

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADELIO CONDE Y REYES, HENRY SOLOMON (AT LARGE), ACCUSED.*G.R. No. 133647. April 12, 2000*

Ponente: DAVIDE JR., C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-133647/>**DAVIDE JR., C.J.:**

Accused-appellant Adelio Conde y Reyes (hereafter ADELIO) appeals from the 1 September 1997 decision[1] of the Regional Trial Court of Pasig City, Branch 160, in Criminal Case No. 108269-H, finding him guilty of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, Nestor Velano, the amounts of P50,000 as civil indemnity, P50,000 as moral damages, and P50,000 as exemplary damages.

ADELIO was initially charged in an Information[2] dated 14 June 1995. Upon motion of the prosecution, the court admitted an Amended Information dated 18 July 1995, impleading Henry Solomon as ADELIO's co-accused. The accusatory portion of the Amended Information reads as follows:

That on or about the 11th day of June, 1995 in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named (accused) conspiring and confederating together with alias "Edwin Tato" and five (5) unidentified male persons, who are still at large and whose true identities and present whereabouts are still unknown, and all of them mutually helping and aiding one another, while armed with bladed weapons, with intent to kill, treachery and abuse of superior strength, did then and them willfully, unlawfully and feloniously attack, assault and stab one Nestor Velano, as a result of which, the latter sustained stab wounds on the different parse of his body, which directly caused his death.

CONTRARY TO LAW.[3]

ADELIO pleaded not guilty to the charge upon arraignment. Henry Solomon was never apprehended. Trial on the merits proceeded against ADELIO only, with the prosecution presenting five witnesses, namely, Dr. Emmanuel Aranas, Conchita Velano, Moises Soliman, SPO1 Regie Gapasin, and Imelda Evangelista. Their combined testimonies established the following facts:

On 11 June 1995, at about 10:30 p.m., Nestor Velano (hereafter NESTOR) went out with members of the Citizens' Crime Watch Team of Taguig, Metro Manila, namely, Moises Soliman, Roderico Raymundo, Imelda Evangelista, Andy de los Santos, Dente Parungao, a certain Carlos, and a female named Ka Jessie. At around 11:00 p.m., they left the Taguig Municipal Hall and proceeded to the corner of Liwayway St. and Pulong Kendi in Sta. Ana, Taguig. When they alighted from their service jeep, alias Edwin Tato, accused Henry Solomon, and ADELIO approached them. Henry asked them if Dente Parungao was one of their companions. When Moises said yes, Henry told them to leave the area. Edwin confronted NESTOR and said, "Putang ina mo pare masama kang tumingin," then immediately stabbed him. Henry also stabbed NESTOR. ADELIO, on the other hand, tried to hit Roderico, but missed, so he turned to NESTOR, who was already moving backward, and stabbed him in the stomach. The assailants' companions arrived at the crime scene and likewise inflicted injuries on NESTOR. Unfortunately, witnesses were only able to recognize Edwin, Henry, and ADELIO. NESTOR was brought to the

Rizal Medical Center but he was pronounced dead on arrival.[4]

Upon being informed of the incident by Andy de los Santos and after establishing the identity of the suspects, SPO1 Reggie Gapasin visited ADELIO at his house, invited him for investigation, then took his statement. Together with a certain Edison Pampag and the son of Andy de los Santos, SPO1 Gapasin proceeded to the hospital where Dante Parungao, who was also wounded, was rushed. Parungao was undergoing operation so that they could not get any information from him.[5] At the police headquarters, Roderico and Moises identified ADELIO as one of the assailants; hence, he was immediately detained.

The post-mortem report[6] of Medico-Legal Officer Emmanuel Aranas, Chief of the Philippine National Police Crime Laboratory Service, revealed that NESTOR sustained nineteen (19) wounds. Wound No. 4, which was the cause of death, was the most fatal because it penetrated the liver. The other wounds were only superficial. Dr. Aranas opined that it was possible that the assailant was facing the deceased when Wound No. 4 was inflicted with a sharp single bladed instrument within an armslength or nearer.[7]

For its version of the events, the defense presented two witnesses, namely, Leonardo Cipriano and ADELIO.

