

FIRST DIVISION

[G.R. No. 181204, November 28, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGAR
CONCILLADO, APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

When an accused admits the commission of the crime but claims the justifying circumstance of self-defense, the burden of proof is shifted to him. When the accused miserably fails to discharge his burden, he does not deserve an acquittal. His conviction must be sustained, as in the instant case.

Factual Antecedents:

In the early morning of August 24, 2002, Diosdado Pido (Diosdado) was shot, stabbed and hacked in Barangay Guinciaman, San Miguel, Leyte. Having sustained a total of 26 wounds, he instantly succumbed to death. Blamed for his untimely demise were Edgar Concillado (Edgar), Erlito Concillado (Erlito) and Dolores Concillado (Dolores). Thus, on November 5, 2002, an Information^[1] was filed charging them with murder. The accusatory portion thereof reads:

That on or about the 24th day of August, 2002, in the Municipality of San Miguel, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, hack, stab and shoot one DIOSDADO PIDO with a homemade shotgun (surit) which the accused have provided themselves for the purpose, thereby inflicting upon the latter the following wounds, to wit:

1. Incised wound right side face extending from mid portion earlobe
Right to molar bone.

Length - 11.0 cm.
Depth - 2.5 cm.

Fracturing molar bone, Right.

2. Incised wound Left Shoulder joint

Length - 2.0 cm.
Depth - 1.0 cm.

3. Incised wound left upper arm, antero lateral aspect, 5.0 cm. below axilla Left.

Length - 1.5 cm.

Depth - 0.1 cm.

4. Incised wound left forearm posterior aspect upper third

Length - 10.0 cm.

Depth - 2.5 cm.

5. Incised wound 3.0 cm. below wound no. 4

Length - 2.0 cm.

Depth - 0.3 cm.

6. Stab wound left knuckle between 4th and 5th Carpal bone.

Length - 2.0 cm.

Depth - 2.5 cm.

7. Incised wound right upper arm anterior aspect 3.0 cm. above elbow joint.

Length - 5.0 cm.

Depth - 1.5 cm.

8. Incised wound right forearm postero lateral aspect 5.0 cm. below elbow joint

Length - 6.0 cm.

Depth - 0.1 cm.

9. Stab wound right hand below thumb and index finger

Length - 3.0 cm.

Depth - 3.5 cm.

10. Incised wound right chest anterior aspect at the level of the 4th rib

Length - 9.0 cm.

Depth - 2.0 cm. hitting 4th rib.

11. Incised wound left side chest 3.0 cm. below wound no. 10

Length - 6.5 cm.

Depth - 2.0 cm.

12. Linear abrasion between wounds no. 10 and 11

Length - 10.0 cm.

13. Incised wound 1.0 cm. above left nipple

Length - 3.0 cm.

Depth - 0.2 cm.

14. Incised wound 1 cm. below left nipple

Length - 1.5 cm.

Depth - 10 cm.

15. Stab wound 1.5 cm. below left nipple, directed slightly upward and to the center penetrating left ventricle of the heart.

Length - 0.2 cm.

Depth - 10 cm.

16. Stab wound abdomen left side, 2 cm. above navel portion of the small intestine 15 cm. protruding from the wound.

Length - 10.0 cm.

17. Stab wound right upper abdomen, 12 cm. from anterior midline at the level of the last rib.

Length - 5.0 cm. about 15 cm. of small intestine protruding from the wound.

18. Stab wound, 5 cm. lateral to wound no. 16

Length - 3.0 cm. directed toward the center of the body.

19. Gunshot wound left upper thigh, antero lateral aspect, four in number spaced in one (1) to 2 cm. apart (Oval shape wound) average diameter is 1 cm.

20. Oval shape wound, 5 cm. lateral to wound no. 18 (4 pellet recovered near wound no. 19 (exit wound)

21. Incised wound 3 cm. lateral to wound no. 19

Length - 2.5 cm.

Depth - 1.0 cm.

22. Incised wound left knee anterior lateral aspect Length - 3.5 cm.

Depth - 0.5 cm.

23. Incised wound near left scapula

Length - 3.0 cm.

Depth - 0.5 cm.

24. Stab wound, four (4) cm. below wound no. 23.

Length - 1.8 cm.

Depth - 2.5 cm. hitting scapular bone.

25. Stab wound thru and thru skin deep 5 cm. below wound no. 24
entrance wound

Length - 1.5 cm.

exit wound 1 cm. below.

Length - 1.0 cm.

26. Incised wound, five (5) cm. below no. 25

Length - 0.5 cm.

