April 26, 1995. p. 7.
- [38] TSN, June 13, 1995, p. 16.
- [39] TSN, July 24, 1995, pp. 3-4, 6-7.
- [40] Arjay Amistad testified that he was three steps away, Eric Mañacap was about three to four steps away and Venancio Bacus was four arm's length away.
- [41] TSN, July 25, 1995, p. 9.
- [42] TSN, June 15, 1995, p. 4.
- [43] TSN, June 13, 1995, p. 17.
- [44] Paragraph 6 states that "(d)uring the commotion we saw Baltazar Cañedo holding the arms of Virgilio Mañacap from behind while Kenneth Cañedo suddenly stabbed Virgilio Mañacap twice."
- [45] TSN, APRIL 24, 1995, P. 32.**
- [46] Ibid., pp. 32-34.
- [47] Ibid., p. 34.
- [48] TSN, June 14, 1995, p. 15.
- [49] Ibid., p. 7.
- [50] *People vs. Hassan*, supra note 16.
- [51] Decision, pp. 27-31.
- [52] *People vs. Peruelo*, 105 SCRA 226 (1981).

[53] U.S. vs. Reyes, 3 Phil 3 (1903).

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