

SECOND DIVISION

[G.R. No. 125538, September 03, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HONORATO NAVARRO, ACCUSED-APPELLANT.**

D E C I S I O N

MELO, J.:

In an Information dated September 27, 1993, Honorato Navarro was charged with the crime of Murder, thusly :

That on or about June 28, 1993, in the Municipality of Sara, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable motive and with a decided purpose to kill, armed with a firearm, with treachery, and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and shoot Rosendo Espura with the firearm he was then provided, hitting the victim on the chest and other parts of his body which resulted on his death thereafter.

CONTRARY TO LAW.

(p. 12, Rollo.)

Upon arraignment, accused-appellant entered a plea of not guilty. Thereafter, trial ensued.

The evidence for the prosecution was summarized by the trial court as follows :

Jocelyn Navarro and the deceased Rosendo Espura were living together as husband and wife without the benefit of marriage. Their house is situated at Brgy. Posadas, Municipality of Sara, Province of Iloilo. The accused Honorato Navarro is the uncle of Jocelyn. He is the younger brother of Jocelyn's father. Honorato also resides at Brgy. Posadas, Sara, being the barangay captain of said barangay.

At about 11 o'clock in the evening of June 28, 1993, Jocelyn and the deceased were sleeping at their house at Brgy. Posadas, Sara, Iloilo.

While they were sleeping, someone "called up". Jocelyn recognized the voice as that of her second cousin, Leosadi Azusano. She opened the door of their house and Azusano came in. She noticed some blood in Azusano's shirt. The latter asked for a glass of water and after drinking, he changed his clothes. At this time, Rosendo Espura woke up. Azusano requested them to bring him to the hospital. Jocelyn asked Azusano why he "was bloody" and he answered that he was struck on his head.

When Azusano was going to the house of the deceased, Renato Navarro, the son of the accused and the accused were following Azusano. Rosendo Espura went out of his house and when he saw Renato Navarro, he asked him what to do, as Azusano was asking for their help.

At this juncture, Jocelyn was already in the yard of their house, while Azusano was sitting on the sofa inside their house. Renato, in answer to the question of the deceased told the latter, "Help him if you want to help him".

After Renato answered him, Rosendo was about to go back inside their house, as he was about 10 meters from the house when he talked to Renato. Jocelyn was 2 meters away from the door of their house. However, Rosendo was not able to go back to their house because he was shot by Honorato Navarro with a "high powered" long firearm. The actual shooting was seen and witnessed by his common law wife, Jocelyn. The accused was around 5 meters away from their (Jocelyn's) store when he shot the deceased and was two arm's length away from the deceased.

Rosendo was hit when the deceased shot him. When he was hit, he was "lifted from the ground" (tumbo). Honorato was at the right side of the deceased when he shot him. He was already facing his house when he was shot. When the deceased fell down and was already lying on the ground, the accused again shot him.

Renato was at the nearby road when Honorato fired the second shot while Jocelyn was crawling towards the house of her uncle when the second shot was fired. The house of her uncle was near their house, about 70 meters. At the house of her uncle, she told her brother to look for a tricycle and to inform the police what happened.

When the "moon was no longer so bright", Jocelyn went back to their house. The incident happened two nights after the full moon. When she reached their house, she closed the door and windows and waited for the police. The cadaver of her deceased live-in partner was not touched.

Later, three policemen arrived, at about 1:00 a.m. Jocelyn told them to call a photographer. A photographer arrived and took pictures of the cadaver and the place of the incident. The policemen looked for empty shells. Jocelyn told the policemen that it was barangay captain Honorato Navarro who shot the deceased.

(pp. 26-28, Rollo.)

Accused-appellant, on the other hand, admitted killing the victim but invoked the justifying circumstances of self-defense and defense of strangers. Thus, in fractured English, he now asserts:

At about 11 o'clock in the evening of June 28, 1993, Jocelyn Navarro and the deceased were sleeping at their house at said Barangay when someone called up. Jocelyn recognized the voice as that of her second