

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE BULIGON, @ JOSE NICOLAS, ACCUSED, ELISER MENOR @ BOYET, ACCUSED-APPELLANT.

G.R. No. 94338. February 04, 1992

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94338/>

MELENCIO-HERRERA, J.:

Accused-appellant, Eliser Menor alias Boyet, was convicted by the Regional Trial Court of Cabarroguis, Quirino, Branch 31,[1] of the crime of Murder and sentenced to suffer the penalty of reclusion perpetua. He now seeks a reversal of said judgment.

It was Holy Thursday, 31 March 1988, at around one o'clock in the afternoon, when Judy Garcia Baculanta, male, 32 years old, died from four (4) stab wounds and one lacerated wound, on the banks of the Cagayan River. An Information for Murder was filed against two (2) persons: Jose Buligon alias Jose Nicolas, and Eliser Menor alias Boyet. The accused, Jose Buligon, has remained at-large. Only Accused-appellant, Eliser Menor, was arrested and stood trial after pleading "Not Guilty."

The prosecution narrates the occurrence, thus: In the morning of 31 March 1988, a group composed of Accused-appellant, his co-accused Jose Buligon, the Victim Judy Baculanta, Edward Ramos, Jose Manuel and several others were at the banks of the Cagayan River at San Pedro, Maddela, Quirino. They were having a picnic and a drinking spree, which lasted until around one o'clock P.M. of said date. Gerald Baculanta, the 11-year-old son of the Victim and his younger brother, Judy, Jr., were at the opposite side of the 25-meter-wide Cagayan River to bathe their carabao.

At around 1:00 P.M., Gerald saw the group board a boat and cross the river. When the group reached their side of the river, Gerald saw them alight from the boat. As they disembarked, a fight ensued between the Victim and Accused-appellant because the former accused the latter of having pushed him (the Victim). The two grappled, and after a little while, the Victim succeeded in pinning down Accused-appellant. When the Victim was about to hit the latter, accused Buligon stopped the Victim by holding his hands.

At this point, accused Buligon drew his knife and poked it at the Victim, who challenged Buligon to stab him. Buligon desisted. At that time, Accused-appellant stood at the back of Buligon.

Jose Manuel intervened and pacified the protagonists. He made Accused-appellant and the Victim clap their hands together as a symbol of settlement. The group then walked away.

Accused-appellant followed the Victim, while accused Buligon went to a nearby hut. Gerald, then two (2) meters away, saw Accused-appellant put his hand on the Victim's shoulder. Soon thereafter, Accused-appellant looked back towards the direction of the hut, about eight (8) meters away, where accused Buligon was all alone, raised his right hand and made a "V" sign with his fingers. Recognizing the sign, Buligon rushed towards the Victim and stabbed the latter with a double-bladed stainless knife, while Accused-appellant held the Victim. In Court, Gerald

demonstrated how Accused-appellant embraced the Victim with his two (2) arms, sideways. The Victim fell to the ground, face downward. Buligon then said: "You like this, friend?" and again stabbed the Victim on the right armpit. This time, Accused-appellant was just standing beside his co-accused Buligon. Gerald testified that Accused-appellant left thereafter. The third stab landed on the left shoulder-blade, and the fourth on the right shoulder blade. After the fifth wound had been inflicted, Buligon fled from the scene of the crime. Accused-appellant went home, walking casually.

The Victim was placed on a banca to be taken to the hospital, but he died along the way.

The foregoing narration was testified to by eyewitnesses Gerald, the Victim's 11-year-old son, Johnny Baculanta, the Victim's cousin, Edna Baculanta, the Victim's wife, and Jose Manuel, a member of the drinking group. Insofar as Manuel's testimony is concerned, he said that he did not notice whether Accused-appellant was around during the stabbing.

In his defense, Accused-Appellant denies any participation in the stabbing. His version tallies with that of the prosecution up to the point when Accused-appellant and the Victim made peace by clapping their hands. Thereafter, he testified that witness Jose Manuel told them to go home. There were two roads to go to the barrio. He took one road while the rest took the other. On his way, he heard the Victim say to accused Buligon: "Why did you want to stab me a while ago?" (Tsn, 29 January 1990, p. 24), challenging anyone who wanted to fight with him. He turned around and saw Buligon stabbing the Victim, who was on the ground, face downward. He then heard a shout that the Victim was dying. He was shocked. Later, he saw accused Buligon run away, with Johnny Baculanta giving chase.

