

SECOND DIVISION

[G.R. No. 133737, January 13, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JONATHAN DIAZ, ACCUSED-APPELLANT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

On appeal is the Decision dated March 6, 1998^[1] of the Regional Trial Court of Zamboanga City (Branch 13) finding Jonathan Diaz guilty of murder and sentencing him to suffer the penalty of *reclusion perpetua* and to pay to the heirs of Christie Joy Torres, civil indemnity for her death, actual damages, moral damages and costs.

The Amended Information, filed on August 26, 1996, accuses Jonathan Diaz of the crime of MURDER committed as follows:

"That on or about October 14, 1995, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, in disregard of the respect due the offended party on account of her sex, by means of treachery and evident premeditation and abuse of superior strength, and with intent to kill, did then and there wilfully, unlawfully and feloniously, assault, attack and stab the person of CHRISTINE JOY TORRES y TO, with the use of said weapon that he was then armed with, thereby inflicting upon the latter's person multiple stabbed (sic) wounds which directly caused her death, to the damage and prejudice of the heirs of said victim.

"CONTRARY TO LAW."^[2]

Upon arraignment, accused Jonathan Diaz pleaded not guilty to the crime charged. ^[3] Trial ensued and the prosecution presented a total of eighteen witnesses, namely: Doctors, Henry G. Cawley and Concepcion T. Fabian; security guard Lorna A. Natividad; students, Deborah M. Comille and Maria Coleen Lincoln; faculty members Servando Halili, Jr., Evelyn Garcia, and Jocelyn Partosa; members of the staff of the Dean of Student Affairs, Arlando Escultor and Ceferina Gonzales; janitor Isidro Francisco; policemen, SPO4 Elmer Acuna and SPO2 Salvador Arcillas; parents of the victim, Pilar and Rodolfo Torres; Director of the Office of the Student Affairs, Francis Jay Llenado; and school nurses, Arnold Toribio and Nieves Taguinod. On rebuttal, the prosecution presented Police Inspector Francisco Carpio de los Reyes, the victim's father, Rodolfo Torres and NBI Special Investigator Pablo Acosta, Jr.

Summarizing the testimonies presented by the prosecution, the court *a quo* narrated the following facts:

"xxx At about 11 o'clock that morning,^[4] three (3) friends by the names of Deborah Comille, Maria Coleen Lincoln and Janet Nalzaro met outside the school library and they all agreed to go to the faculty room located at the second floor of the college building, Gonzaga wing. From the premises of the school library, they proceeded to the college building passing, the backstairs near the backfield of the campus, then ascended the two flights of stairs to the second floor of the college building, Gonzaga wing. Upon reaching the second floor on the alley leading to the men's comfort room, and as they were about to turn right to the corridor leading to the faculty room, they heard a scream of a woman. At first, they thought it came from the backfield and they tried to verify, but when they heard another scream and struggling coming from inside the men's comfort room, Janet Nalzaro and Maria Coleen Lincoln wanted to enter the men's comfort room but Deborah reminded them that it was a men's comfort room and also commented that it might only be a lover's quarrel.

"Determined to do something, Janet Nalzaro tried to attract the attention of the male teacher who was having a class in Room C-25, which is just adjacent to the men's comfort room, but apparently she was not noticed, so Deborah Comille decided to call for help at the faculty room, leaving both Janet Nalzaro and Maria Coleen Lincoln standing in front of the men's comfort room. At the faculty room, Deborah Comille informed Miss Evelyn Garcia, a faculty member, of what she and her friends heard coming from the men's comfort room and Miss Evelyn Garcia went to the men's comfort room but hesitated in entering it, so leaving the three friends standing in front of the men's comfort room, Miss Evelyn Garcia returned to the faculty room and sought assistance from a male faculty member by the name of Servando Halili, who immediately responded by proceeding to the men's comfort room followed behind by some others in the faculty room who heard the pleas for help by Miss Evelyn Garcia. Upon entering the place, Servando Halili first checked the urinals and found no person there, then he went to Cubicle No. 1, but also saw that it was empty, but upon reaching Cubicle No. 2, and as he was going to cubicle no. 3, he saw the back of a big male person wearing white T-shirt and maong pants inside the said cubicle and immediately the door of Cubicle No. 2 was slammed shut.

