

FIRST DIVISION

[G.R. No. 119307, August 20, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENANTE SISON ALIAS "DANTE", ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

This is an appeal by Renante Sison alias Dante from the Decision of Branch 44 of the Regional Trial Court of Dagupan City, First Judicial Region convicting him of the crime of murder.^[1]

The Information against the accused and Jessie Sison reads:

"That on or about midnight of May 21, 1993, at Barangay Maticmatic, Municipality of Sta. Barbara, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, acting in conspiracy and taking advantage of darkness, armed with a bladed weapon with intent to kill, evident premeditation and abuse of superior strength, did then and there willfully, unlawfully and feloniously stab EDWIN A. ABRIGO, inflicting upon him stab wounds which caused his instant death, to the damage and prejudice of his heirs.

"CONTRARY to Art. 248, Revised Penal Code."

Both accused were arraigned on September 10, 1993. Renante pled not guilty. Jessie was not arraigned as the trial judge^[2] found him mentally unfit. He was ordered to be treated at the Baguio General Hospital. His trial was suspended.^[3] In due time, he recovered. Hence, on May 11, 1994, the trial judge directed his return to jail to face trial.^[4] On June 16, 1994 the prosecution moved to discharge him as a state witness. The motion was granted despite the opposition of the accused-appellant.^[5]

Jessie Sison testified that accused-appellant is his uncle - his deceased father being the latter's brother. He lives with his siblings in their family home located at Barangay Leet, Sta. Barbara, Pangasinan. On 21 May 1993, at about midnight, accused-appellant and Alfredo Cervantes went to their house. He was already asleep in the kitchen at that time. Accused-appellant woke him up saying, "I killed someone. Come with me and we will bury him." Aided by the moonlight, he saw that accused-appellant was armed with a bayonet and his clothes full of blood. He refused to go with the two men but because of fear that accused-appellant might strike him with the bayonet, he went with them to the Sinucalan river. Upon reaching the river, accused-appellant told him and Cervantes that they would bury the person he killed. All of them dug the ground where they buried the cadaver. Then they parted ways, and he went home. He learned later that the person they

buried was Edwin Abrigo.^[6]

Aurora Sison, Jessie's mother, corroborated her son's testimony. She testified that their family home, where she and her children live, is located at Barangay Leet, Sta. Barbara, Pangasinan. At the southside of the house is the Sinucalan River. At about 12 o'clock midnight of 21 May 1993, she was awakened by the accused-appellant and Alfredo Cervantes. By a nearby lamp she noticed that accused-appellant was holding a bayonet with scabbard and measuring about one and a half feet long. His white T-shirt was stained with blood. Upon entering her house, accused-appellant proceeded to the room of Jessie and woke him up. She heard him order Jessie to get a shovel and bury Edwin Abrigo. Jessie refused but accused-appellant threatened him with death. After getting the shovel from the house of Egmidio Sison located about ten (10) to twelve (12) meters away, Jessie, accused-appellant and Cervantes left the house. Suspicious, she followed them until the riverbank where she saw a cadaver. She got frightened and left immediately. When Jessie returned, he did not speak to her. He appeared to be in shock. It was only on 23 May 1993, that Jessie spoke to her and informed her that the corpse which they buried frightened him.^[7]

Jonathan Abrigo, brother of Edwin, testified that on 11 May 1993, at about 6:30 in the evening, he was in their house located at the Bliss Housing Project in Barangay Matic-Matic, Sta. Barbara, Pangasinan. He went out to borrow a carton box from a nearby store and passed by the house of Molong de Venecia where accused-appellant, Jessie Sison and others were engaged in a drinking spree. From two (2) meters away, he heard accused-appellant say, "Have you seen Edwin Abrigo, and that if you have seen him then we will surely kill him." He reported the incident to his mother who assured him she would talk to accused-appellant regarding his threat. He saw Edwin on 20 May 1993, and informed him about the threat from accused-appellant. Edwin responded, "I don't know of any wrong I committed against him." That was the last time he saw his brother alive. On 23 May 1993, he and his mother could not find Edwin. They looked for him. A child named Bangkay gave to them Edwin's brown wallet which he found near the river. They asked several persons to help them find him. They saw a newly dug grave with flies around it near the river. The grave contained the corpse of Edwin. They were able to identify Edwin's remains through the gold ring on his finger and the short pants he was wearing.^[8]

Dr. Cristito D. Garcia conducted a post mortem examination on Edwin's cadaver. The Medico-Legal Certificate (Exhibit A) he issued shows the following findings:

x x x

"1. Stab wound 1.5 cm parasternal area left chest penetrating nipple aspect;

"2. Lacerated wound 0.5 - 1 cm scapular area, lateral aspect (L) back.

"ASSESSMENT: Cardio respiratory arrest 20

Hypovolemic shock 20

"assessment: Stab wound; Asphyxiation."^[9]

x x x

In defense, accused-appellant testified that at about 7 p.m. of 21 May 1993, he left his house to work as a carpenter in the Bliss Housing Project. He returned to his house at about 11:30 a.m. to eat his lunch. At 1 p.m. he went back to work. At about 12:30 midnight, he repaired to the house of Barangay Captain de Guzman of Barangay Matic-Matic to borrow an icebag because his son had a fever. On his way back, he saw a light coming from the housing project and waited for the person carrying it. It was Alfredo Cervantes. As they walked together, Cervantes asked him to inform Jessie Sison that Edwin Abrigo is missing and he is the suspect. When they reached his house, he applied the icebag to his son. Thereafter, they went to the house of Jessie, woke him up, and told him about the disappearance of Edwin Abrigo. Jessie was mum.

