

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PFC.
WILFREDO VILLANUEVA, AND PAT. HERMINIGILDO CRUZ,
ACCUSED, PAT. HERMINIGILDO CRUZ, ACCUSED-APPELLANT.**

G.R. Nos. 115555-59. January 22, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision of Branch 143 of the Regional Trial Court of Makati, finding accused-appellant Herminigildo Cruz and his co-accused, Wilfredo Villanueva, guilty of the crime of murder. Resolution of this appeal turns on the weight that should be accorded the testimony of a single witness for the prosecution.

The records show that at around midnight on May 30, 1989, Reynaldo Sacil, Arnold Araojo, Laudemer Mejia, Romulo Diaros, and Tomas Mason were mowed down while they were walking along Quirino Highway in Tambo, Parañaque. The five were on their way home to the Puyat Compound on 16th Street. They were felled by a burst of gunfire from the window of a car.[1] Diaros, Mason and Araojo fell at the corner of Quirino Highway and 16th Street. Mejia was killed further up 16th Street, while Sacil was downed also at the corner of Quirino Highway and 16th Street, in the middle of the road.[2] The victims died of gunshot wounds in the head and the body.[3]

Responding policemen, headed by Pfc. Rolando Santiago, arrived at the scene of the crime at around 1:00 a.m.[4] They recovered six empty shells of a caliber .30 carbine and 30 empty shells of a caliber 5.56 armalite rifle.[5] Santiago made a sketch of the crime scene, showing the various positions of the bodies of the victims and the areas where the empty bullet shells were recovered.[6]

Identification of the assailants proved to be problematical, as Santiago observed residents of the place as well as the families of the victims were tightlipped about the incident.[7] More than a year later, however, Julieto Sultero, who claimed to be an eyewitness, gave a statement[8] in which he pointed to accused-appellant Herminigildo Cruz and co-accused Wilfredo Villanueva, both members of the police, as among the perpetrators of the crime.[9] Sultero said he did not report the crime at once because he was afraid the perpetrators might turn against him.[10]

A pre-trial investigation conducted by the Judge Advocate General's Office (JAGO) found prima facie evidence for the filing of murder charges against Cruz and Villanueva before the General Court Martial.[11] The two were dismissed from the police force effective May 22, 1990, with prejudice to their reentry into the service.[12]

Cruz and Villanueva were subsequently charged in the Regional Trial Court with five counts of murder, qualified by treachery and evident premeditation.[13] Upon being arraigned, both pleaded "not guilty." [14] Villanueva escaped after arraignment and, despite an alias order for his arrest,[15] has not been apprehended.

Sultero testified that at around midnight of May 30, 1989 Reynaldo Sacil, Arnold Araojo, Laudemer Mejia, Romulo Diaros, and Tomas Mason passed by the billiard hall where he happened to be. The five were his

neighbors. After a while, the five decided to leave, inviting him to go home with them. But Sultero said he declined, even as he followed the group with his gaze as they left. He and a friend, Rogelio Baldada, were in front of the billiard hall when he said he saw a slow-moving Toyota Corolla arrive. Then a hail of bullets was fired from the window of the vehicle.[16] He thought the shots came from an armalite rifle and a carbine.[17] He did not see the occupants of the car because the car's windows were tinted.[18] However, after the shooting stopped, three men alighted from the car.[19]

The assailants started shooting again.[20] Sultero testified that he saw accused-appellant Cruz approach Sacil. Sacil pleaded for his life.[21] But he was shot in the head at close range with a short firearm.[22]

Sultero saw Araojo, Mason, and Diaros fall by the wall of the Honey's Park battery factory at the corner of Quirino Highway and 16th street.[23] Sultero did not see Mejia fall,[24] as he died a few meters from the street corner, further into 16th Street,[25] but the witness saw a long firearm used in shooting Mejia.[26]

Sultero identified accused-appellant Herminigildo Cruz as the one who shot Araojo, Mason, and Diaros.[27] He did not see him actually shooting the three but he saw him alight from the Toyota Corolla, colored maroon, from where the first burst of gunfire came.[28] He also pointed to Cruz as the one who shot Sacil at close range.[29]

Sultero testified that he knew Cruz quite well.[30] He and Cruz met frequently at the Diadalag Disco House on Quirino Avenue.[31] As for Villanueva, he testified that he only knew him by face and that he came to know his name only after the incident.[32] The third suspect was not identified.