Defense witness, Edward Ramos, also a member of the drinking group, corroborated Accused-appellant's testimony that the latter took one road to go home while the Victim took another route. He then narrated that accused Buligon went to a nearby hut. As the Victim walked past it, Buligon stabbed him twice. As this was going on, Accused-appellant was on the other road, about seven (7) meters away, on his way home.

Defense witness Rodrigo Garcia, a cousin of the Victim, brother-in-law of Accused-appellant, and a nephew of Domingo Garcia testified that his uncle, Domingo Garcia owned a piece of land, which the latter mortgaged to Accused-appellant. Sometime in 1985, said witness redeemed the same land from Accused-appellant. Then, in 1986, the Victim redeemed the same land from the witness. It is for this reason that there was bad blood between accused Buligon and the Victim, saying that whenever the Victim would get drunk, he would always challenge Buligon to a fight.

After evaluating the evidence before it, the Trial Court meted out conviction after a finding of conspiracy, and imposed the penalty of reclusion perpetua and an indemnity to the heirs of the Victim in the sum of P30,000.00.

In this appeal, the defense assails the finding of conspiracy by the lower Court, as well as the credibility of prosecution witnesses, who had allegedly involved themselves in discrepancies and inconsistencies.

Thus, Gerald and his uncle Johnny Baculanta never mentioned the "V" sign and the thrust movement in their respective sworn statements, but did so in their declarations in open Court. Also, Gerald Baculanta testified that it was when accused Buligon ran away that Johnny threw stones at Buligon; but Johnny testified that he threw stones at Buligon many times from the time that the first stab was delivered up to the time that Johnny chased Buligon.

The exact sequence of the throwing of stones is inconsequential and does not affect the culpability of the culprits themselves. And as far as failure to state certain matters in sworn statements is concerned, this is not an unusual occurrence. Such omission does not materially impair the intrinsic veracity of the witnesses concerned. It is a

matter of judicial experience that affidavits are not prepared by the affiants themselves. Omissions and misunderstandings, therefore, are not infrequent.

Accused-appellant also prays the Court to adopt the testimony of Jose Manuel, who declared that he did not notice Accused-appellant's presence at the scene of the crime, as against the testimonies of three other prosecution witnesses who affirmed his presence thereat. It is well-settled, however, that affirmative testimony is stronger than negative testimony. Besides, as Gerald Baculanta had declared, Accused-appellant left after the first stabbing and the probability is that Jose Manuel saw the occurrence thereafter.

The relationship of the prosecution witnesses to the Victim does not necessarily disqualify them as biased and interested (*People v. Mitra*, G.R. No. 80405, November 24, 1989, 179 SCRA 612). There is no showing that the three (3) prosecution witnesses, who are related to the Victim, had improper motives for testifying against Accused-appellant. Eleven (11)-year-old Gerald was an intelligent witness, who described in detail the entire incident. His declarations during the direct and the cross examination were knowledgeable and categorical.

We uphold the finding of the Trial Court with respect to the existence of conspiracy. Accused-appellant had signalled accused Buligon to stab the Victim and the latter did just that as Accused-appellant held the latter. The concerted acts of the two accused showed a unity of purpose and design - to kill the Victim. Where conspiracy has been proven, the act of one is the act of all. Thus, even though Accused-appellant did not actually inflict any wound on the victim, he is just as guilty of the crime committed.

The circumstance of treachery is, indeed, present. Accused-appellant had made the Victim believe that they had been reconciled when they clapped their hands together. Accused-appellant had even put his hand around the Victim's shoulder as they walked together. But it was a Judas embrace. For, as he did so, he gave the signal to strike. The Victim was caught completely unaware and unable to defend himself. What is more, to weaken that defense, Accused-appellant held him during the stabbing. And before that, accused Buligon also held the Victim's hands when the latter was about to box Accused-appellant.

There can be no question about Accused-appellant's guilt of the crime of Murder.

WHEREFORE, the Decision appealed from is hereby **AFFIRMED**, with the modification that the indemnity to the heirs of the victim is hereby increased to P50,000.00 consonant with recent case law.

Costs against accused-appellant, Eliser Menor.

SO ORDERED.

Paras, Padilla, Regalado, and Nocon, JJ., concur.

[1] Judge Carlos T. Aggabao, Presiding.

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.