

JOSE RODRIGUEZ AND ROSALINO BALANTA, PETITIONERS, VS. SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 63118. September 01, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

Jose Rodriguez and Rosalino Balanta, police officers of Sto. Domingo, Albay - having allegedly beaten up a certain Jose Bandagoza on or about February 23, 1980 thus causing his death twelve (12) days later - were indicted for homicide before the Sandiganbayan. They were, after due proceedings, convicted as charged and, the mitigating circumstances of voluntary surrender and lack of intent to commit so grave a wrong being appreciated in their favor, each sentenced to the indeterminate sentence of two (2) years, four (4) months and one (1) day of prision correccional as minimum, to eight (8) years and one (1) day of prision mayor as maximum. They were also commanded to indemnify the heirs of the deceased jointly and severally in the amount of P12,000.00. A review and reversal of that judgment of conviction is now sought by both of them in this Court, on appeal by certiorari seasonably taken.

The Sandiganbayan found the facts hereunder briefly narrated, to have been established by proof beyond reasonable doubt.

At about 8 o'clock in the evening of February 23, 1980, Francisco Añonuevo was attending a party at the town plaza in front of the Municipal Hall of Sto. Domingo. While there, he saw three persons pass by. One was walking ahead, followed by two others who were in police uniform. He recognized the person in front as Jose Bandagoza and the two behind, as herein petitioners, police officers Balanta and Rodriguez. As they were walking, the policemen kept on kicking Bandagoza. On reaching the flag pole in front of the municipal building, Bandagoza fell. Thereupon, Balanta and Rodriguez dragged the fallen man towards the municipal building. Curiosity prompted Añonuevo to proceed towards the rear of that building to see what would happen. Through a window, he saw Balanta and Rodriguez take turns in striking Bandagoza with their fists in the face, head and abdomen. After absorbing the pair's fist blows continuously for about five minutes, Bandagoza fell to the concrete floor, unconscious. The two policemen then lifted Bandagoza by his legs and arms, and threw him into a cell. After witnessing the incident, Añonuevo went home. Out of fear, however, he kept the incident to himself.¹

Jose Bandagoza spent the night in the cell. He was released in the early morning of February 24, 1980. Some friends brought him to the house of his sister, Delia, at about 3 o'clock a.m. Jose had immediately gone to bed, complaining of bodily pains particularly in the back of the neck. Delia noticed that he could hardly move. She asked him what had happened. He replied that he had been boxed by policemen.² In the ensuing days, Jose Bandagoza's condition deteriorated. On March 2, 1980, his sister brought him to Dr. David Leones for treatment. Jose's condition did not improve however; instead it turned from bad to worse. He eventually lapsed into a coma. He was in that state when on March 5, 1980, Delia brought him to the Provincial Hospital of Albay. But by then,

he was beyond help. He expired within 12 hours from the time he was admitted to the hospital. Dr. Orlando Braga, the attending physician, issued a death certificate indicating the cause of death as "meningitis."³

On March 10, 1980, Delia Bandagoza wrote a letter to the Agent-in-Charge of the National Bureau of Investigation at Legaspi City, requesting investigation of her brother's death and the exhumation of his body in order to determine more accurately the cause of his death.⁴

Exhumation took place on March 10, 1980 and Dr. Rolando G. Oba, medico-legal officer of the National Bureau of Investigation, conducted an autopsy on the cadaver. As set forth in the exhumation report subsequently drawn up by Dr. Oba,⁵ the deceased had hematoma in different parts of his body especially in the head. Inside his skull was found blackish material which could be nothing else but clotted blood, indicative of the occurrence of severe intracranial hemorrhage during the lifetime of the deceased. Dr. Oba opined that the hematoma and the hemorrhage were caused by the infliction on the areas affected of traumatic force such as a fist blow or a kick. The report closed with the statement that death was caused by "hemorrhage, severe, intracranial, traumatic."¹

Rodriguez and Balanta denied having inflicted any injury on the deceased. They gave a different version of the incident.

According to them, on February 23, 1980, at around ten o'clock in the evening, they were in their place of assignment -- the area of the market place. They heard a loud voice coming from the market. Recognizing the voice as Bandagoza's, they went to look for him and shortly found him lying on the concrete floor of the market, drunk. They would have left him there, undisturbed; but they were requested by Barangay Captain Severino Rodriguez to bring Bandagoza to the municipal jail so he could sleep off his intoxication. They thus helped Bandagoza to his feet and led him to the municipal building. As they were walking behind Bandagoza, the latter tripped and fell on the pavement with his hand under his right cheek. Again they helped Bandagoza to his feet. Then Balanta led him to the municipal hall while Rodriguez chose to stay behind at the flag pole. After turning Bandagoza over to the desk officer, Balanta immediately left the building.²

The desk officer, the jailer, and a certain Amado Gregorio, a sanitary inspector, took the witness stand to corroborate this story.