"At this point, Servando Halili decided to seek the help of higher authorities, so he went outside the comfort room and asked Miss Evelyn Garcia to go downstairs to the office of Assistant Dean Aldrin Hitalia located at the ground floor. Complying, Miss Evelyn Garcia descended using the back stairs and in the meantime, Servando Halili posted himself on the corridor about four or five meters from the door of the men's comfort room, while Janet Nalzaro, Maria Coleen Lincoln, Deborah Comille, Shalimar Alih and Jocelyn Partosa stood nearby also at the corridor at varying distances in front of the door of the men's comfort room. Moments later, Servando Halili was called by Miss Evelyn Garcia who was at the back stairs, which prompted Servando Halili to look down at the stairs towards Miss Evelyn Garcia and the latter told the former that Dean Hitalia was not in her office. Thereupon, Servando Halili turned towards the men's comfort room and it was at this moment that a tall

man with broad shoulders wearing white T-shirt and maong pants emerged from the men's comfort room wiping his face with a piece of cloth and was carrying a bag. Deborah Comille who was standing in front of the comfort room also saw the man as the man came out of the men's comfort room. Comille said the man was bringing a towel which he used to wipe his face, however, she saw the whole face of the man and she recognized the man as a classmate in the second semester of school year 1993-1994, and whom she identified later as JONATHAN DIAZ. Coleen Lincoln was also standing on the corridor fronting the men's comfort room and saw a tall and stout man carrying a knapsack and covering his face with a piece of cloth come out of the men's comfort room. Jocelyn Partosa was also one of those who stood about four meters, according to her, from the door of the same men's comfort room and she saw a big and tall man come out of it wearing a white T-shirt and a faded maong pants and who was covering half his face with a piece of cloth.

"After emerging from the men's comfort room, this tall and big man hurriedly proceeded along the corridor towards the back stairs and while passing Servando Halili, this man uttered the following words, "Papatayin kita". Then the same man rushed down the back stairs of the college building and in so doing, met Miss Evelyn Garcia who was still at the back stairs. Miss Evelyn Garcia said that upon seeing the man rushing down, she was rooted on the spot but she stared at the man, although she was scared and noted that the man looked familiar to her, having previously seen him in the campus of the Ateneo de Zamboanga. She also noticed that the tall and big man was wearing a white T-shirt and was carrying a bag and a towel. She further noticed that the man was sweating and she also saw a red spot at the left chest of the man's T-shirt. After the man was gone, all those who were in the vicinity of the men's comfort room entered it, to verify, and they found a young girl, who was later on identified as CHRISTIE JOY TORRES, lying unconscious inside Cubicle No. 2 of the men's comfort room, the same cubicle where earlier Servando Halili saw the back of a tall and big man before its door was slammed shut.

"Upon the discovery of the unconscious girl in the men's comfort room, a school employee by the name of Arlando Escultor who was earlier instructed by his superior, Francis Llenado, the Director of Student Affairs of the Ateneo de Zamboanga, to verify the commotion at the men's comfort room located at the second floor of the college building, Gonzaga wing, arrived at the scene and with the help of others who were present, carried the unconscious form of CHRISTIE JOY TORRES to the school infirmary where the latter was administered first aid treatment by the school nurse. As the unconscious CHRISTIE JOY TORRES was being carried outside the men's comfort room, Ceferina Gonzales, a secretary of the Arts and Sciences Office, who was earlier drawn to the scene recognized CHRISTIE JOY TORRES as the girl she saw talking to a tall and big man clad in white T-shirt and maong pants, on the corridor facing the back field in front of the men's comfort room at about 10 o'clock that morning, when (sic) she came from taking her snacks. Later, the unconscious CHRISTIE JOY TORRES was brought to the Zamboanga Doctor's Hospital on board a school vehicle, however, she was declared

DOA (Dead on Arrival) by Dr. Concepcion Fabian, the attending physician who discovered that CHRISTIE JOY TORRES succumbed to several injuries including multiple stabbed (sic) wounds in the vital parts of her body. These injuries were subsequently verified by Dr. Henry Cawley, the medico-legal officer of the National Bureau of Investigation, Regional Office, Zamboanga City, when he conducted a post-mortem examination of the cadaver of CHRISTIE JOY TORRES in the afternoon of the same day of the incident, at the La Merced Funeral Homes, where the deceased victim was brought.

"In the meantime, after Christie Joy Torres was brought to the Zamboanga Doctor's Hospital and was declared dead on arrival, an emergency meeting was held in the Office of the Dean in the Ateneo De "Zamboanga, attended by heads of offices of the school, security guards and all possible witnesses. Pictures of students and those who previously enrolled as students in the school were produced from the Office of the School Registrar and the Office of the Dean of Student Affairs and were shown to all those who were in the meeting, particularly, to Deborah Comille, Maria Coleen Lincoln and Janet Nalzar and accordingly, it was Deborah Comille who was the first one to identify the accused Jonathan Diaz through his picture.

