

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GLENFORD SAMOY
AND LEODIGARIO ISRAEL, ACCUSED, LEODIGARIO ISRAEL,
APPELLANT.**

G.R. No. 193672. January 18, 2012

Ponente: ABAD, J.

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ABAD, J.:

This case is about the reliability of the identification of the accused involved in a robbery with homicide case three years after the commission of the crime.

The Facts and the Case

The Cagayan Provincial Prosecutor filed a case for robbery on the highway^[1] against accused Jonathan Valencia, Glenford Samoy, and Leodigario Israel before the Aparri Regional Trial Court (RTC), Branch 6, in Criminal Case VI-967.

Edmund Addun and Johnny Ventura (Johnny) testified that on the morning of December 27, 1997 they left Tuguegarao City for Sanchez Mira, Cagayan, with Rodolfo Cachola, Canuto Forlaje, and Melencio Ventura (Melencio) to buy pigs. They rode a small Isuzu Elf truck with Johnny on the wheel. They were on errand for spouses Edwin and Elizabeth Cauilan, their employers, who bought and sold hogs.

When the group reached the boundary of Barangay Logac, Lallo, Cagayan and Barangay Iringan, Allacapan, Cagayan, three armed men, which included accused Glenford Samoy and Leodigario Israel, flagged them down. One carried an M16 armalite rifle, the second a .45 caliber pistol, and the third a .38 caliber pistol. The accused ordered those on the truck to alight and hand over their money. Melencio, who was in charge of buying the hogs for their employer, immediately handed over the P60,000.00 he had with him.

The accused then ordered their captives to get their things from the truck and go up the mountain. When they hesitated, one of the accused fired his gun. This prompted the captives to run for their lives, except Addun who closed his eyes because of a gun aimed directly at him. The accused fired three warning shots to stop those who were running away. When the latter did not heed the shots, the accused fired directly at them, seriously wounding Melencio while slightly hurting Johnny and Forlaje. The robbers then fled to the mountain. Although the robbery victims brought Melencio to the hospital, he was pronounced dead on arrival.

The accused, on the other hand, denied having taken part in the commission of the crime. Accused Samoy claimed that when the robbery took place, he was helping out in the wedding preparations of a cousin. He was unable, however, to attend the wedding on the next day because of a hangover he got from drinking the night before. Accused Israel, for his part, claimed that he was planting rice in a farm all day on December 27, 1997. He left home early in the morning and returned home in the afternoon.

On July 1, 2003 the RTC found both Samoy and Israel guilty beyond reasonable doubt of robbery with homicide and meted out to them the penalty of reclusion perpetua. The RTC held that the accused committed only one act

of robbery and that the prosecution was unable to prove that they organized themselves to commit robbery on the highway. The RTC likewise held them solidarily liable to Melencio's heirs in the sum of P1,260,000.00 for loss of earning capacity, P30,000.00 as actual damages, and P50,000.00 as moral damages. The RTC also ordered the accused to return the P60,000.00 taken during the robbery to the spouses Caulan.

Both accused appealed to the Court of Appeals (CA) in CA-G.R. CR-H.C. 00328 but Samoy escaped from prison on October 5, 2004, resulting in the dismissal of his appeal. On June 4, 2010 the CA affirmed the RTC decision with respect to Israel. In addition, it ordered him to pay P50,000.00 as civil indemnity and P20,000.00 more for loss of earning capacity to correct a discrepancy in computation.

The Issue Presented

The only issue presented is whether or not the CA, along with the RTC, erred in finding that accused Israel committed robbery with homicide in company of others.

The Ruling of the Court

Accused Israel assails the manner by which Johnny and Addun identified him. Three years had passed, he said, before they identified him at the trial as one of the robbers. Israel argues that his physical appearance had surely changed through those years, rendering Johnny and Addun's identification of him inaccurate. Israel also pointed out that the RTC and the CA failed to take into account the witnesses' "emotional imbalance," caused by the terrible experience they went through, making their testimonies altogether untrustworthy. The Court disagrees.

Contrary to the theory of the accused, victims of criminal violence are more likely to observe and remember their appalling experience rather than ignore and forget them.[2] Three years are not too long. Such victims are able to recall the faces of and the body movements unique to the men who terrorized them.[3] Parenthetically, the robbery in this case took place in broad daylight, the assailants were not wearing masks or hats, and the frightening episode lasted for several minutes. The offenders tried before fleeing to send their victims up the mountain after robbing them.

Accused Israel claims that the CA improperly ignored inconsistent testimonies regarding the question of whether or not he wore sunglasses during the robbery. But the fact is that Addun and Johnny categorically identified him as the robber among the three who was armed with a .45 caliber pistol. That one of these witnesses had the impression that Israel wore sunglasses could not diminish the strength of such identification.

For his part, all that Israel could claim is that he could not have been involved in the robbery since he was planting rice elsewhere when it happened. But Israel's house was just near the Maluyo highway, giving him an easy access to any public transport which could bring him to the Logac junction. He was not able to prove that it was physically impossible for him to be at the scene of the crime at the time of its commission.[4] Thus, in the absence of any improper motive to incriminate Israel, the positive identification made by the prosecution witnesses must prevail over his mere denial and alibi.

The RTC and the CA were likewise correct in finding accused Israel guilty only of robbery with homicide, not of robbery on the highway as defined in P.D. 532. Conviction for the latter crime requires proof that several accused organized themselves for the purpose of committing robbery indiscriminately, preying upon innocent and defenseless people on the highway.[5] Here, the prosecution proved only one act of robbery.

WHEREFORE, this Court AFFIRMS in its entirety the assailed Decision of the Court of Appeals in CA-G.R. CR-H.C. 00328 dated June 4, 2010.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Section 3b of Presidential Decree 532, Anti-Piracy and Anti-Highway Robbery Law of 1974.

[2] *People v. Togahan*, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 571.

[3] *Id.*

[4] *People v. Apelado*, 374 Phil. 773, 783 (1999).

[5] *People v. Pascual*, 432 Phil. 224, 234 (2002).

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