In the appeal at bar, Balanta and Rodriguez would have this Court conclude that Bandagoza died of natural causes, that his death resulted from a disease. This claim they rested on the prosecution's Exhibit A, the death certificate executed by Dr. Braga, *supra*, stating the cause of death as "meningitis,"³ and the testimony of Dr. Braga himself to the effect that the meningitis was bacterial in origin. They also presented the testimony of Dr. David Leones who identified Bandagoza's ailment, as of March 2, 1980, as "frontal sinusitis" and, as of March 5, 1980, when the victim was already comatose as "typhus fever."

The petitioners also assail the credibility of the eyewitness account of Francisco Añonuevo. According to them, Añonuevo is not only related to the deceased, his wife being an aunt of the deceased, but also had an axe to grind against both policemen. Añonuevo, they say, had been admonished by Balanta sometime before the incident for his illegal activities as "jueteng" collector, an incident that had engendered a mistaken notion on Añonuevo's part that Balanta had a hand in the subsequent filing of a criminal case against him for illegal possession of "jueteng" paraphernalia.⁴ As regards Rodriguez, Añonuevo's resentment supposedly resulted from his assumption that Rodriguez had refused his earnest request that he (Rodriguez) talk to Balanta to drop the accusation for illegal possession of gambling paraphernalia.⁵ Añonuevo's bias, the petitioners claim, is obvious from the fact that he gave his story much too late, having narrated it for the first time only when the incident was already under investigation. Such a story, it is contended, had been manufactured to give vent to a hidden grudge.

The petitioners, in fine, denounce as gravely erroneous, and pray for reversal, of the Sandiganbayan's conclusion that the evidence adequately demonstrates that they had inflicted on the person of the deceased severe physical maltreatment, and the latter's death had ensued as the direct result thereof. The issue they raise, however, is clearly one of fact. Hence, on this basis alone, the petition should be given short shrift. It is axiomatic that the appellate jurisdiction of the Supreme Court over decisions and final orders of the Sandiganbayan is limited only to questions of law;¹ it does not review the factual findings of the Sandiganbayan which are, as a rule, conclusive upon it.²

Nonetheless, a careful review of the record was undertaken to see if anything of weight had been overlooked by the Sandiganbayan in the evaluation of the evidence which would justify a modification of its decision. The review only exposed more clearly the petitioners' culpability. The proofs positively point to them as the persons responsible for the death of Jose Bandagoza: they had sadistically pummeled the deceased with kicks and fist blows, and the multiple injuries thus suffered by the latter had caused in his cranium bleeding so severe that it had resulted in his death a few days thereafter.

The petitioners' arguments aimed at discrediting the testimony of Añonuevo are far from persuasive. It is true that the witness is an uncle of sorts (by affinity) of the deceased; but settled is the rule that a witness' relation to the victim of a crime does not, by itself, impair his credibility.³ It is also true that there was some delay in Añonuevo's revelation of the incident; he made it known only a month later, or on March 24, 1980 when he gave a statement to the NBI. The delay cannot reduce his credibility not only because slight but also because sufficiently explained. The witness feared for his safety. He felt constrained to break his silence only when one Danilo Bandoquillo, who had also witnessed the incident, informed Jose's sister Delia that he (Añonuevo) was present when it happened.⁴ The Court, in many instances, has acknowledged the fact that people are naturally reluctant to get involved in criminal prosecutions, and has consequently refused to regard a witness' delay in reporting a crime as a necessarily negative factor in the evaluation of his testimony.⁵ This acknowledged reluctance becomes all the more understandable in this particular case, where the culprits were policemen wielding no small authority and influence in the community.

No reason is disclosed by the record to doubt Añonuevo's testimony. Even the cause for resentment attributed to him -- having been implicated by Balanta in a charge of illegal possession of gambling paraphernalia -- cannot suffice to downgrade his testimony. For one thing, the cited incident does not appear to be of such significance as to impel a simple-minded farmer like Añonuevo to weave a tale of lies against police officers. For another, except for the petitioners' naked assertion, no proof was introduced to prove that the incident in truth had taken place.

Indeed, Añonuevo's testimonial credit is enhanced by its concordance with the findings in the exhumation report of the NBI. The conclusion in that report of the application of traumatic force on the person of the deceased by such blunt objects as clenched fists or shod feet is entirely consistent with Añonuevo's declaration that Balanta and Rodriguez had rained kicks and fist blows on the body of the deceased with such force as to send the victim to the concrete floor, unconscious.

