

THIRD DIVISION

[G.R. No. 172967, December 19, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHRISTOPHER AVILES, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

This is an appeal from the Decision^[1] of the Court of Appeals affirming with modification the Decision^[2] of the Regional Trial Court of Urdaneta City, Branch 46, convicting accused-appellant Christopher Aviles y Molina Alias "Topeng" (Aviles) of the crimes of murder and slight physical injuries.

Aviles was charged with the crimes of murder and frustrated murder in two separate Informations, allegedly committed as follows:

Criminal Case No. U-12011

x x x x

That on or about 7:30 o'clock in the evening of June 19, 2002 at Alexander St., Poblacion, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with a sharp bladed and pointed knife, with intent to kill, and treachery, did then and there willfully, unlawfully and feloniously attack, assault, and stab Danilo Arenas, inflicting upon him the following:

- Wound, hook-shaped 26.5 x 4cms., left thigh middle 3rd antero-medial aspect.
- Chopping wound 15 x 2.5 cm., left leg upper 3rd below knee.
- Wound semilunar 3 x 0.5 cm., right foot dorum.
- Hacking wound 3 cm. x 0.5 cm. left hand dorsum, near wrist.

resulting to "Irreversible shock due to arterial hemorrhage due to severe branch of femoral artery," which caused his death, to the damage and prejudice of his heirs.

CONTRARY To Art. 249, Revised Penal Code as amended by R.A. 7659.

Criminal Case No. U-12385

That on or about 7:30 o'clock in the evening of June 19, 2002 along Alexander Street, Poblacion, Urdaneta City, Pangasinan and within the

jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill and treachery, did then and there, willfully, unlawfully and feloniously stab and hit NOVELITO CONTAPAY y CALICA, inflicting upon him a stab wound in the left knee, the accused having thus commenced by overt act the commission of the crime of Murder but did not perform all the acts of execution which would have produced the felony by reason of some cause or accident other than accused[`s] spontaneous desistance, to the damage and prejudice of said Novelito Contapay y Calica.

CONTRARY to Article 248 in relation to Article 6 of the Revised Penal Code.^[3]

The evidence for the prosecution shows that on 19 June 2002 at around 7:30 p.m., Novelito Contapay (Contapay) was driving his passenger jeep along Alexander Street, Poblacion, Urdaneta City, at less than ten kilometers per hour due to heavy traffic in front of Magic Mall. His lone passenger, the deceased Danilo Arenas, was seated beside him. Arenas suddenly shouted *apaya*.^[4] Contapay turned his head and saw Christopher Aviles stabbing Arenas. Aviles' upper body was already inside the jeep with one foot on the running board. Contapay halted the jeep and tried to help Arenas by holding the hand of Aviles, but the latter stabbed Contapay on his left knee. Contapay pushed Aviles who ran away. Contapay alighted from the jeepney, but he was not able to chase Aviles because of his bleeding left knee. Contapay noticed that Arenas was already unconscious, and he brought the latter to the Urdaneta Sacred Heart Hospital.

SPO2 Asterio Dismaya, SPO2 Ernesto Contaoi, SPO1 Rodolfo Febreo, PO3 Dennis Torres and a certain SPO2 Cachuela investigated the stabbing incident. SPO2 Dismaya and his companions went to the Urdaneta Sacred Heart Hospital but they were not able to interview Danilo Arenas. A nurse informed SPO2 Dismaya that it was Novelito Contapay who brought Arenas to the hospital. SPO2 Dismaya interviewed Contapay who was still in the premises.

Thereafter, the policemen went to the scene of the incident. SPO2 Dismaya was able to talk to Rufina Calvero, a *balut* vendor, who told him that she noticed Aviles and the latter's half-brother, George Cresencia (Cresencia), pass by her going southwards. Rufina Calvero also told SPO2 Dismaya that her husband had a drinking spree with Aviles and Cresencia.

SPO2 Dismaya was also able to talk to Patricio Oliveros who informed him that Aviles created trouble at the parking lot for tricycles by chasing other tricycle drivers, but was pacified by Cresencia.

Meanwhile, Contapay, realizing the lack of doctors in Sacred Heart Hospital, proceeded to the Villasis Polymedic Hospital and Trauma Center to have his left knee treated. Contapay stayed in the hospital until the following day, incurring medical and hospital expenses.^[5] Arenas, however, died at 2:00 in the morning of 20 June 2002. The Certificate of Death stated that the immediate cause of death was cardio-respiratory arrest and the antecedent cause was hemorrhagic shock due to stab wound on the medial side of the thigh.

Also on 20 June 2002, SPO2 Dismaya and other policemen went to the residence of Aviles in Jungle Town, San Vicente, Urdaneta City, but did not find him there. Aviles' mother accompanied the policemen to the house of Aviles' father-in-law, where they finally saw Christopher Aviles. They invited Aviles to the police station in connection with the stabbing incident. Aviles denied participation in the stabbing incident and claimed that it was his half-brother, Cresencia, who stabbed Arenas.

