

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REGANDO VILLONEZ Y PASCASIO, RUEL SANTOS Y LAPADA, JOHN DOE, PETER DOE, ELMER DOE, AND ROY DOE, ACCUSED, VS. EDUARDO N. SANTOS...

G.R. Nos. 122976-77. November 16, 1998

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Accused-appellants REGANDO VILLONEZ,[1] RUEL SANTOS,[2] and EMERLITO SANTOS pray for a reversal of their conviction for MURDER decreed in a Joint Decision[3] rendered on 23 November 1995 by the Regional Trial Court (RTC) of Malabon, Metro Manila, Branch 170, in Criminal Cases Nos. 14943-MN and 15506-MN.

The information[4] in Criminal Case No. 14943-MN charged REGANDO and RUEL with the crime of murder allegedly committed in the following manner:

That on or about the 3rd day of May 1994 in Malabon, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused [Regando Villonez y Pascasio, Ruel Santos y Lapada, John Doe, Peter Doe, Elmer Doe and Roy Doe], conspiring together and mutually helping one another, without any justifiable cause, with deliberate intent to kill, with treachery, taking advantage of superior strength, and being armed with bladed weapons, did then and there wilfully, unlawfully and feloniously attack, assault and stab one GERARDO LONGASA on the different parts of the body, thereby inflicting upon the latter serious physical injuries, which caused his death.

CONTRARY TO LAW.

The case was assigned to Branch 170 of the RTC of Malabon, Metro Manila.

Upon arraignment, REGANDO and RUEL entered a plea of not guilty.[5]

Meanwhile, accused-appellant EMERLITO, together with Eduardo, Reynaldo, Fernando, and Rudy, all surnamed Santos, was likewise charged with murder in an information,[6] which was later docketed as Criminal Case No. 15506-MN. The crime was allegedly committed as follows:

That on or about the 3rd day of May, 1994, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused [Eduardo N. Santos @ Eddie, Reynaldo N. Santos @ Rey, Fernando N. Santos @ Dede, Emerlito N. Santos @ Elmer, and Rudy N. Santos @ Budda], conspiring, confederating with Regando P. Villonez and Ruel Santos who were already charged for the same crime under Criminal Case No. 14943 and without any justifiable cause, with deliberate intent to kill, with treachery taking advantage of superior strength and being armed with a [sic] bladed weapons, did then and there willfully, unlawfully and feloniously attack, assault and stab one GERARDO LONGASA on the different parts of the body, thereby inflicting upon the latter serious physical injuries, which caused his death.

CONTRARY TO LAW.

Only EMERLITO was arrested; his co-accused have remained at large.

Evidently, the killing involved in Criminal Case No. 14943-MN was the same as that in Criminal Case No. 15506-MN. Hence, the second case was transferred from Branch 72 to Branch 170 of the RTC of Malabon, Metro Manila, and was consolidated and jointly tried with the first case pursuant to the Order[7] of 22 March 1995.

At his arraignment, EMERLITO entered a plea of not guilty.[8]

The witnesses for the prosecution were Edgar Jimenez and Dr. Ronaldo Mendez, a Medico-Legal Officer of the National Bureau of Investigation; and the witnesses for the defense were the accused-appellants, as well as Arthur Aquino and Conrado Gungon.

Edgar Jimenez testified that on 3 May 1994, at around 9:00 p.m., while he was resting inside his store at Hulo, Malabon, Metro Manila, a certain Tonton informed him that his close friend GERARDO LONGASA had a fistfight with one "Rudy," alias "Dede,"[9] at Liwayway Street, Baritan, Malabon. Edgar proceeded to the area to mediate, since LONGASA and Rudy were both his friends. Edgar passed through Javier II Street in going to Liwayway Street. At Javier II Street, a group of seven armed men, including accused-appellants, attacked Edgar. RUEL hit Edgar on his forehead and back with a bottle. Edgar was able to escape from his attackers. While fleeing, he ran past LONGASA, who seemed drunk. When Edgar called LONGASA, the attackers were already upon LONGASA.[10]

