

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JAMES DAVIS, DEFENDANT AND APPELLANT.

G.R. No. 13337. February 16, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

An appeal from the La Union Court of First Instance, finding James Davis guilty of murder and sentencing him to suffer reclusion perpetua, to indemnify the heirs of the deceased Alfredo Estepa in the sum of P4,000.00 and to pay the costs.

The evidence adduced by the prosecution fully shows the following facts:

On the night of April 18, 1954, a dance was held in the house of Fortunato Delizo, located at barrio Gusing Sur, Naguilian, La Union, in connection with the prayer ceremony for his son's death. Alfredo Estepa and his brother Bernardo Estepa, and Federico R. Estepa, the last two as musicians (trumpeteer and drummer, respectively), attended the dance. At about 12:30 a.m. when the dance was about to be terminated, Alfredo Estepa left the place to go home, taking the Naguilian-Bagulin road. He was about 45 meters away from the improvised dance hall, when accused James Davis showed up and without any word or warning, pulled out a knife (Exhibit B), and suddenly stabbed Alfredo Estepa on the abdomen. Alfredo Estepa held his wound and cried: "Help me, I am wounded. I was stabbed by James Davis". Ariston Villanueva and his son Alfredo Villanueva, who were then walking at some distance behind the victim, immediately went to succor him, and with the aid of other persons, Alfredo Estepa was placed in a jeep and brought to the Lorma Hospital at San Fernando, La Union, owned by Dr. Rufino N. Macagba. Doctor Macagba found Alfredo Estepa very weak, suffering from a wound on the left side of the navel, with a part of the intestine protruding out from the wound. His pulse was weak and rapid and he was complaining of thirst. The attachment of his intestines and several loops thereof were pierced. Alfredo Estepa died at 3:30 a.m. of the same date.

Having been informed that his brother Alfredo was stabbed by Davis, Bernardo Estepa rushed out of the dance hall and went to the road to look for the accused. He met Davis, some 40 meters distant from the dance hall and asked him why he stabbed his brother. Davis ran away and Bernardo chased him until he (Davis) stumbled because of a wire which blocked his way. Bernardo boxed Davis several times until the latter fell. He also twisted Davis' hands. Federico Estepa also came out and even tried to pacify Bernardo when the latter was maltreating Davis.

The defense on the other hand, tried to prove that the accused, Samson Banayat, and Danny Banayat also attended the dance. At about 12:30 midnight, Davis left the dance and when he was about 7 meters away from the, dance hall, Alfredo Estepa followed him and held him by the right shoulder and after turning him around, Alfredo boxed him on the left jaw, without saying anything. Alfredo Estepa continued to box him several times, until Davis fell down. Alfredo rode on his belly, held his neck and tried to strangle him and pounded his head on the ground. Believing that he was going to be killed by Alfredo, the accused pulled a knife from the right back pocket of his

trousers and thrust it on the abdomen of Alfredo. Then they both stood up and some persons came around and held them. Dr. Isabelo C. Villanueva certified that accused Davis suffered certain injuries (Exhibit. 2). Accused admitted that he stabbed the deceased Alfredo Estepa with the knife Exhibit B, but interposed self-defense.

The issues in this case hinge on the credibility of the witnesses.

We have carefully gone over the record of the case and we find the testimony of the people's eye-witnesses to the killing credible. In a positive, clear and straightforward manner, Ariston Villanueva and Alfredo Villanueva testified that while they were walking along the Naguilian-Bagulin road, some distance behind the deceased Alfredo Estepa, the latter was met by the appellant who, without any ceremony or warning, stabbed the deceased on the abdomen, and that the moon was full and shining brightly and the fluorescent lamps from the dance hall were sufficiently strong to illumine the scene. Alfredo Villanueva averred that appellant was his boyhood friend, playmate and neighbor; and that the deceased was not so close to him, because of the disparity of their ages. The appellant himself declared that Alfredo Villanueva was his friend and that he could not conceive of any reason why he and his father Ariston Villanueva would testify against him. Silvino Calub, another state witness, asserted that two days before the fatal incident (Holy Thursday), the deceased Alfredo, as a rural policeman, scolded the accused, telling him not to make foolishness (chasing boys), during a religious procession, as it was Holy Thursday, and the accused, on that occasion said: "Hey, you testicle, I will see you someday". There was no reason revealed why Silvino Calub would have declared in the way he did.