Upon the request of Police Superintendent Jessie Lorenzo Cardona, Chief of Police of the Urdaneta City Police Station, City Health Physician of Urdaneta City, Dr. Ramon B. Gonzales, Jr. conducted an autopsy on the body of Arenas. The Autopsy Report^[6] reads:

SIGNIFICANT EXTERNAL FINDINGS:

- Plaster cast on left lower extremity.
Upon removing cast:
 - Sutured wound left thigh middle 3rd antero-medial aspect.
Upon opening sutured wound:
Wound hook-shaped 26.5 x 4 cm.
 - Sutured wound left leg upper 3rd below knee
Upon opening sutured wound:
Chopping wound 15 x 2.5 cm.
 - Sutured wound right leg middle 3rd anterior aspect.
Upon opening sutured wound:
 - Chopping wound 4 x 1 cm.
 - Sutured wound right foot, dorsum.
Upon opening sutured wound
 - Sutured wound semilunar 3 x 0.5 cm.
 - Sutured wound left hand dorsum, near wrist.
Upon opening sutured wound:
 - Hacking wound 3 cm. x 0.5 cm.

SIGNIFICANT INTERNAL FINDINGS:

Severed branch of femoral artery.

CAUSE OF DEATH:

Irreversible shock due to arterial hemorrhage due to severed branch of femoral artery.

During the trial, the father of Danilo Arenas, Victorio, testified that he and his wife, Lagremas, spent P52,524.00 for the treatment of Danilo Arenas at the Urdaneta Sacred Heart Hospital, P50,000.00 during the wake, and another P38,000.00 paid to the Enriquez Funeral Home. These amounts were supported by official receipts.

The widow of Danilo Arenas, Sophia, testified that her late husband was a businessman who used to earn around P9,000.00 a month. Besides Sophia, Danilo Arenas is survived by his three children: Mark Joseph (10 years old), Mary Jane (9 years old), and Jeremias (6 years old).

Accused-appellant Christopher Aviles, who testified that he was a shoe repairer and fish vendor, claimed that at around 5:00 p.m. on 19 June 2002, he, George Cresencia, Romeo Aquino, Maria Aquino and several other persons were drinking in front of the Magic Mall in Urdaneta City. He allegedly left the group to accompany someone to the municipal hall, after which, he returned to the place where the group was drinking. He then told Cresencia that he was going home, but the latter asked him to stay and continue drinking with them. After 30 minutes, he finally left in order to go home. While he was walking towards the public market near Rocca Theater, he saw Cresencia running towards him. Cresencia, who had blood stains on his t-shirt, told him that he (Cresencia) stabbed someone. Aviles revealed that he did not ask Cresencia who the victim was and proceeded on his way home. He did not tell his mother or his wife that Cresencia stabbed someone. The following day, on 20 June 2002, at 6:00 a.m., he was arrested and brought to the municipal hall.

Renton and Criselda Aviles, who are Christopher Aviles' brother and sister-in-law, testified that on 19 June 2002, Cresencia arrived drunk in their house at around 9 p.m., with blood stains on his shirt. Cresencia allegedly told them that he was involved in a fight and that he might have stabbed someone. Cresencia spent the night at their house and left the following morning.

On 21 July 2003, the trial court rendered a Joint Decision convicting Christopher Aviles of the crimes of murder and slight physical injuries, thus:

WHEREFORE, premises considered, the court finds accused CHRISTOPHER AVILES Y MOLINA ALIAS "TOPENG" –

1. CRIMINAL CASE NO. U-12011:

GUILTY beyond reasonable doubt of the crime of MURDER and, there being no mitigating or aggravating circumstance, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA; and is hereby ordered to indemnify the heirs of the victim of Danilo Arenas in the amount of FIFTY THOUSAND PESOS (P50,000.00), to pay funeral expenses of Thirty Eight Thousand Pesos (P38,000.00), to pay medical expenses of Fifty Two Thousand Five Hundred Twenty Four Pesos (P52,524.00), to pay P50,000.00 by way of moral and exemplary damages, all without subsidiary imprisonment;

2. CRIMINAL CASE NO. U-12385:

GUILTY beyond reasonable doubt of the crime of SLIGHT PHYSICAL INJURIES and is hereby sentenced to suffer imprisonment of thirty (30) days of Arresto Menor, and is hereby ordered to pay medical expenses of Six Thousand Eight Hundred Ninety Eight Pesos (P6,898.00);

and to pay the costs.

The accused shall be credited in full with the period of his preventive imprisonment in the service of his sentence.^[7]

Aviles appealed to this Court. Conformably with this Court's ruling in *People v. Mateo*,^[8] we resolved^[9] to transfer the appeal to the Court of Appeals.