

SECOND DIVISION

[G.R. No. 177775, October 10, 2008]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ISAIAS V. DIZON,
APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

By Decision of October 31, 2006^[1], the Court of Appeals affirmed *in toto* the January 10, 2005 decision of Branch 38 of the Regional Trial Court (RTC) of Maddela, Quirino, convicting Isaias Dizon (appellant) of Murder, the dispositive portion of which RTC decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding ISAIAS DIZON *GUILTY* beyond reasonable doubt of Murder for which he should suffer the penalty of *reclusion perpetua* and to pay the heirs of JETO SANTOS P75,000.00 as civil indemnity; P50,000.00 as moral damages; P14,000.00 as actual expenses; and P5,000.00 as temperate damages.

However, his preventive imprisonment shall be fully credited to him in the service of his sentence pursuant to Art. 29 of the Revised Penal Code, as amended.

SO ORDERED.

On December 25, 2001, the lifeless body of Jeto Santos (the victim) was found floating in a creek in Sangbay, Nagtipunan, Quirino. As eyewitness accounts pointed to Rodel Dizon (Rodel), herein appellant Isaias Dizon, and Virgilio Pascua (Pascua) as the last persons seen with the victim, the three were immediately arrested and charged before the Office of the Provincial Prosecutor.

By Resolution of January 29, 2002, the Provincial Prosecutor found probable cause to hale only appellant into court. Thus appellant was charged for Murder in an Information the accusatory portion of which reads:

That on or about 10:00 o'clock to 11:00 o' clock in the evening of December 24, 2001 in Sangbay, Nagtipunan, Quirino, Philippines and within the jurisdiction of this Honorable Court, the said accused with intent to kill and with treachery did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of JETO SANTOS by hitting thrice the latter in the head with the use of stones, thereby inflicting upon the latter mortal wounds which were the direct and immediate cause of his death thereafter.

CONTRARY TO LAW.

From the account of prosecution witness, Rodel, whose grandfather is a cousin of herein appellant, the following transpired:

In the evening of December 24, 2001, while he, Pascua and appellant were drinking at a *videoke* bar, the victim entered and started dancing along to the music. At around 10:00 o'clock he went outside to urinate at an elevated area, with no enclosure, illuminated by the lights from the bar and adjacent to the downward path towards a creek.

While urinating, he saw appellant and the victim exit from the bar and proceed towards the creek which was about 15-20 meters away from the bar. Upon reaching the stone-littered edge of the creek, appellant picked up a fist-sized stone with which he smashed the face of the victim who, as a result fell down. He thus rushed to the two and tried to pacify appellant. Unrestrained, appellant attempted to again hit the victim by picking up another stone, oblong in shape whose length was approximately that of a long coupon bond, but he (Rodel) was able to arrest the attempt and the stone fell on the ground. Appellant thereupon shoved him, picked up the same stone and succeeded in "dropping" it at the already sprawled victim. Realizing that he could no longer pacify appellant, he ran away and proceeded to his grandmother's house.

Appellant denied the charge. Admitting that he was at the bar with Rodel and Pascua before the incident, he claimed that he went home at around 8:45 in the evening at the behest of his wife Mary Jane.

Mary Jane corroborated appellant's testimony, adding that at around 11:00 in the evening, she noticed Rodel knocking on the door of her neighbor Romy Dizon, saying "*Uncle, uncle, please open up because I have killed*"; that when nobody responded, Rodel went to their (appellant's and Mary Jane's) house and pleaded "*Lola, lola, please open up because I have killed*"; and that when she opened the door, Rodel asked for money from her to which she obliged, but she did not ask who the victim was.

The trial court, as stated early on, convicted appellant by Decision of January 10, 2005.

In convicting appellant, the trial court credited, among other things, Rodel's positive identification of appellant absent a showing that he was actuated by an ill-motive to testify against his grandfather, herein appellant. And the trial court noted the testimony of Dr. Perla Olay as corroborative of Rodel's testimony that the victim was hit in the head.

In his Brief filed before the Court of Appeals, appellant faulted the trial court:

I

. . . in finding [him] guilty beyond reasonable doubt of the offense charged[; and]

II

. . . in appreciating the qualifying circumstance of treachery.