Petitioners would have this Court accord more weight to the testimonies of Doctors Leones and Braga, in relation to that of Dr. Oba. The record precludes this. The record contains the frank avowals of Doctors Braga and Leones that they did not examine the deceased thoroughly and their opinions had been based only on the symptoms manifested by the patient. Dr. Braga averred that his examination was confined to the exposed or unclothed parts of the victim's body.¹ Dr. Leones, in his turn, stated that his diagnosis on March 2, 1980 of "frontal sinusitis" was only "tentative," rendered after examining the victim externally; and that when he saw the patient again on March 5, 1980, he thought his ailment was "typhus fever" because of said patient's comatose state and other symptoms manifested.² His diagnosis is, therefore, as he candidly concedes, tentative, conjectural. On the other hand, the

NBI report of the autopsy performed after exhumation merits the credence conceded to it by the Sandiganbayan. It was executed and submitted in the regular performance of official duty by a qualified medico-legal expert. It was the result of a thorough and scientific examination of the body of the victim. It was done without any disclosed or intimated motive to falsify, or favor a particular party.

In any case, Dr. Braga has testified that meningitis is not entirely inconsistent with intra-cranial hemorrhage resulting from physical blows by a blunt instrument. He deposed that an intra-cranial hemorrhage, if sufficiently severe, may develop into meningitis and thus manifest some of its symptoms, i.e., as regards the physiological reflexes.³

The foregoing considerations lead back to the rule earlier adverted to, that the Supreme Court will not interfere with the conclusions of fact of the trial court absent any circumstance of weight which the latter has overlooked or misinterpreted. Against the positive evidence showing their culpability, petitioners' denials, and Rodriguez' defense of alibi as well, must fail. The entirety of the evidence makes possible no adjudgment except that of their culpability in the death of Jose Bandagoza. Petitioners are answerable for the direct and natural consequences of their act.⁴

WHEREFORE, the petition for review on certiorari is DENIED, and the challenged judgment of conviction is AFFIRMED, with the modification that the indemnity solidarily payable by the petitioners to the heirs of the victim is increased to P30,000.00.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Sarmiento, Bidin, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Cruz, J., see separate concurrence.

1 Añonuevo, tsn, Dec. 7,1981, pp. 6--14.

2 Bandagoza, tsn, Dec. 7,1981, pp. 34-35.

3 Exh. A, Bandagoza, tsn, Dec. 7,1981, pp. 40-41, Dr. Braga, tsn, March 16,1982, p. 8.

4 Exhibit B.

5 Exhibit C.

1 Dr. Oba, tsn, March 15, 1982, pp. 9-18.

2 Balanta, TSN, July 22, 1982, pp. 54-61.

3 Exhibit 1.

4 Exh. 4, Crim. Case No. 6774, Municipal Court of Tabaco, Albay.

5 Balanta, TSN, July 22, 1982, pp. 63-68; Rodriguez, TSN, July 22, 1982, pp. 87-88.

1 Sec. 7, PD 1606 as amended in relation to Sec. 2, Rule 45 of the Rules of Court.

2 Gabison v. Sandiganbayan; G.R. No. 53001-56, June 18, 1987, 151 SCRA 61.

3 People v. Paras, G.R. Nos. 61773, Jan. 31, 1987, 147 SCRA 594; People v. Bautista, G.R. No. 69123, Jan. 30, 1987, 147 SCRA 500; Peo. v. Segueria, G.r. No. 58574, Oct. 12, 1987, 154 SCRA 656

4 Añonuevo, TSN, Dec. 7, 1981, pp. 19-20;22.

5 People v. Estocada, G.R. No. L-31024, Feb. 28, 1977, 75 SCRA 295; People v. Ferrera, G.R. No. 66965, June 18, 1987, 151 SCRA 113; People v. Punzalan, G.R. No. 54562, Aug. 6, 1987. 153 SCRA 1; People v. Andres, G. R. No. 75355, Oct. 29, 1987, 155 SCRA 290.

1 Dr. Braga, TSN, March 16, 1982, p. 14.

2 Dr. Leones, TSN, Oct. 27,1982, pp. 10-16.

3 TSN, Dr. Oba, March 16,1982, pp. 10-11

4 See Art. 4, Revised Penal Code.

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SEPARATE OPINION

CRUZ, J.:

Perhaps it is because I am not a physician that I cannot for the life of me imagine how a person subsequently ascertained to have been beaten to death should have been certified as having died of the non-belligerent cause of meningitis. If Bandagoza's body had not been exhumed and autopsied at his sister's request, the crime committed by the accused would not have been exposed and their guilt would have remained safely buried with their victim.

As the patient was in the hospital for some time, I cannot believe his bodily condition was not examined at all, especially since he was already in coma when he was admitted. Such examination could not have failed to reveal the "hematoma on different parts of the body, especially the head" of the victim, as noted in the autopsy report, and to indicate the real cause of his death.

I strongly suspect there was an attempt at a cover-up, or at the very least gross negligence, on the part of the attending physician who issued the death certificate. I believe his investigation is in order, for the filing of administrative or even criminal charges against him if such action is warranted.

Subject to the above observations, I concur with the ponencia.

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