

THIRD DIVISION

[G.R. No. 121683, March 26, 1998]

**CORNELIO B. BAUTISTA, PETITIONER, VS. THE HONORABLE
COURT OF APPEALS; AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

ROMERO, J.:

This case affirms the constant stance of this Court regarding the ascendancy of an eyewitness account over a bare denial. Such an account gains more credence when, as in the case at bar, the witness is himself a victim.

On the night of March 6, 1987, a police officer who had been pursuing a suspected felon was shot right in front of the heavily guarded Lopa Compound at No. 2300 Robert St., Pasay City. Lt. Franklin Garfin was slain in the shooting incident but his companion, Cpl. Cesar Garcia escaped unharmed. The man they were supposed to arrest, a certain Joseph Williamson Dizon, was also shot and sustained back and arm injuries. Three criminal informations were filed against the man who was allegedly responsible for all of these. Thus, on March 7, 1987, petitioner Cornelio Bautista, the security guard on duty at the Lopa Compound the previous night, was charged with murder, attempted murder and frustrated murder. At the joint trial of these three cases, which were consolidated upon order of the court, the prosecution relied on the eyewitness testimony of Cpl. Garcia, as well as on the physical evidence.

According to Cpl. Garcia, on March 6, 1987, while responding to a report that a "pot session" was in progress at the Pasay Sports Complex, he and several operatives of the Pasay City Police heard somebody shout "hold-up," then saw a man, later identified as Dizon, fleeing from the site. Pat. Isidro Ramasamy and Lt. Garfin ran after Dizon, while Cpl. Garcia commandeered a taxicab to intercept him. Just when they had cornered him at Robert St. near Libertad St., a man holding a shotgun suddenly emerged from the Lopa Compound and aimed his firearm at them. Lt. Garfin immediately informed the man, herein petitioner, that they were policemen, to which petitioner allegedly retorted, "*E, ano kung pulis ka!*" From a distance of about twenty meters, petitioner fired once and hit Lt. Garfin who fell to the ground. Cpl. Garcia tried to aid his fallen superior but petitioner trained the gun at him and fired two more shots. He managed to duck and hide behind Dizon, using the latter as a shield. Amid the confusion, Dizon was able to escape Cpl. Garcia's clutches and even told petitioner that his captors were holdup men. The taxi driver who had conveyed Cpl. Garcia to, and had lingered at, the crime scene yelled at petitioner, telling him that he was firing at police officers and that the real holdup man was the one beside him. Dizon ran and he, too, was shot by petitioner, hitting him in the back and left arm. The diversion allowed Cpl. Garcia to jump into the taxicab and call for help. When he returned, another police officer, Cpl. Ricardo Santos, was already talking to the men at the Lopa Compound. He immediately pointed to petitioner as the assailant. Petitioner was arrested and his

service firearm was confiscated by the apprehending officers. Later, Lt. Garfin was brought to the Manila Sanitarium Hospital where he was pronounced dead on arrival.^[1]

Autopsy conducted by National Bureau of Investigation Medico-Legal Officer Alberto M. Reyes attributed Lt. Garfin's death to severe hemorrhage secondary to shotgun wounds.^[2] Ballistics examination by the NBI further showed that the pellets recovered from Lt. Garfin's body matched the markings on the test shells fired from petitioner's shotgun.^[3] The NBI also subjected petitioner, the victim, two other guards at the Lopa Compound, and a civilian agent to paraffin tests, but only petitioner tested positive for nitrates.^[4]

Petitioner denied all the charges against him and claimed that he never left the Lopa Compound during the shooting. He apparently heard somebody being chased outside so, as the guard on duty, he grabbed his shotgun and went to the Vito Cruz side of the compound's fence to investigate, while the other guards, who were also armed, proceeded to the gate facing Robert St. When he heard shots being fired in the direction of his companions, he immediately took cover. Responding policemen arrested him and his fellow guards and confiscated their service firearms. Explaining the positive results of the paraffin test on him, he said that it was because he cleaned all their firearms on March 6, 1987.^[5]

The defense also presented the testimony of another security guard, Anastacio Mangrubang, to corroborate petitioner's tale of innocence.^[6]

After trial on the merits, Judge Sergio I. Amonoy of the Regional Trial Court of Pasay City, Branch 115, rendered judgment, the decretal portion of which reads thus:

"All the premises considered, the Court finds the accused CORNELIO BAUTISTA Y BAGALAYOS guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code absent any modifying circumstance and applying the indeterminate sentence law, penalized (sic) him as principal to suffer the penalty of prision mayor maximum to reclusion temporal medium or 10 years and 1 day to 17 years and 4 months, to reimburse the heirs of Franklin Garfin P25,000.00, (for) funeral expense(s,) and P15,000.00, miscellaneous, (for) for food and drinks during (the) wake, and others, to indemnify them P30,000.00 for his death, and to pay the cost of the proceedings.

For insufficiency of the evidence the Court acquits the accused of the charges of Frustrated Murder (2 counts).

SO ORDERED."

Aggrieved by his conviction for murder, petitioner elevated his case to the Court of Appeals, which affirmed the same with modification in its assailed decision promulgated on April 5, 1995. Thus:

"WHEREFORE, in view of the foregoing, the decision appealed herefrom is hereby AFFIRMED subject to the sole modification that the P25,000.00, P15,000.00 and P30,000.00 damages awarded to the heirs of the deceased are all hereby deleted.

SO ORDERED."

Petitioner's motion for reconsideration of said decision was denied by the appellate court in its Resolution of August 22, 1995.