Leonardo, ADELIO's brother-in-law, testified that on 11 June 1995, from 9:30 to 10:30 p.m., he and ADELIO were at the barangay hall having a mediation conference before the barangay captain to settle a misunderstanding between them. After reaching a "Kasunduan,"[8] ADELIO escorted his mother, wife, and sister[9] (Leonardo's wife) home. He stayed behind and went out to eat. While eating, Leonardo noticed a commotion involving several persons wherein NESTOR was stabbed. He recognized Henry Solomon among those in the middle of the commotion. He was positive that ADELIO was not the person who stabbed NESTOR.[10]

ADELIO testified that on the night of 11 June 1995, he was at the Barangay Outpost for a conference pursuant to a "Patawag,"[11] in connection with a misunderstanding he had with Elmo (Leonardo) Cipriano. He was accompanied by his wife Gloria, sister Susana, and mother Asuncion, and they arrived at the Barangay Hall at 8:30 p.m. The conference started at around 9:00 p.m. and lasted up to 10:00 p.m., more or less. After the conference, he went home, rested, and slept. At around midnight, he was roused when he heard the Taguig police calling for a certain Henry Salen. When he looked out the window, the police officers asked him to come out. He was dragged out of his house by the police and brought to the Municipal Hall of Taguig. The following day, June 12th, he was surprised to learn that he was one of the suspects in the stabbing of NESTOR. He vehemently, denied that he was one of those who stabbed NESTOR and insisted that he was implicated as one of the suspects to force him to produce his brother Henry.[12]

The trial court found the testimonies of the prosecution witnesses categorical, direct, and highly credible when they identified ADELIO as one of those who stabbed the victim. It regarded ADELIO'S defense of alibi as weak against the positive identification made by witnesses Soliman and Evangelista. The court also appreciated the qualifying circumstance of treachery against ADELIO, as it found the attack on NESTOR and his group sudden and unexpected. ADELIO was clearly with the group of Henry Solomon who inflicted injuries on the totally defenseless NESTOR. Finally, finding that the assailants helped each other in inflicting NESTOR's injuries after failing to hit their original quarry, Rodeiico Raymundo, the trial court declared the existence of a conspiracy among ADELIO and his cohorts.

Accordingly, in its decision of 1 September 1997,[13] the trial court decreed:

WHEREFORE, foregoing consideration, accused Adelio Conde is found guilty beyond reasonable doubt of the crime of murder and is hereby sentenced to suffer the penalty of reclusion perpetua and to pay the heir/s of the deceased in the amount of P50,000.00 as death indemnity; P50,000.00 as moral damages; P50,000.00 as exemplary damages, and to pay the costs of the suit.

SO ORDERED.

ADELIO seasonably appealed to us from this decision.

In his Appellant's Brief, ADELIO argues that the trial court's finding of conspiracy was erroneous because there was no preconceived plan or agreement to attack the victim. The meeting between the assailants and NESTOR was purely casual and accidental. Neither was there treachery since NESTOR and his companions were sufficiently forewarned of an impending danger to their lives by the countenance of Edwin Tato and Henry Solomon, who were both drunk, hostile and brandishing knives, and thus could have inflicted the fatal wound on NESTOR. Since said wound was made on the right side of NESTOR, it could not have been inflicted by him in light of the testimony of prosecution witness Imelda Evangelista that he stabbed the victim in the abdomen. At most, he could only be held liable for serious physical injuries. ADELIO adds that the testimonies of Soliman and Evangelista were characterized with inconsistencies. Finally, he maintains that since he was not the author of the crime, he should not be made to pay death indemnity, moral damages, and exemplary damages to the heirs of the victim.

These arguments have no merit.

Oftentimes, the credibility of prosecution witnesses is called into question in appeals of this nature. We have repeatedly held that we will not interfere with the trial court's determination of the credibility of witnesses, unless there appears on record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted.[14] The reason for this is that the trial court is in a better position to do so because it heard the witnesses testify before it and had every opportunity to observe their demeanor and deportment on the witness stand.[15] We see no cogent or compelling reason to depart from this rule in this case.