Accused-appellant Cruz did not present evidence in his defense. He escaped from confinement after he had been taken to the PNP General Hospital in Camp Crame on September 4, 1992.[33] For this reason he was tried in absentia and later considered to have waived the right to present his evidence.[34] Accused-appellant was rearrested more than a year later, on October 5, 1993, in Dipolog City.

On December 15, 1993, the trial court rendered a decision finding accused-appellant Cruz and his co-accused Villanueva guilty of murder qualified by treachery.[35] The two were sentenced to suffer the penalty of reclusion perpetua for each of the five counts of murder and to indemnify each of the victims' families in the amount of P50,000.00.[36] Hence, this appeal. Accused-appellant contends: [37]

(1) That the trial court gravely erred in giving full weight and credence to the testimonies of the prosecution witnesses; and

(2) That the trial court gravely erred in finding accused-appellant Herminigildo Cruz guilty of murder despite the insufficiency of the prosecution's evidence that would warrant a conviction beyond reasonable doubt.

The appeal has no merit.

Accused-appellant questions the credibility of the lone witness for the prosecution, Juliato Sultero. Accused-appellant claims that Sultero could not have seen the shooting because he said he was sitting on a bench inside the billiard hall when the incident happened. [38]

This is not true. What Sultero said was that he and a companion brought out the bench and placed it outside, in front of the billiard hall and that it was there where they chatted, sitting on the bench.[39]

Nevertheless, it is contended that a photograph of the scene of the crime does not show that there was any bench in front of the billiard hall.[40] It has not been shown, however, when the photograph was taken. In fact it has not been properly authenticated either by the person who took the photograph or by any one who can testify that the photograph is a faithful representation of the area shown.[41] It is possible that the photograph was taken the day after the shooting, and it is not unlikely that the bench had by then been put back inside the hall. Indeed, the

photograph appears to have been taken during the day.[42]

Accused-appellant assails, as contrary to “ordinary experience,” the claim of Sultero that after buying medicine for his sick child on the night in question, he dropped by the billiard hall and had a chat with a co-worker when his concern should have been to go home directly.[43] Sultero explained, however, that his child was not seriously ill. [44] Accused-appellant wonders why Sultero had to go out in the middle of the night if the medicine was not urgently needed. [45] But Sultero was not asked to explain why he had to go out at night if the medicine was not urgently needed. It would be unfair to suggest that he was not telling the truth when he said he was in front of the billiard hall when the shooting took place. He could have left their house earlier and was stopped by a friend he saw at the billiard hall. Since he was in no particular hurry, he could have tarried. In fact he said he declined the invitation of the victims to go home with them.

At any rate, it does not change the fact that he witnessed a crime that night and that he saw accused-appellant Cruz as one of those who committed it. This witness saw the incident from a distance of about 50 meters and while the scene of the crime was illuminated by streetlamps. He knew accused-appellant very well, and he recognized him easily on the night in question.

While Sultero actually saw Cruz shooting only Sacil and not the other victims, accused-appellant was clearly part of a concerted effort to kill the victims as shown by his riding with the other assailants and going after Sacil, ignoring the latter’s plea for mercy.

Accused-appellant brands Sultero’s testimony as “plainly equivocal and uncorroborated.” [46] There is nothing equivocal about Sultero’s testimony. On the contrary, it is clear and convincing, thus justifying the trial court in giving it full faith and credence.

As to the claim that Sultero’s testimony is uncorroborated, it is settled that the testimony of a single eyewitness is sufficient to support a conviction so long as it is clear and straightforward and worthy of credence by the trial court,[47] as in this case. Witnesses are to be weighed, not numbered. [48] Nowhere is it required that the testimony of a witness be corroborated for it to be credible.