While he was about eight arms' length away from LONGASA, Edgar saw EMERLITO hit LONGASA with a 2 x 2 inches piece of wood. Simultaneously, REGANDO and RUEL struck LONGASA with bottles. Rudy Santos and Eddie Santos then stabbed LONGASA seven and eight times, respectively, even as two other persons named Rey and Budda held LONGASA's arms. LONGASA fell to the ground. Edgar saw all these because the scene of the incident was illuminated by a big fluorescent lamp located about three arms' length away. Edgar rushed to LONGASA's house and reported the incident to the latter's parents.[11]

Dr. Ronaldo Mendez conducted an autopsy on LONGASA's corpse. His findings are as follows:

Abrasions: 1.0 x 0.6 cms., forehead, left side; 6.0 x 4.0 cms., zygomatic area, left; 3.6 x 1.1 cms., nasal area, right side; 4.0 x 2.0 cms., maxillary area, left; 2.0 x 0.6 cms., infranasal area, left side; 0.5 x 0.4 cms., mandibular area, left side; 6.6 x 4.2 cms., left upper quadrant, abdomen, 5.0 x 3.0 cms., anterior aspect, upper third, arm, left; 2.5 x 1.3 cms., left lumbar area; 5.0 x 2.5 cms., elbow, left.

Contusions, purplish: 7.4 x 6.2 cms., anterior chest wall, left side; 4.4 x 2.3 cms., anterior aspect, upper third, arm, right.

Lacerated wounds: 1.1 cms., supraorbital ridge, right; 1.2 cms., posterior aspect, upper third, forearm, left.

Stab wounds:

1) 3 in number, sizes ranging from 0.5 to 1.6 cms., elliptical clean-cut edges, with one extremity sharp and the other blunt, located at the anterior chest wall, left side, over an area of 15.0 cms., x 7.0 cms., the farthest is located 10.0 cms., from the anterior median line, while the nearest is located 3.0 cms., from the anterior median line, directed backwards, upwards, downwards and medially, involving the soft tissues, perforating the right ventricle and penetrating the lower lobe of the left lung with an average depth of approximately 7.5 cms.

2) 1.4 cms., elliptical, clean cut edges, with sharp medial extremity and blunt lateral extremity, located at the posterior chest wall, left side, 7.0 cms., from the posterior median line, directed forwards, upwards and laterally, involving the soft tissues only with an approximate depth of 3.0 cms.

3) 1.5 cms., elliptical, clean-cut with sharp medial extremity and blunt lateral extremity, located at the posterior chest wall, left side, 9.0 cms., from the posterior median line, directed forwards, upwards and medially, involving the soft tissues, from the 6th intercostal space, into the left thoracic cavity penetrating the upper lobe of the left lung with an approximate depth 5.0 cms.

4) 1.6 cms., elliptical, clean cut edges, with sharp lateral extremity and blunt medial extremity, located at the anterior chest wall, right side, 3.0 cms., from the posterior median line, directed forwards, upwards and medially, involving the soft tissue only with an approximate depth of 2.0 cms.

Hemopericardium, 230 cc.

Hemothorax, left, 1095 cc.

Other visceral organs, pale.

Stomach is almost empty.

CAUSE OF DEATH:

STAB WOUNDS.[12]

Dr. Mendez explained that the abrasions were caused by hard, rough surface, possibly cement or a piece of wood. The contusions and lacerations were caused by a blunt object, which could have been a piece of wood, a bottle, a pipe, or any other hard object. The incise wounds or stab wounds were caused by a sharp-bladed or sharp-edged instrument. Of the six stab wounds suffered by LONGASA, stab wounds numbered 1 and 3 on LONGASA's chest caused the latter's death.[13]

The testimony of LONGASA's mother was dispensed with after the State and the defense agreed that Longasa's family incurred P8,500 in funeral expenses.[14]