Prosecution witness Soliman, who has nothing to gain by implicating ADELIO, categorically identified the latter as one of those who stabbed NESTOR. Even under rigid cross-examination, he was firm in his identification of the latter. In fact, ADELIO is his "kumapare." It is settled that where there is no evidence to show any dubious reason or improper motive why a prosecution witness should testify falsely against the accused or falsely implicate him in a heinous crime, his testimony is worthy of full faith and credit.[16]

On the other hand, Evangelista's admission that she cannot explain why she remained at the scene during the stabbing when all her companions had fled does not cast doubt on the truthfulness of her narration. There is no standard form of human behavioral response when one is confronted with a strange, startling, or frightful experience.[17] Fear has been known to render some people immobile, if not useless, in some life-and-death situations.[18] Evangelista's reaction should not then be taken against her. We are satisfied with her explanation as to why she remained rooted where she was standing when everyone around her was scampering for safety. In fact, her candid admission points to an unrehearsed and uncontrived testimony. Our separate scrutiny of the testimonies of Soliman and Evangelista reveal that in major and salient points, their testimonies were indeed consistent and truthful. Minor inconsistencies are not indications of falsehood; they would even be badges of truthfulness.[19]

Did treachery attend the commission of the crime? The trial court ruled that there was. Thus:

x x x. The sudden attack by the accused on the group of persons was treacherous, sudden and unexpected. Immediately after the victim had alighted from the jeep together with his companions, they were met by several persons, among others accused Conde, half-naked and who were "pasuray-suray" (p.4 tsn of January 11, 1996). They were irritated by the looks of the deceased Nestor Velano and one Roderico Raymundo. While Toto and Solomon were assaulting the deceased and Raymundo, accused Conde armed with a knife and his companions, rushed in and stabbed the deceased in the stomach. Accused Adelio Conde was seen among the

six (6) other malefactors) who rushed to inflict injuries unto the deceased Nestor Velano immediately after said deceased was injured by the other assailants. Conde was clearly shown as belonging to the group of Henry Solomon who inflicted injuries to the victim without any means to defend himself. Although the assaults were frontal, the same were sudden without giving the victim a chance to defend himself. The victim was stabbed almost simultaneously with the utterance "pare ang sama mong tumingin." [20]

Our review of the evidence supports the conclusion of the trial court on the presence of treachery. There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and especially to ensure its execution, without risk to himself arising from the defense which the offended party might make. [21] In this case, NESTOR was completely unarmed and was suddenly attacked by ADELIO and his drunken companions. NESTOR sustained nineteen (19) wounds. On the other hand, there is no credible evidence that ADELIO or the other assailants suffered any injury. Insofar as ADELIO is concerned, his attack on NESTOR was totally unexpected because he first attacked Roderico Raymundo and, missing, suddenly turned to Nestor who was already moving backward, totally unaware of what ADELIO wanted or planned to do.

We uphold the finding of conspiracy by the trial court. There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. [22] Direct proof of previous agreement to commit a crime is not necessary. It may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused which point to a joint purpose and design, concerted action, and community of interest. [23] The actuations of ADELIO and his cohorts clearly established a conspiracy. Edwin Tato started the attack with an utterance coupled with the actual stabbing of NESTOR. This was followed by Henry Solomon, who also stabbed NESTOR. Then, after failing in his attempt to stab Roderico Raymundo, ADELIO stabbed NESTOR, who was by then retreating. Finally, the rest of the assailants' companions ganged up on the helpless victim by successively stabbing and hitting him. All these acts sufficiently prove that they conspired to kill NESTOR.

In light of the foregoing, ADELIO's contention that it was either Edwin Tato or Henry Solomon who could have inflicted the fatal wound on the victim is totally irrelevant. Where conspiracy has been established, it is unnecessary to pinpoint who among the accused inflicted the fatal blow, [24] for the act of one is the act of all. [25]

We find the award of death indemnity in the amount of P50,000 and moral damages in the amount of P50,000 in order. However, we exclude the award of exemplary damages. The same may be granted in criminal cases as part of the civil liability if the crime was committed with one or more aggravating circumstances. [26] No aggravating circumstance was established in this case.