Accused-appellant further contends that the existence of an eyewitness was never mentioned at the start of the investigation and Sultero did not appear as a witness until after more than a year from the date of the incident. But the natural reluctance of a witness to get involved in a criminal case and to provide information to the authorities is a matter of judicial notice. [49] The decisive factor is that he in fact identified the accused, [50] not that there was delay in his doing so.

Sultero’s reluctance to testify during the early stages of the investigation is understandable. The suspects were still at large. Sultero knew accused-appellant very well, including probably the fact that he was a policeman. Fear of reprisal was a sufficient explanation for his silence.[51] Prudence was the better part of valor.

Finally, accused-appellant points to the flight of his co-accused Wilfredo Villanueva as an indication of his guilt.[52] Accused-appellant’s argument seems to be that an admission of guilt on the part of a co-accused is an indication of the innocence of accused-appellant. This is of course untenable. Flight of his co-accused may be indicative of his guilt, but this will not necessarily exculpate accused-appellant. [53] The fact that accused-appellant did not escape can be due to the fact that he did not then have the chance to do the same. It can be due to a number of other reasons but not necessarily because he is innocent.

Moreover, as already stated, accused-appellant himself did escape, only that he was recaptured a year later. Flight is, indeed, an implied admission of guilt and accused-appellant’s escape cannot but betray his guilt and his desire to evade responsibility therefor.

WHEREFORE, the decision appealed from is AFFIRMED.

SO ORDERED.

Regalado, (Chairman), Puno, and Martinez, JJ., concur.

[1] TSN, p. 10, Feb. 13, 1992.

[2] Exh. P.

[3] Exhs. K, L, M, N, O.

[4] TSN, p. 39, July 24, 1992; p. 12, Aug. 7, 1992.

[5] Exh. Q.

[6] Supra, note 2.

[7] Supra, note 5.

[8] Handwritten Statement dated October 29, 1990.

[9] Exh. A.

[10] TSN, p. 24, Feb. 13, 1992.

[11] Exh. X.

[12] Exhs. Y, Z.

[13] In five separate informations, all dated Dec. 27, 1990.

[14] Records, pp. 35, 37.

[15] The last one having been issued on Sept. 15, 1993. Records, p. 287.

[16] TSN, p. 10, Feb. 13, 1992.

[17] TSN, p. 13, March 10, 1992.

[18] TSN, p. 11, Feb. 13, 1992.

[19] TSN, p. 23, March 10, 1992.

[20] Ibid.

[21] TSN, p. 29, Feb. 13, 1992.

[22] Ibid.

[23] TSN, p. 9, March 10, 1992.

[24] Id., p. 12.

[25] Supra, note 2.

[26] TSN, p. 32, March 10, 1992.

[27] TSN, p. 13, Feb. 13, 1992.

- [28] Id., p. 21.
- [29] Supra, note 21.
- [30] TSN, p. 24, March 10, 1992.
- [31] Id., p. 25.
- [32] Id., p. 25; TSN, p. 16, Feb. 13, 1992.
- [33] Records, p. 178.
- [34] Records, p. 184.
- [35] Id., pp. 642-644.
- [36] Id., pp. 645-646.
- [37] Rollo, p. 58.
- [38] Id., p. 63.
- [39] TSN, pp. 18-19, March 10, 1992.
- [40] TSN, p. 11, March 10, 1992.
- [41] Ricardo J. Francisco, Evidence 44 (2nd ed., 1994).
- [42] TSN, p. 11, March 10, 1992.
- [43] Rollo, pp. 65-66.
- [44] TSN, p. 18, March 10, 1992.
- [45] Rollo, p. 66.
- [46] Id., p. 67.
- [47] People v. de Roxas, 241 SCRA 369 (1995).
- [48] People v. Rayray, 241 SCRA 1 (1995).
- [49] People v. Viente, 225 SCRA 361 (1993).
- [50] People v. Viente, supra.
- [51] People v. Viñas, Sr. 245 SCRA 448 (1995).
- [52] Rollo, p. 68.
- [53] People v. Narajos, 149 SCRA 99 (1987).

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