"Earlier, it was established by the prosecution's evidence that the accused JONATHAN DIAZ entered the Ateneo de Zamboanga school campus through Gate II at 9:20 in the morning of October 14, 1995. This was testified to by Lorna Natividad, a 33 year old security guard of the Black Arrow Security Agency, Zamboanga City, assigned at the Ateneo de Zamboanga, who declared that while she and her fellow security guard by the name of Alfredo Beliganio were manning Gate II of the Ateneo de Zamboanga in the morning of October 14, 1995, the accused JONATHAN DIAZ whom she knows as Jay Diaz since the latter was a former student of the school, arrived at Gate II and wanted to enter the campus. xxx

"It was also established by the prosecution, through the testimony of Isidro Francisco, a janitor of the Ateneo de Zamboanga that at 10 o'clock in the morning of October 14, 1995, the accused JONATHAN DIAZ was standing at the ground floor of the college building, near the faculty men's comfort room and that Isidro Francisco and the accused had a conversation at said place. Furthermore, established by the testimony of prosecution witness Arnold Toribio that moments after 10:50 in the morning of October 14, 1995, after he was through attending to his last patient in the school infirmary where he works as a school nurse of the Ateneo de Zamboanga, he met the accused JONATHAN DIAZ who was going to the front of the gymnasium while he was on his way to take his snacks at the back canteen behind the school gymnasium. They were only a few meters apart when they passed each other and he even nodded to the accused JONATHAN DIAZ, whom he knows as they were school mates in the grade school as well as in the high school in the Ateneo de Zamboanga. Arnold Toribio said he noticed that the accused JONATHAN DIAZ was wearing a white T-shirt and that there was something clinging on his left shoulder and also saw perspiration on his head. According to Arnold Toribio, he is sure of the time he left the school

infirmary because he looked at the clock before leaving to take his snacks.^[5]

The defense, on the other hand, presented the testimonies of Dr. Rodolfo Valmoria, Dr. Indah Taas Alpa, Sergio Jose Andante Dayrit, Gloria Diaz, Editha Aquino, Jose Neil Nave, Robin Almazan and the accused himself.

Dr. Valmoria, Medico-Legal Officer of the PNP Crime Laboratory Zamboanga City, testified that considering the wounds in the scapular region as well as the contusions in the neck, it is doubtful if the victim could have still talked or made any sound, contrary to the testimonies of the three (3) female students who allegedly heard screams from the men's comfort room.^[6]

Dr. Alpa, an expert in psychiatry testified that it is understandable if the accused had the "tendency to escape and isolate himself" because there were people trying to arrest him. ^[7]

Sergio Dayrit, brother-in-law of the accused, testified that he saw the accused in the premises of Ateneo de Zamboanga in the morning of October 14, 1995 at around 10:35 in the morning; that after chatting with the accused for 5 to 10 minutes at the bench near Gate II of the school, they parted ways.^[8]

Editha Aquino, a former student of Ateneo de Zamboanga, narrated that in the morning of October 14, 1995, while waiting for a friend at the sidewalk near an electric post outside the campus and before boarding a tricycle, she saw the accused pass by; that the accused was wearing light gray shirt and cream denim pants that day.^[9]

Gloria Diaz, mother of the accused, testified that her son had no previous record of breaking the law whether in school or outside.^[10]

Neil Nave, a friend and former classmate of the accused, testified that: around 9:30 in the morning, while waiting at a bench in front of the school chapel, accused arrived and they talked for a while;^[11] afterwards, accused asked him to accompany him in looking for his brother-in-law at the back part of the college building; after about seven minutes, they saw the brother-in-law of accused then they parted ways; at around 10:30 or 10:35 in the morning, he saw accused call his attention by waving at him, reminding him of the birthday party of the father of accused that afternoon; he saw accused, wearing a light gray shirt, walk out through Gate I.^[12]

Accused narrated in detail on the witness stand his whereabouts on October 14, 1995 and the subsequent days leading to his arrest. He testified that: around 8:30 in the morning of October 14, 1995, he left his parents' house in Guiwan, Zamboanga City and went to Ateneo de Zamboanga to look for his brother-in-law; his wife had asked him to tell her brother that she will be arriving that day from Isabela, Basilan and she wanted her brother to fetch her from the wharf;^[13] at the Ateneo de Zamboanga, he entered the campus using Gate II; the security guards at the gate did not question him or make him write his name in any logbook as they already knew him; he proceeded along the passageway and saw his friend, Jose Neil