WHEREFORE, in view of the foregoing, judgment is hereby rendered AFFIRMING the challenged decision of 1 September 1997 of the Regional Trial Court, Branch 160, Pasig City, finding accused-appellant ADELIO CONDE y REYES guilty beyond reasonable doubt, as principal, of the crime of murder under Article 248 of the Revised Penal Code and sentencing him to suffer the penalty of reclusion perpetua, but disallowing for lack of basis the award of exemplary damages. The awards of P50,000 as indemnity and P50,000 as moral damages stand.

Costs against accused-appellant.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

- [1] Original Record (OR), 181-191; Rollo, 18-28. Per Judge (now Court of Appeals Associate Justice) Mariano M. Umali.
- [2] Id., 1; id., 4.
- [3] OR, 76; Rollo, 6.
- [4] TSN, 30 August 1995, 7-28; 11 January 1996, 3-5; 25 January 1996, 2-9.
- [5] TSN, 13 December 1995, 3-6.
- [6] Medico-Legal Report No. M-0277-95, Exh. "B," OR, 130.
- [7] TSN, 12 July 1995, 6-7.
- [8] Exhibit "1," OR 175.
- [9] No name is mentioned in the TSN or in the records.
- [10] TSN, 7 August 1996, 3-12.
- [11] Exh. "2," OR, 176.
- [12] TSN, 13 November 1996, 2-5.
- [13] Supra note 1.
- [14] *People v. Malunes*, 247 SCRA 317, 324 [1995]; *People v. Hubilla, Jr.*, 252 SCRA 471, 478 [1996]; *People v. Ramirez*, 266 SCRA 335 [1997]; *People v. Agbayani*, 284 SCRA 315 [1998]; *People v. Villanueva*, 302 SCRA 380, 398 [1999].
- [15] *People v. Bantilan*, 249 SCRA 367, 376 [1995]; *People v. Gomez*, 251 SCRA 455, 465 [1995]; *People v. Hubilla, Jr.*; *People v. Cristobal*, 252 SCRA 507, 515 [1996]; *People v. Batoon*, G.R. No. 134194, 26 October 1999.
- [16] *People v. Cristobal*, 252 SCRA 507, 516 [1996]; *People v. Piandong*, 268 SCRA 555, 564 [1997]; *People v. Mendoza*, 284 SCRA 705, 713 [1998].
- [17] *People v. Dones*, 254 SCRA 696 [1996]; See *People v. Aranjuez*, 285 SCRA 466 [1998].
- [18] *People v. Galas*, 262 SCRA 381, 392-393 [1996].
- [19] *People v. Joya*, 227 SCRA 9 [1993]; *People v. Diaz*, 262 SCRA 723, 732 [1996].
- [20] OR, 190; Rollo, 27.
- [21] Article 14, Revised Penal Code.
- [22] Article 8, Revised Penal Code; *People v. Benemerito*, 264 SCRA 677, 689 [1996].
- [23] *People v. Landicho*, 258 SCRA 1, 31 [1996]; *People v. Tabag*, 268 SCRA 115, 127 [1997].
- [24] *People v. Obello*, 284 SCRA 79, 94 [1998].
- [25] *People v. Gomez*, 251 SCRA 455, 468 [1995]; *People v. Alberca*, 257 SCRA 613, 632 [1996]; *People v. Nardo*, 270 SCRA 672, 688 [1997]; *People v. Barredo*, 297 SCRA 246, 259 [1998]; *People v. Antonio*, 303 SCRA 414, 429 [1999].
- [26] *People v. Patrolla, Jr.*, 254 SCRA 467, 477 [1996]; *People v. Estares*, 282 SCRA 524, 535 [1997]; *People v. Bergante*, 286 SCRA 629, 646 [1998].

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.