REGANDO interposed alibi and denial. He claimed that on 3 May 1994, between 7:30 and 8:00 p.m., he was having a conversation with Arthur Aquino at the premises of RUEL's house. Someone passed by the house and reported a slaying incident at Javier II Street. Curious, REGANDO and Aquino went to the scene of the incident and there found LONGASA lying in a pool of his own blood. REGANDO recognized LONGASA because the latter was a barber at REGANDO's neighborhood. He believed that the victim was already dead, since the latter did not seem to be breathing. When policemen arrived, REGANDO moved away from the scene; he did not want to be asked about the incident, as he knew nothing about it. On 7 May 1994, he was arrested by Malabon policemen after Edgar Jimenez identified him as one of the assailants. He opined that Edgar implicated him in the crime because they had an altercation during a basketball game, which altercation could have erupted into a fistfight had they not been pacified.[15]

Arthur Aquino, REGANDO's "gangmate," corroborated the latter's testimony and declared that it was impossible for REGANDO to have taken part in the killing, since he was with REGANDO before and after the incident. When they arrived at Javier II, they saw many people, none of whom were known to him. He asked the people milling around LONGASA's body who the killer was, but no one could tell him.[16]

RUEL, who was 16 years old at the time the crime in question was committed, also put up the defense of alibi. According to him, when the incident was taking place he was at his grandmother's house in Javier II changing clothes, for he had just taken a bath. He heard screams from outside of the house reporting that a killing had occurred at the corner of Javier II Street. Out of curiosity, he immediately went to the reported scene of the incident. There he saw a bloodied body lying on the ground, which he later found to be LONGASA's cadaver. RUEL was not questioned by the authorities during the investigation. However, on 7 May 1994, while he and co-accused REGANDO were watching television at his grandmother's house, they were arrested by the police on the basis of Edgar's information that they were among LONGASA's assailants.[17]

EMERLITO also relied on alibi for his defense. He declared that at the time of the incident he was at Javier II to borrow P500 from his mother. On his way to his mother's place, someone informed him that his brother Fernando Santos, alias Dede, was involved in a fight at Liwayway Street. He rushed to the scene of the reported fight. There, he found his brother being ganged up on by Edgar Jimenez and another person. EMERLITO grabbed Edgar and boxed him, but the latter retaliated. They exchanged punches until Edgar ran towards a nearby alley. EMERLITO gave chase but failed to catch Edgar, as the latter jumped into a river. EMERLITO waited for Edgar to come up for air. After ten to fifteen minutes, EMERLITO got impatient and went back to Liwayway Street. After seeing no one in the area, he went to Javier II Street. Along the way he saw people running, and then someone shouted: "Mang Emer, iyong kapatid ninyo nakasaksak namatay" (Mang Emer, your brother stabbed and killed a man). Another person advised him not to proceed to the scene of the incident and to go home instead. EMERLITO followed the advice. He did not take his brother to the authorities because not one of his brothers was at home when he got there. Neither did he go to the police to "explain" the incident, as he did not know much about it.[18]

Conrado Gungon attempted to bolster EMERLITO's account by claiming that at the time of the incident, he saw Fernando Santos and a certain Rey chasing LONGASA at Javier II. He followed the three to a corner near General Luna Street. There he saw Fernando and Rey stab LONGASA; after which the assailants ran towards General Luna Street. The two attackers had no other companion. Conrado went home after the incident.[19]

In its Joint Decision,[20] the trial court found Jimenez's testimony to be credible and supportive of the theory of conspiracy among the accused. It found the following circumstances to be more than sufficient to prove that the accused-appellants and their co-accused had common design to kill LONGASA and were united in its execution: (1) their simultaneous acts and concerted effort in surrounding the victim; (2) all of them carried weapons, which they used against the victim; (3) they took turns in disabling the victim with blows administered with a piece of wood and bottles; (4) the victim's arms were restrained when the death blows were inflicted; (6) none of the accused-appellants tried to dissuade their companions from delivering fatal wounds on the victim; as a matter of fact, they continued attacking the victim until the latter was already down and gasping for breath; and (7) the number of wounds inflicted on the victim was a mute testimony of the vengeful fury and brutality of the deadly attack upon him. Conspiracy having been established, the act of one was the act of all.