Depth - 0.1 cm.

which wounds caused the death of said Diosdado Pido.

CONTRARY TO LAW.

During their arraignment on January 6, 2003, all the accused pleaded "not guilty" to the charge.^[2] Pre-trial was thereafter set on January 9, 2003.^[3] After the pre-trial was declared terminated,^[4] trial on the merits immediately followed.

Version of the Prosecution

The prosecution first called to the witness stand Dr. Federico De Veyra, Jr. (Dr. De Veyra), the Municipal Health Officer of San Miguel, Leyte. However, his testimony was dispensed with^[5] after the defense admitted the authenticity and due execution^[6] of the Necropsy Report^[7] he issued.

Next to be called to the witness stand was Lorenzo Viñas (Lorenzo).^[8] He recalled that on August 23, 2002, he and the victim, Diosdado, went to *Barangay* Malaguinabut, San Miguel, Leyte, to attend the fiesta.^[9] At around 12:30 a.m. of August 24, 2002, they went home to *Barangay* Guinciaman^[10] aboard a motorcycle. Upon reaching *Barangay* Guinciaman, they parted ways. Shortly thereafter and from a distance of about 10 meters, Lorenzo saw Edgar shoot Diosdado using a "surit-surit" (homemade gun).^[11] When Diosdado fell to the ground, Edgar and Dolores approached the victim and simultaneously stabbed him using small *bolos* about 10 inches in length.^[12] Thereafter, Erlito joined the fray and delivered hacking blows on the victim using a long *bolo*.^[13] Edgar, Dolores and Erlito then left the crime scene, crossed the nearby river and proceeded to the rice fields.^[14]

After the malefactors have left, Lorenzo reported the incident to the *barangay tanod*^[15] who in turn informed the authorities.

Balbina Aureo (Balbina), the sister of the deceased,^[16] testified that in connection with the death of Diosdado, they incurred expenses amounting to P30,000.00 more or less.^[17] Thereafter, the prosecution formally offered its documentary exhibit and rested its case.^[18]

Version of the Defense

The defense likewise presented Dr. De Veyra as its first witness.^[19] He testified that on August 24, 2002 at around 3:30 a.m., Edgar was brought to his house for treatment.^[20] Edgar suffered three superficial^[21] incised wounds at his right chest, right collarbone and left forearm^[22] which could have been caused by a sharp bladed instrument.^[23]

The defense next presented PO2 Jessiefesto Alvaro Quintana (PO2 Quintana), who testified that on August 24, 2002, he was the desk officer of the PNP [Philippine National Police] Station in San Miguel, Leyte.^[24] As part of his duties, he recorded Entry No. 1461 dated August 24, 2002 found in page 208 of the police blotter to the effect that at about 1:10 a.m. of same day, Edgar voluntarily surrendered to the police station and admitted having killed Diosdado with the use of a long bolo.^[25] He also wrote that Edgar suffered stab wounds on his right breast and left arm.^[26] PO2 Quintana, however, could no longer recall the police officer to whom Edgar surrendered,^[27] or whether there were police officers who went to the crime scene.^[28]

The defense also presented SPO1 Leopoldo Lesiguez (SPO1 Lesiguez). He testified that on August 23, 2002 at around 11:00 p.m. he was on duty at the PNP Station, San Miguel, Leyte when Edgar arrived and informed him that he would voluntarily surrender.^[29] Without bothering to ask Edgar who his victim was, he endorsed Edgar to PO2 Quintana.^[30] When asked to clarify as to exactly when Edgar surrendered, he stated that the voluntary surrender happened on August 23, 2002 and not on August 24, 2002.^[31]

On the other hand, PO Ramil Amaga (PO Amaga), testified that he is a member of the PNP assigned in San Miguel, Leyte, particularly at the operative services.^[32] On August 23, 2002, he was tasked to maintain peace and order in *Barangay* Malaguinabut together with PO1 Calixto Viador.^[33] At around 12 midnight, they proceeded to *Barangay* Guinciaman upon receipt of a report about a killing incident.^[34] Upon reaching the crime scene, he saw the lifeless body of Diosdado lying on the ground.^[35] He also saw Lorenzo who informed him that he was already at his house when he heard a gunshot and Diosdado asking for help. However, he (Lorenzo) arrived late because his house is located about 30 meters more or less from the crime scene.^[36]

Manuel Solomon, the *Barangay* Captain of Guinciaman,^[37] testified that on August 24, 2002 at about 1:00 a.m., he was roused from his sleep^[38] by several persons who informed him about the killing of Diosdado. He immediately proceeded to the crime scene which is 200 meters more or less from his house.^[39] Upon reaching