Accused-appellant also declared that he had a misunderstanding with Jessie. It was allegedly brought about by Jessie's use of marijuana and his daughter's report that Jessie was fooling her. He scolded Jessie who apologized. On 22 May 1993, Alfredo Cervantes informed him about the death of Edwin Abrigo. On 23 May 1993, he learned that the body of Edwin Abrigo was dug up at Barangay Matic-Matic beside the Sinucalan River. Later, he and two (2) other men were picked up and jailed by the policemen of Sta. Barbara. They asked him if he had any difference with Edwin Abrigo. The three of them were released at about 8:30 in the evening. After some time, he was again apprehended and detained together with Jessie Sison in the municipal jail of Sta. Barbara.

He denied the testimonies of Jonathan Abrigo Aurora Sison implicating him to the crime at bar. He claimed that he was wearing a black shirt and a pair of blue pants when he went out to borrow the icebag on the evening of 21 May 1993. He admitted that he has been charged previously with the crime of robbery with rape.^[10]

Remedios Sison, accused-appellant's wife, corroborated the testimony of her husband that he went to the house of Barangay Captain De Guzman on 21 May 1993, at past 12 o'clock midnight, to borrow an icebag for their sick son. She declared, however, that Cervantes went to their house after the arrival of her husband from the house of the said barangay captain. She likewise stated that Jessie Sison and her husband have no misunderstanding, and the relationship of her husband with Aurora Sison is pleasant.^[11]

Trial court convicted accused-appellant of the crime of murder, rationalizing as follows:

"In an attempt to exculpate himself, accused Renante Sison alias Dante Sison wants to convince the Court that on May 21, 1993, at around 12:30 in the evening, he went [out] to borrow an icebag from the house of Barangay Captain de Guzman. As he had seen a light coming from the housing project, he waited for Fred Cervantes. While they were walking and conversing with each other, Fred Cervantes told him that Edwin Abrigo is missing and Jessie Sison is the suspect. After reaching their house at 12:40, they applied the icebag on his son who had a fever. Thereafter, he and Alfredo Cervantes went to the house of Jessie Sison,

reaching the house at around 12:50. He woke up Jessie Sison and Alfredo Cervantes told Jessie that he is the suspect. Jessie Sison was trembling and was not able to say anything.

"Rather than corroborating the testimony of her husband's arrival at their house at 12:40, Remedios Sison, wife of the accused, testified that her husband arrived at 2:30 in the morning of May 22, 1993.

"Accused Renante Sison alias Dante Sison wants to impute the crime of Murder to Jessie Sison. The Court is not convinced. The defense of the accused is not worthy of belief. For a careful evaluation of the evidence adduced by the prosecution discloses that accused Renante Sison alias Dante and Fred Cervantes woke up Jessie Sison (co-accused and discharged) on May 21, 1993, at 12:00 in the evening. While Jessie Sison was sleeping in their house at Leet, Sta. Barbara, Pangasinan, Dante Sison woke him up and said, "I killed someone, come with me and we will bury him." Jessie Sison refused to go with him but he was afraid as accused Dante Sison was holding a bayonet. The person buried is (sic) Edwin Abrigo.

"The statement of accused Renante Sison alias Dante to Jessie Sison, 'I killed someone, come with me and we will bury him.', is part of the res gestae. It was made under the stress of [an] exciting event. Ergo, it is admissible against accused Renante Sison alias Dante.

"Jessie Sison could not have made a mistake that the person who woke him up on May 21, 1993, in the evening, is accused Renante Sison alias Dante. The latter is his uncle because he is the brother of his father, and besides, there was moonlight.

"Further, when accused Renante (alias Dante) Sison woke up Jessie Sison, Renante's clothes were full of blood and [he] was armed with a bayonet. These are incriminating pieces of circumstantial evidence that point to Renante Sison alias Dante as the perpetrator of the offense.

"There is no question that Edwin Abrigo is dead. The testimony of Dr. Cristito Garcia and the medico-legal certificate (Exhibit A) are clear on this point.

"The information alleges the qualifying circumstance of evident premeditation and abuse of superior strength.

"The qualifying circumstance of evident premeditation qualified the killing of Edwin Abrigo to Murder. The testimony of Jonathan Abrigo is clear that on May 11, 1993, at around 6:30 in the evening, he was at Matic-Matic, Sta. Barbara, Pangasinan. While passing by a store, at a distance of two (2) meters, he heard Dante Sison utter, 'Have you seen Edwin Abrigo and that if you have seen him then we will surely kill him.' (tsn, May 26, 1994). The prosecution has proved the time when Renante Sison determined to kill Edwin Abrigo. The accused clung to his determination to kill his victim. There was sufficient lapse of time between the determination and execution of the killing.