The trial court ruled against the presence of treachery, since LONGASA was engaged in a fight with the accused before the fatal attack and was, therefore, sufficiently warned of the assault against him. However, it appreciated against the accused the qualifying aggravating circumstance of taking advantage of superior strength because of the superior number of the accused, most of whom were armed with weapons; while the victim was alone, with his arms held behind him by two of the assailants.

The trial court rejected the defense of alibi for failure of accused-appellants to prove that they were so far away from the scene of the crime as to be physically impossible for them to be there when the crime was committed.

The trial court thus ruled that the crime committed was murder and decreed; thus:

WHEREFORE, all considered, the Court finds all the three (3) accused GUILTY beyond reasonable doubt of the crime of MURDER and sentences each of them as follows:

- a) Accused REGANDO VILLONES y PASCASIO and EMERLITO N. SANTOS, there being no aggravating and mitigating circumstance, to suffer the penalty of RECLUSION PERPETUA;
- b) Accused RUEL N. SANTOS, appreciating the privileged mitigating circumstance of minority in his favor, being 16 years old at the time of the commission of the offense, to suffer an indeterminate penalty of TEN (10) YEARS of prison mayor as minimum, to SEVENTEEN (17) YEARS of reclusion temporal as maximum.

Likewise, all the accused are hereby ordered to indemnify, jointly and severally, the heirs of GERARDO LONGASA in the amount of P8,500.00 as actual damages, and the additional sum of P50,000.00, as civil indemnity for the death of the said victim, and the costs of suit.

Accused-appellants REGANDO, RUEL, and EMERLITO seasonably appealed to us.[21]

In their Brief, accused-appellants REGANDO and EMERLITO, represented by the Public Attorney's Office, contend that the trial court committed the following errors:

I

... IN GIVING FULL WEIGHT AND CREDENCE TO THE OTHERWISE UNCORROBORATED, INCREDIBLE AND FABRICATED TESTIMONY OF PROSECUTION WITNESS EDGARDO JIMENEZ.

II

...IN FINDING ACCUSED-APPELLANT REGANDO VILLONES GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

III

IN FINDING THAT THERE EXISTS CONSPIRACY IN THE CASE AT BAR.

In his separate Brief, accused-appellant RUEL imputes upon the trial court the following errors:

I.

...IN NOT HOLDING THAT EDGAR JIMENEZ IS NOT COMPETENT TO TESTIFY ON THE PARTICIPATION OF RUEL SANTOS CONSIDERING HE WAS NOT AN EYEWITNESS AND HIS TESTIMONY IS, THEREFORE, HEARSAY.

II

...IN HOLDING THAT ACCUSED RUEL SANTOS WAS IN CONSPIRACY AMONG THE OTHER ACCUSED IN THE KILLING OF GERARDO LONGASA.

III.

...IN DISREGARDING THE TESTIMONY OF EMERLITO SANTOS.

IV.

...IN DISREGARDING THE TESTIMONY OF CONRADO GUNGON.

All accused-appellants attack the credibility of lone eyewitness Edgar Jimenez. REGANDO and EMERLITO wonder why Edgar took a longer route through Javier II Street to get to Liwayway Street instead of just crossing the bridge that separated Duhat from Liwayway Street, which was shorter route. Another thing which they find illogical was Edgar's failure to shout for help and to do anything to save his friend LONGASA. As to Edgar's testimony that he was mauled by the accused, accused-appellants theorize that Edgar could have been a participant in "the rumble," which made him a biased and unreliable witness. Moreover, Edgar could not have witnessed the crime, as he was then running away from the scene to escape further injuries. Additionally, no one corroborated Edgar's testimony; hence, it is self-serving.

