

FIRST DIVISION

[G.R. NO. 167492, March 22, 2007]

**JAIME M. DE GUZMAN, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

GARCIA, J.:

Assailed and sought to be set aside in this petition for review under Rule 45 of the Rules of Court is the Resolution^[1] dated 12 October 2004 of the Court of Appeals (CA), as reiterated in its Resolution^[2] of 17 February 2005, dismissing the petitioner's appeal in *CA-G.R. CR No. 28277* for failure to file his appellant's brief in connection with his appeal from an earlier decision of the Regional Trial Court (RTC) of Dagupan City, Branch 44, which found him guilty beyond reasonable doubt of the crime of Frustrated Homicide against the person of one Antonio De Vera.

Briefly, the material facts may be stated as follows:

On 6 February 2001, in the RTC of Dagupan City, an Information for Frustrated Homicide was filed against petitioner and three others identified only as John Doe, Peter Doe and Paul Doe, allegedly committed as follows:

That on or about the 27th day of June, 2000, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, JAIME "BINONG" DE GUZMAN, JOHN DOE, PETER DOE and PAUL DOE, being then armed with a deadly weapon, with intent to kill one ANTONIO DE VERA, confederating together, acting jointly and helping each other, did then and there, willfully, unlawfully and criminally, attack, assault and use personal violence upon the latter by stabbing and hitting him on vital parts of his body, the said accused having thus performed all the acts of execution which could have produced the crime of homicide as a consequence but which nevertheless did not produce it by reason of some causes independent of the will of the perpetrator, that is due to the timely and able medical attendance rendered to him, to the damage and prejudice of said ANTONIO DE VERA.

On arraignment, petitioner, as accused, entered a plea of "Not Guilty." Thereafter, trial ensued.

In a decision^[3] dated 19 May 2003, the trial court found the petitioner guilty beyond reasonable doubt of the crime charged and accordingly sentenced him, thus:

WHEREFORE, the Court finds accused Jaime "Binong" De Guzman GUILTY beyond reasonable doubt of the crime of Frustrated Homicide and pursuant to law, hereby sentences him to suffer an indeterminate penalty

of from Six (6) Years of Prison Correccional, as minimum, to Ten (10) Years of Prison Mayor in its medium period, as maximum, and to pay the costs.

The accused is ordered to pay P46,000.00 representing actual expenses incurred by the complainant.

SO ORDERED.

In time, petitioner filed a *Notice of Appeal* whereupon the records of the case were elevated to the CA.

In the CA, petitioner, as appellant, through the Public Attorney's Office (PAO), filed a *Motion for Extension of Time To File Appellant's Brief*,^[4] therein praying for an extension of sixty (60) days or until 22 August 2004 within which to file his appellant's brief. The motion was granted by the appellate court in its Resolution of 2 July 2004.

Unfortunately, no appellant's brief was filed by the petitioner within the extended 60-day period. Hence, in the herein assailed Resolution^[5] of 12 October 2004, the CA dismissed the appeal, thus:

Despite extension granted which expired on August 22, 2004, appellant failed to file brief.

WHEREFORE, premises considered, appeal is hereby **DISMISSED** pursuant to Section 8 Rule 124 of the Rules of Criminal Procedure.

SO ORDERED.

Upon receipt of the aforequoted dismissal resolution, petitioner, again through the PAO, filed a Motion for Reconsideration (With *Motion to Admit Attached Brief for the Accused-Appellant*^[6]) therein alleging, through counsel, that it was only "upon receipt of the resolution dismissing his appeal that counsel became aware of her inadvertence in failing to file the required brief within the extended period" and that the delay in filing the required appellant's brief was without any malicious intent to delay the disposition of the case, adding that the admission of the appellant's brief attached to the motion "will not cause any prejudice to public interest, but would promote and enhance the administration of justice."

In its next assailed Resolution^[7] of 17 February 2005, the CA denied the motion for reconsideration:

The Court has studied the PAO's explanations for non-filing of brief for the accused within the extended period prayed for by PAO and We find no cogent reason to revise, amend, and much less, reverse Our October 12, 2004 Resolution dismissing the appeal, for appellant's failure to file brief, pursuant to Sec. 8 Rule 124 of the Rules of Criminal Procedure.

WHEREFORE, premises considered, appellant's November 9, 2004 Motion for Reconsideration is hereby **DENIED** for lack of merit.