

SECOND DIVISION

[G.R. No. 128127, October 23, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SERGIO BRIONES Y SILAPAN, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

On appeal is the decision^[1] dated August 16, 1996, of the Regional Trial Court of Bambang, Nueva Vizcaya, Branch 30, finding appellant guilty beyond reasonable doubt of the crime of murder and sentenced him to *reclusion perpetua*. The dispositive portion of the decision reads:

"WHEREFORE, finding the accused, Sergio Briones y Silapan @ Soreto, guilty beyond reasonable doubt of the crime of Murder, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the heirs of the victim, the amount of P42,000.00 as death indemnity, P10,000.00 for actual expenses, P50,000.00 as moral damages.

The accused having voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted persons during his preventive imprisonment, the same shall be credited in the service of his sentence.

The Provincial Warden is likewise directed to cause the immediate transfer of the accused from the Provincial Jail to the National Penitentiary.

SO ORDERED." ^[2]

Acting Second Assistant Provincial Fiscal of Bayombong, Nueva Vizcaya, Albert G. Castillo, had charged appellant in an Information that reads:

"That on or about 7:30 o'clock in the night of May 27, 1983, at Barangay Comon, Municipality of Aritao, Province of Nueva Vizcaya, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Sergio Briones y Silapan @ Loreto, who was then armed with a sharp-bladed weapon, did then and there wilfully, unlawfully and feloniously, by means of treachery, with abuse of confidence or obvious ungratefulness and with evident premeditation, with intent to kill, attack, assault and use personal violence upon the person of Eduardo Briones y Collado, by then and there hitting, stabbing and hacking him on different parts of his body, thereby inflicting upon him fatal stab wounds which were the direct and immediate cause of his death thereafter.

CONTRARY TO LAW. "^[3]

On December 11, 1984, appellant was arraigned. He pleaded not guilty.

During trial, prosecution presented two eyewitnesses, the spouses Clemente and Aurelia Agne, the owners of the house where the incident happened; Loida Briones, the widow of Eduardo who testified on the civil aspect of the case; Dr. Pepito Bulgos, the medico legal officer, who testified on the cause of Eduardo's death; and Timoteo Aleman,^[4] the police officer who conducted the investigation of accused-appellant.

The defense presented its lone witness, the appellant who admitted hacking the victim but invoked self-defense.

Eyewitness Clemente Agne testified that appellant Sergio Briones is an uncle of the victim. On May 27, 1983, at around 6:00 o'clock p.m., Clemente was in his house with his wife and children, when appellant arrived. Sergio and Clemente drank a bottle of gin. Afterwards, Eduardo, their nephew, joined them. In the course of their conversation, Sergio mentioned that he hated Sonny, brother of Eduardo.^[5] Eduardo made a comment which angered Sergio who accused Eduardo of disrespect towards elders. Eduardo sat in silence, while Sergio fuming mad, threatened to box Eduardo. Sergio left for home which was twenty meters from Clemente's house. The Agne family started to eat dinner. Eduardo did not join them but remained seated on a chair near the open door, with left leg raised, his left side towards the door while facing the Agne family at a distance of 2 1/2 meters. While eating, Clemente heard a sound, glanced sideways to the door and saw Sergio pulling out a bolo from Eduardo's abdomen. Thereafter, at the blink of an eye, Sergio hacked Eduardo on the left portion of his head with the bolo. Sergio ran away, while Eduardo went to the house of councilman Bernardo Briones, another uncle, for succor. Eduardo did not survive the fatal blows.^[6]

Aurelia Briones Agne, wife of Clemente and younger sister of appellant, as well as the aunt of the victim, corroborated Clemente's testimony on all material points. She added that while they were dining, she suddenly heard a sound like "tsuk tsuk" coming from where Eduardo was. Upon looking at Eduardo, she screamed when she saw Sergio with a bolo hacking Eduardo who was still sitted with his left leg raised. She saw Eduardo hit on his abdomen and on the left of his head. Immediately, Sergio and Eduardo ran away.^[7]

Loida Briones testified that her husband died on May 27,1983 due to wounds caused by stabbing and hacking; that the death caused untoward reverses in all aspects of her life, particularly, physical and psychological; that she incurred expenses for the wake and interment of her husband in the amount of P8,548.00; that her husband was 24 years old at the time of his death; that he was an operator of a ricemill and was receiving a salary, on a commission basis, of P250.00 a month; and that to supplement his income, her husband engaged in poultry and hog raising.^[8]

Medico-legal officer, Dr. Pepito D. Balgos, testified that he conducted the autopsy on the victim Eduardo Briones on May 28, 1983. He testified that Eduardo sustained a two-inch incised wound on the abdomen and a one-inch linear fracture on the left temporal bone of the victim. Eduardo died due to internal hemorrhage caused by the stab wound on the abdomen injuring the inferior *vena cava*.^[9]

Police Officer Timoteo Aleman testified that he conducted the investigation on the incident and that appellant surrendered a bolo around 19 inches long with a black handle, which appellant identified as the bolo he used in killing Eduardo. He said

appellant first surrendered himself with the bolo to the Chief of Police, who in turn, brought him and the bolo to the police station.^[10]

The defense's evidence consisted of the testimony of its lone witness, the appellant, who interposed self-defense.

Appellant testified that on May 27, 1983, at around 6:30 o'clock in the evening, he was at the house of his brother-in-law, Clemente Agne, drinking a bottle of San Miguel gin with Clemente and two (2) neighbors, Pedro and Pablo Villanueva. At 7:00 o'clock, his nephew, Eduardo Briones arrived and joined them. Afterwards, appellant said, Eduardo sat down and challenged him (Sergio) to a fight for no reason at all. When he was about to leave, he said Eduardo met him, tried to grab the bolo from his possession and attempted to attack him. Clemente, Pedro and Pablo tried to pacify Eduardo but the latter did not heed them. It was while Eduardo was attacking him that, appellant said, he hacked him. Sergio then ran away towards their house. When he learned that people brought Eduardo to the hospital, appellant surrendered himself to the Station Commander of the PNP of Aritao, Nueva Vizcaya. Appellant felt some remorse and later on, offered an amicable settlement with the family of the victim. He gave P8,000.00 as downpayment, but the settlement did not materialize. He remembered giving his statement at the police station but claimed that the investigator did not inform him of his constitutional rights.

As earlier stated, the trial court found Sergio Briones guilty beyond reasonable doubt of the crime of murder and sentenced him to suffer the penalty of *reclusion perpetua*.

Appellant now raises the following errors of the trial court:

I

... IN NOT GIVING EXCULPATORY WEIGHT TO THE THEORY OF SELF-DEFENSE INTERPOSED BY THE ACCUSED APPELLANT.

II

... IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY DESPITE FAILURE OF THE PROSECUTION TO PROVE ITS ATTENDANCE.

III

... IN CONVICTING ACCUSED APPELLANT OF MURDER INSTEAD OF HOMICIDE.

In his brief, appellant contends that he was able to prove by clear and convincing evidence that he acted in self-defense. All the elements of self-defense were present, according to him. There was unlawful aggression when the victim challenged him and tried to grab the bolo from him. He employed reasonable means in repelling the attack considering that the victim tried to grab the bolo and continued to attack him, even though he already moved backward. There was no sufficient provocation on his part as it was the victim who challenged him. Appellant also argues that there was no treachery because a quarrel or heated argument preceded the hacking and stabbing incident.