RUEL claims that Edgar Jimenez committed inconsistencies on material points, especially on who actually stabbed LONGASA and how many times he was so stabbed. Edgar was, likewise, unable to make up his mind whether he was running away from the crime scene or staying at a safe distance from the incident. RUEL finds illogical and incredible the story of Edgar that accused attacked him when he was merely looking for LONGASA, and that while Edgar was originally the target of the accused's aggression, they inexplicably vented their ire on LONGASA and allowed Edgar to witness everything and walk away untouched. RUEL also stresses that the prosecution did not disprove EMERLITO's testimony that Edgar was in a river near Liwayway Street while the

incident was taking place; hence, he could not have witnessed the crime. Besides, Edgar's testimony was disproved by Gungon, who testified that Reynaldo and Fernando Santos were the ones who stabbed LONGASA, and that the said assailants had no other companions.

Accused-appellants insist on the credibility of the testimony of the defense witnesses. They further claim that they were able to explain their whereabouts during the perpetration of the offense, and that they had other witnesses to corroborate their respective versions.

Finally, accused-appellants assert that there is no sufficient proof of conspiracy. The short interval between the attack on Edgar and the attack on LONGASA precluded the existence of a preconceived plan among the accused to so assault LONGASA. Additionally, if there was indeed conspiracy among the accused, all should have stabbed LONGASA, not just that some of them hit the victim with bottles or a piece of wood.

In the Consolidated Brief for the Appellee, the Office of the Solicitor General (OSG) maintains that the alleged lapses in Edgar Jimenez's testimony were duly explained and the alleged inconsistencies were too trivial to impair his straightforward account of the crime. His failure to help his friend while the latter was under attack was understandable considering that the aggressors had the strength of number. At any rate, the trial court found Edgar credible. It is well-settled that a trial court's assessment of a witness's testimony is entitled to great respect on appeal.

As to RUEL's claim of lack of logic in the version of Edgar, the OSG argues that it is of judicial knowledge that persons have been assaulted for no apparent reason whatsoever.[22]

The OSG considers Gungon's testimony undeserving of consideration. Gungon failed to explain why he gave his account of the crime only on 1 August 1995 or fifteen months after the incident in question. His long unexplained silence makes one suspicious of his motives; hence his testimony is unworthy of belief.[23]

Finally, the OSG agrees with the trial court's rejection of accused-appellants' defense of alibi and with the finding of conspiracy. It argues that there was no showing of physical impossibility for the accused to be at the crime scene when the crime was committed; besides, they were positively identified by Edgar Jimenez as among LONGASA's attackers. As to conspiracy, the same can easily be deduced from the manner of the commission of the offense and from the concerted acts of the accused to obtain a criminal objective.[24]

As often happens in criminal cases on appeal, we are asked to disregard the testimony of a prosecution witness for being incredible, and to give full credence to those of the defense and decree accused-appellants' acquittal. Among the discrepant accounts of the same incident, we choose to believe the one certified by the trial judge to be credible, in this case, the testimony of Edgar Jimenez. The judge had the distinct advantage of having personally heard the testimonies of Edgar and the witnesses for the defense, and observed their deportment and manner of testifying during the trial. It is settled that the trial judge's findings on the credibility of witnesses will not generally be disturbed unless said findings are arbitrary, or facts and circumstances of weight and influence have been overlooked, misunderstood, or misapplied by the trial judge which, if considered, would have affected the result of the case.[25] None of the exceptions have been shown to exist in the instant case.

Indeed, our perusal of the transcript of the testimony of Edgar Jimenez confirms his trustworthiness. He told a consistent story throughout his two turns at the witness stand. He corrected misimpressions by the trial judge and examining counsel, and he satisfactorily explained the apparent lapses in his testimony. He was frank about his dark history as a drug user who was once the subject of a criminal case in court. It must be noted that a criminal record does not necessarily make one an incredible witness.[26] Edgar's honesty in revealing his past without hesitation bolsters his credibility.