The testimony of the appellant can not be believed; it did not reflect the truth. It is extremely doubtful whether appellant could still draw his knife from the right back pocket of his pantaloons, while the deceased was straddling him and raining blows upon him. As aptly observed by the Solicitor General "a person lying down with his face up would be unable to get a knife in his back pocket unless he moves sidewise, and this would be infinitely difficult if his foe is riding astride and raining blows upon him." While it is conceded that appellant received contusions, these were, however, the effect of the blows given by Bernardo Estepa after he had known that his brother Alfredo was stabbed by said appellant. And this must be true, because it is the natural reaction of a brother to retaliate in cases of this nature. Furthermore, Federico Estepa, who was then the incumbent Mayor of the town of Naguilian when he testified, fully corroborated this fact. Mayor Federico Estepa had no reason to tergiversate the truth. Appellant declared that Alfredo Estepa sat astride his belly (Davis), with his legs spread apart and raining blows on him. In this posture, deceased Alfredo could not, in the ordinary course of things, have inflicted blows on the gluteal region (right buttocks), below the elbow of the right hand or hit so hard as to cause possible fractures on the rib and right arm of the appellant. The most natural act that could have caused these injuries, was the beating Bernardo Estepa gave to the appellant, after the former was informed that appellant had stabbed his brother. Appellant's injuries were inflicted by a powerful and mobile agent who could move freely, and not one sitting astride his (Davis') belly. In fact, Bernardo declared that after giving the appellant as many blows as he could muster, he also twisted appellant's hands causing them fractures. Appellant must have had evil intentions beforehand. For if his heart was really directed to prayer and to the youthful exuberance of dancing, it was not explained why he was armed with a deadly weapon, a sharp-pointed small bolo, when he went to Delizo's place that evening. Appellant claimed that he suffered injuries in his face and chest and an injury on the neck because the deceased strangled him, and that he told this fact to Doctor Villanueva who issued medical certificate, Exhibit 2. Yet, the medical certificate does not contain the description of any injury or any scratch on the neck. If appellant had really suffered such injury, he should have insisted its inclusion in the certificate, the same being vital element for his defense.

The testimony of appellant is likewise unreliable, ever changing. Sampling, we have this one. He said that the blow on his side felled him, which was different from his original story that he fell down when he was hit on the

left jaw. And asked if he wanted to change his statement, in view of the inconsistency and incoherence of his testimony, the appellant answered in the affirmative. Appellant denied that he was beaten by Bernardo Estepa and averred that it was only when Bernardo testified in court that he came to know him. In his sworn statement, Exhibit 3, taken on April 18, 1954, date of the killing, he said: "When I saw that Alfredo Estepa was wounded because blood was bleeding (oozing), I wanted to go away from him. Bernardo Estepa held me". Appellant and Bernardo were barrio-mates, their houses were about 250 meters apart. Appellant knew even the name of Zosimo Estepa, Bernardo's brother. And lastly, appellant alleged that he accosted the son of Alfredo Estepa, for having taken fruits of his mango tree that evening. In his sworn statement (Exhibit C), appellant admitted having had no trouble with Alfredo at all.

The demeanor or conduct of defense witnesses Samson Banayat and Danny Banayat, during the commission of the offense, were unnatural and beyond the realms of reality. According to them, they saw their friends, Alfredo Estepa and appellant Davis, allegedly fighting each other, and yet they did not in the least try to pacify them. Their reason that they were afraid and did not want to be included, is flimsy and weak. The State witnesses, the Villanueva's father and son, who were there, acted more natural, as they went to succor the victim. The conflicting versions on material points between the testimony of appellant and his two witnesses, do not sustain the claim of self-defense. Self-defense, to be appreciated, should be established with clear, satisfactory and convincing manner (People vs. Gimena, 59 Phil., 509). The evidence for appellant does not measure to this criterion. Danny Banayat on two occasions, during his testimony, admitted that he committed mistake and that was the reason he had to change, portions thereof, twice. And the trial court had to call his attention on the mutability of his statements. The presentation of these persons as witnesses, can not but engender the conclusion that it was an eleventh hour concoction. They were never investigated by the police authorities of Naguilian, neither did they present themselves for investigation in connection with the case. They revealed what they knew of the case for the first time, at the trial.

It, therefore, results that appellant James Davis committed the crime of murder, qualified by treachery. He intercepted the deceased as the latter was walking along the road, at midnight. Without any word or warning, he stabbed the deceased with a deadly weapon, on a vital spot. The attack was so sudden and unexpected that the deceased had no chance to defend himself. The amount of indemnity, should be, as it is hereby raised from P4,000.00 to P6,000.00. And there being no other circumstances to consider, and modified in the manner just indicated, the decision appealed from is affirmed in all other respects, with costs.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Dizon, JJ., concur.

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