

FIRST DIVISION

[G.R. No. 126287, April 16, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ORLANDO HERRERA DE LEON, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

The case is an appeal from the decision^[1] of the Regional Trial Court, Makati, Branch 136, convicting Orlando Herrera de Leon of murder, and sentencing him to *reclusion perpetua* and to indemnify the heirs of the victim, Michael Oris, in the amount of P50,000.00 as moral damages.

On May 2, 1988, Assistant Fiscal Leodegario C. Quilatan of Rizal filed with the Regional Trial Court, Makati an Information charging Orlando Herrera de Leon with homicide, committed as follows:

"That on or about the 28th day of April, 1988, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, without justifiable motive, did then and there willfully, unlawfully and feloniously shoot with a gun one Michael Oris, thereby inflicting upon the latter serious and mortal shot wounds which directly caused his death.

"CONTRARY TO LAW."^[2]

After re-investigation, however, on March 27, 1989, the prosecution withdrew the Information for homicide and filed an amended Information charging accused Orlando de Leon with murder, committed as follows:

"That on or about the 28th day of April, 1988, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, with intent to kill, by means of treachery with evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shoot with the said gun one Michael Oris y Rodriguez, thereby inflicting upon him serious and mortal gunshot wounds which directly caused the death of said Michael Oris y Rodriguez.

"CONTRARY TO LAW."^[3]

On September 19, 1989, upon arraignment, accused de Leon pleaded not guilty.^[4] Trial ensued.

On April 28, 1988, at 11:00 p.m., Arthur Alfahora, Deo Vergara, Gilbert Castro, Jess Hernandez, Archie Beticon and Michael Oris were walking along the ricefield near Don Jose Greencourt St., Gatchalian Subdivision, Parañaque, Metro Manila.^[5] Suddenly, they heard gunshots fired in their direction. The shots originated approximately 60 meters from them. Arthur Alfahora saw accused de Leon standing outside the perimeter fence of the house of the mayor. Through the light of an electric post, Arthur saw accused de Leon, in white shirt and maong pants, firing at them.^[6] Archie Beticon, in the moonlit night, saw accused de Leon holding a long firearm pointed at them.^[7] Frightened, the boys started running away from the gunfire but Michael Oris, who was a little overweight, lagged behind the group. Moments later, Michael was hit. He fell to the ground. He cried out to his companions to help him but the other boys continued running and left the scene. Later, the other boys returned with Michael's father and they brought the injured Michael to the Olivares Hospital at Sucat Road. A few days later, Michael died.

Dr. Danilo Gajardo of the PC Crime Laboratory conducted an autopsy on the cadaver of the deceased Michael Oris, and concluded that the deceased sustained two gunshot wounds and three abrasions.^[8] He opined that the deceased was shot from behind, based on the point of entry and direction of the bullets.^[9] The two gunshot wounds were fatal because vital organs were lacerated. He did not find the point of exit of the bullets, and the slugs were not recovered.

Rodolfo Oris, father of the deceased, testified that he brought his son to the hospital and incurred expenses for the medical treatment given to Michael.^[10] Michael was confined for three days but died nonetheless. Michael was buried at the Manila Memorial Park, with expenses that were duly receipted. Rodolfo Oris presented receipts with amounts as follows: P30,483.00 for the hospital expenses, P8,500.00 for the funeral and P3,190.00 for the burial.^[11] He stated that the entire family was shocked at the unexpected death of his son.

Accused Orlando de Leon denied committing the crime and invoked *alibi*.^[12] He stated that he was a member of the Civil Security Unit of the Parañaque Municipal Government since 1986 to guard the Municipal Hall and the house of Municipal Mayor Wilfrido Ferrer, located at Don Jose Greencourt Road, near the Gatchalian Subdivision. When he guarded the house of the mayor, his shift started at 3:00 in the afternoon until 11:00 in the evening. He had two other companions in the shift: Rey de Leon and another one whose name he could not remember.

On April 28, 1988, he was relieved at 10:50 in the evening by policeman Teddy Papa and two other members of his security unit whose names he could not recall. After his shift, accused de Leon claimed that he walked with Rey de Leon five hundred (500) meters to the corner of Don Arcadio Santos Avenue and Gatchalian Avenue. Then, both of them took a passenger jeepney. Accused de Leon alighted at the corner of Sto. Nino and Aquino Avenue, while Rey de Leon continued his ride. Thereafter, accused de Leon took a tricycle to his residence at Col. de Leon St., Sto. Niño. He reached his house at 11:15 that night. His wife and his children were not

at home. He slept that night up to 10:00 in the morning of the next day.

Accused-appellant denied shooting the victim with a long firearm. As a member of the security unit, he carried only a *batuta* made of *yantok*. He denied knowing Michael Oris, but claimed that he knew Michael's father, Rudy Oris. He never had any misunderstanding with Rudy Oris or any of the latter's family members.

Reynaldo de Leon, a rebuttal witness, alleged that he knew accused Orlando de Leon because they were both security personnel detailed to guard the house of Mayor Wilfrido Ferrer. On April 28, 1988, his shift was from 7 in the morning till 3 in the afternoon. He carried a firearm, an M16, which he turned over to the reliever or to the next guard. He denied accused de Leon's testimony that they left their place of work together on the evening of April 28, 1988. He also denied riding in the same jeepney with accused de Leon that day.^[13] Teddy Papa, a policeman, also testified that he knew accused de Leon because he was also part of the civil security assigned to guard the house of the mayor. His shift lasted from 11 in the evening until 7 in the morning. On April 28, 1988, he saw accused de Leon before 11:00 in the evening armed with an M16 rifle at the barracks located behind the house of the mayor.^[14] On January 31, 1996, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, and in consideration of all the foregoing, the Court finds the accused, Orlando de Leon, GUILTY beyond reasonable doubt of the crime of Murder, and it hereby sentences him to suffer an imprisonment of Reclusion Perpetua, and to pay the heirs of the victim, Michael Oris, the amount of P50,000.00 by way of moral damages, without any subsidiary imprisonment in case of insolvency.

"SO ORDERED.

"Makati City, January 31, 1996.

"(Sgd.)

"JOSE R. BAUTISTA

"Presiding Judge"^[15]

Hence, this appeal.^[16] Accused-appellant alleges that the trial court, in convicting him of murder, merely considered the weakness of his defense rather than the strength of the prosecution evidence.

We disagree. The trial court cited the testimony of the eyewitnesses to the crime as well as rebuttal witnesses who established accused-appellant's presence at the scene of the crime. Two eyewitnesses saw accused-appellant holding a long firearm and shooting at them. Aside from the Meralco electric light post that provided adequate lighting that night, there was moonlight illuminating the area where accused-appellant stood, allowing the eyewitnesses to see his face. The two boys even noticed what the accused-appellant wore on the night in question, which statements were not disputed by the defense. The natural reaction of victims of criminal violence is to strive to notice the appearance of their assailants and observe