The inconsistencies between Edgar's testimony and sworn statement given to the police were likewise adequately explained. In any case, a sworn statement or affidavit, being taken ex parte by a person other than the witness, is almost always incomplete and often inaccurate, sometimes from partial suggestion or for want of suggestions and inquiries. Omissions and misunderstandings by the writer are not infrequent, particularly under circumstances of hurry and impatience. The infirmity of affidavits as a species of evidence is a matter of judicial experience. As such, an affidavit taken ex-parte is generally considered to be inferior to testimonies made in open court.[27]

Furthermore, as the OSG correctly opined, the findings of medico-legal officer Dr. Ronaldo Mendez served to corroborate Edgar's testimony. LONGASA's injuries, recorded in Dr. Mendez's report, reflected the severe beatings LONGASA suffered at the hands of the accused as narrated by Edgar.

The bromidic defense of alibi cannot benefit accused-appellants. In the face of the positive identification of the accused by Edgar, such defense is worth nothing.[28] Besides, accused-appellants were unable to prove that it was physically impossible for them to be at the crime scene at the time the crime was committed. On the contrary, REGANDO and RUEL admitted that in just a short time they were able to get to the crime scene by walking. For his part, EMERLITO acknowledged his involvement in a fight which preceded LONGASA's killing, and he conceded that he was able to return to the crime scene, or near the crime scene, at or about the time of the commission of the offense. The alibi which is sufficient to acquit an accused of a criminal charge must be that which shows it was physically impossible for him to be at the crime scene at the time of the commission of the crime.[29]

As to the trial court's finding of conspiracy among the accused, we find the same to be supported by evidence. For conspiracy to exist, it is not required that there be an agreement for an appreciable period prior to the occurrence. It is sufficient that at the time of the commission of the offense, the accused had the same purpose and were united in its execution. The agreement to commit a crime may be gleaned from the mode and manner of the commission of the offense or inferred from the acts of the accused which point to a joint purpose or design, concerted action, and community of intent.[30] In this case, the accused simultaneously attacked LONGASA, with two of them holding the victim's hands or arms. Some struck LONGASA with a piece of wood or bottles and two others stabbed him. The attack continued until LONGASA fell dead. These acts clearly point to a joint purpose to accomplish the desired end.

However, we do not share the assessment of the trial court that there was no treachery in this case because the victim had engaged in a fight previous to the killing and was thus forewarned of an attack against him. Treachery may still be appreciated even when the victim was forewarned of danger to his person. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[31] The overwhelming number of the accused, their use of weapons against the unarmed victim, and the fact that the victim's hands were held behind him preclude the possibility of any defense by the victim.

The other qualifying circumstance of abuse of superior strength, which the trial court appreciated, will no longer be taken against accused-appellants, for it is absorbed in treachery.[32]

The penalty for the murder is reclusion perpetua to death pursuant to Article 248 of the Revised Penal Code as amended by R.A. No. 7659. There being no mitigating or aggravating circumstance proved in favor of or against EMERLITO and REGANDO, the trial court correctly imposed the penalty of reclusion perpetua.[33]

As to RUEL, who was only 16 years old when the offense in question was committed, the trial court correctly appreciated in his favor the privileged mitigating circumstance of minority. Pursuant to paragraph 2 of Article 68 of the Revised Penal Code, the penalty next lower to that prescribed by law shall be imposed; in this case the penalty shall be reclusion temporal.[34] Again, there being no proof of any modifying circumstance, said penalty

shall be imposed in its medium period.[35] Since RUEL is entitled to the benefits of the Indeterminate Sentence Law, he shall be sentenced to suffer an indeterminate penalty whose minimum shall be within the range of prision mayor and whose maximum shall be within the range of reclusion temporal. The penalty imposed upon him by the trial court, i.e., ten years of prision mayor as minimum to seventeen years of reclusion temporal as maximum, is therefore correct.

The awards of P50,000 as indemnity for the death of LONGASA and of actual damages of P8,500 are in conformity with current case law and with the agreement of the parties, respectively.

WHEREFORE, we DISMISS the appeal and AFFIRM the challenged Joint Decision of 23 November 1995 of Branch 170 of the Regional Trial Court of Malabon, Metro Manila, in Criminal Cases Nos. 14943-MN and 15506-MN convicting accused-appellants REGANDO P. VILLONES, EMERLITO N. SANTOS, and RUEL L. SANTOS of the crime of murder and sentencing the first two accused to suffer the penalty of reclusion perpetua and the third accused, to an indeterminate penalty of ten (10) years of prision mayor as minimum to seventeen (17) years of reclusion temporal as maximum; and ordering all accused-appellants to pay the heirs of the victim GERARDO LONGASA P50,000 as death indemnity and P8,500 as actual damages.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, Vitug, Panganiban and Quisumbing JJ., concur.

[1] His surname is alternately spelled Villones and Villonez in the various issuances by the lower court and the transcripts of stenographic notes but Villonez in the Information in Criminal Case No. 14943-MN (Original Record [OR], Criminal Case No. 14943-MN, 1) and the Joint Decision (id., 331-341). However, he signed his name as R. Billones in his motion for reinvestigation (id., 7-8) and notice of appeal (id., 347).

[2] He is referred to as Ruel in all the pleadings; however, in his certificate of live birth (id., 117), his first name is spelled Rowell.

[3] OR, Criminal Case No. 14943-MN, 331-341, Rollo, 21-31. Per Judge Benjamin T. Antonio. Henceforth, all references to the original record are to that in Criminal Case No. 14943-MN, unless otherwise specified.

[4] Id., 1.

[5] OR, 25.

[6] Id., Criminal Case No. 15506, 1.

[7] Or, 7.

[8] Id., 16.

[9] Witnesses for the defense, however, stated that Dede Santos was the alias of Fernando Santos (TSN, 18 July 1995, 3; TSN, 1 August 1995, 4).

[10] TSN, 8 November 1994, 2-13; TSN, 10 November 1994, 2-5, 9-15.

[11] Id., 5-17.

[12] OR, 70.

[13] TSN, 24 November 1994, 5-12.

[14] Id., 12-13.

[15] TSN, 6 February 1995, 2-15.

[16] TSN, 9 February 1995, 2-7.

[17] TSN, 13 February 1995, 3-15.

[18] TSN, 18 July 1995, 2-10.

[19] TSN, 1 August 1995, 2-5.

[20] Supra note 3.

[21] OR, 346, 347.

[22] Citing *People v. Ilaoa*, 233 SCRA 231 [1994].

[23] Citing *People v. Ompad*, 233 SCRA 62 [1994].

[24] Citing *People v. Silong*, 232 SCRA 487 [1994].

[25] *People v. Leoterio*, 264 SCRA 608, 617 [1996]; *People v. Balamban*, 264 SCRA 619, 629 [1996].

[26] See Sec. 20, par. 2, Rule 130, Rules of Court.

[27] *People v. Ong Co*, 245 SCRA 733, 742-743 [1995]; *People v. Bayani*, 262 SCRA 660, 680 [1996].

[28] *People v. Alshaika*, 261 SCRA 637, 646 [1996]; *People v. De Guzman*, 265 SCRA 228, 245 [1996].

[29] *People v. Quijada*, 259 SCRA 191, 214 [1996]; *People v. Balamban*, supra note 25, at 631.

[30] *People v. Sequiño*, 264 SCRA 79, 101-102 [1996]; *People v. Tabag*, 268 SCRA 115, 127 [1997].

[31] *People v. Landicho*, 258 SCRA 1, 28 [1996]; *People vs. Tobias*, 267 SCRA 229, 255-256 [1997].

[32] *People v. De Leon*, 248 SCRA 609, 624 [1995]; *People v. Landicho*, supra note 31, at 29.

[33] Art. 63, par. 2, Revised Penal Code.

[34] Art. 61, par. 2, Revised Penal Code.

[35] Art. 64, par. 1, Revised Penal Code.

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