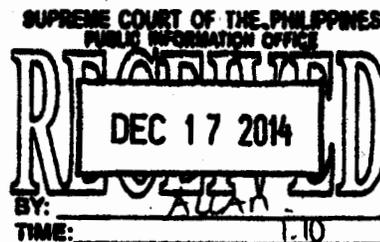




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **December 3, 2014**, which reads as follows:*

“G.R. No. 208391 (*People of the Philippines vs. Rafael Cardeño*). - On appeal is the September 26, 2012 Decision¹ of the Court of Appeals (CA) which affirmed the judgment² of the Regional Trial Court (RTC), Branch 275, of Las Piñas City, convicting appellant Rafael Cardeño for the murder of Baron Alexander Cervantes (Cervantes).

The facts follow:

In the evening of December 31, 2001, around 6:00 p.m., Cervantes was gunned down by an unidentified man in front of Jubileum Drug Store in Pamplona, Las Piñas City. The suspect then walked towards a Shell Gasoline Station along the Alabang/Zapote road where he boarded a white car which went towards the direction of Alabang.

A witness to the incident, Mitchel Cataluña (Cataluña), gave his sworn statement and described the gunman to enable the artist to draw the cartographic sketch of the suspect. In May 2002, another witness named Erlindo Torres (Torres), voluntarily appeared at the National Anti-Kidnapping Task Force (NAKTAF) to provide additional information.

On May 12, 2002, the NAKTAF arrested Joseph Mostrales (Mostrales) in Pangasinan by virtue of a warrant of arrest issued in connection with another case. Mostrales was the one identified by Cataluña as the gunman who shot Cervantes at point blank range. When asked to comment on the incident, Mostrales readily admitted his participation in the crime. Two more suspects, Jaime Centeno (Centeno) and Erlindo Torres (Torres), were also later placed under police custody.

¹ *Rollo*, pp. 2-28. Penned by Associate Justice Angelita A. Gacutan, with Associate Justices Fernanda Lampas Peralta and Francisco P. Acosta concurring. The assailed decision was rendered in C.A. G.R. CR HC No. 04102.

² *CA rollo*, pp. 157-172. Penned by Judge Bonifacio Sanz Maceda in Crim. Case No. 02-0791.

December 3, 2014

On May 23, 2002, with the assistance of Atty. Confesor Sansano, Mostrales, Centeno and Torres executed separate extrajudicial confessions admitting their involvement in the killing of Cervantes and implicating appellant as the mastermind of the crime. In a TV media conference, the three offered apologies to the family of Cervantes and said "*Sorry po sir, nagamit lang po kami.*"

On May 28, 2002, after being implicated in the killing of Cervantes, appellant abandoned his duties as Police Superintendent and went on Absence Without Leave (AWOL).

An Information for murder was then filed against Mostrales, Centeno, Torres, and appellant. On October 17, 2002, a warrant of arrest was issued against appellant, but appellant at that time remained at large.

Upon arraignment, Mostrales, Centeno and Torres entered a plea of not guilty. Trial ensued with respect to the three. During trial, they recanted their extrajudicial confessions. Mostrales interposed alibi and claimed that he was in Pangasinan on the day of the murder. He also alleged that he was tortured and was forced to sign the extrajudicial confession. Centeno, for his part, claimed that he was not assisted by counsel during the taking of his confession. Torres meanwhile interposed the defense of alibi and claimed that he was at home on the day of the murder.

The Las Piñas RTC convicted Mostrales, Centeno and Torres. Mostrales was found guilty of murder and was sentenced to suffer the penalty of *reclusion perpetua*. Torres and Centeno were found as accomplices and each of them was sentenced to suffer an indeterminate prison term of eight (8) years and one (1) day of *prision mayor* medium, as minimum, to fourteen (14) years and one (1) day of *reclusion temporal* medium, as maximum. All three were ordered to pay jointly and severally ₱50,000 as civil indemnity to the heirs of Cervantes, ₱50,000 as moral damages, and ₱25,000 as exemplary damages.

On July 2, 2008, appellant was arrested by the Special Reaction Unit of the PNP-CIDG. Upon arraignment, he pleaded not guilty. During pre-trial, the parties agreed to stipulate and adopt the testimonies and documents already presented in the previous trial. During trial, the prosecution called to the witness stand Mostrales, Torres and Centeno who recanted for the second time. The prosecution also presented Police Senior Superintendent Jose Erwin Villacorte to show that on May 28, 2002, appellant went on AWOL and that he was dismissed from service as of February 5, 2003.

After the prosecution rested its case, appellant filed a demurrer to evidence without leave of court claiming that the prosecution failed to prove his guilt beyond reasonable doubt.

The Las Piñas RTC found appellant guilty as principal in the crime of murder and sentenced him to suffer the penalty of *reclusion perpetua*. He was likewise ordered to pay, jointly and severally with Mostrales, Torres and Centeno to the heirs of Cervantes ₱50,000 as civil indemnity for his death, ₱50,000 as moral damages, ₱218,958 as actual damages and ₱25,000 as exemplary damages.

The RTC found that while there was no direct evidence linking appellant to the murder, six circumstances disclose a picture of guilt: (1) appellant was implicated and named as mastermind in the extrajudicial confessions of Mostrales, Centeno and Torres; (2) he went AWOL from police service five days after he was implicated; (3) in their repentant apologies, Mostrales, Centeno and Torres revealed another principal who had "used" them; (4) the second recantation, made by Mostrales, Centeno and Torres after their conviction, was solely intended to protect appellant; (5) appellant went hiding for six years; and (6) the total absence of explanation why he evaded the warrant of arrest.³

On appeal, the CA affirmed appellant's conviction. It held that it was logical and proper to admit and consider the extrajudicial confessions of Mostrales, Centeno and Torres as circumstantial evidence against appellant. It found the extrajudicial confessions complete with details of how the crime was committed and that it would be difficult to fabricate them if they were not true. The CA noted that the three were united in the facts surrounding the commission of the murder. As to appellant's excuse that his flight was due to the reasonably founded fear and very imminent danger to his life, the CA did not admit the same since appellant chose not to present evidence on his behalf. The appellate court considered said excuse as nothing but a mere allegation without supporting evidence. The CA ruled that what is clear is that he fled and hid from the authorities to evade the criminal charges hurled against him.

After a careful review of the records of the case and the parties' submissions, this Court rules that the CA did not err in affirming the conviction of appellant. There is no showing that either the RTC or CA erred in considering the pieces of circumstantial evidence against appellant as this is sanctioned no less by Rule 133, Section 4 of the Revised Rules on Evidence. Said rule provides that for circumstantial evidence to warrant the conviction of an accused, first there must be more than one circumstance; second, the facts from which the circumstances arose are duly established in court; and, third, the circumstances form an unbroken chain of events leading to the fair conclusion of the culpability of the accused for the crime for which he is convicted. Ostensibly, our rules "make no distinction between direct evidence of a fact and evidence of circumstances from which the existence of a fact may be inferred. *No greater degree of certainty is required when the evidence is circumstantial than when it is direct, for in*

³ CA rollo, p. 171.

either case, the trier of fact must be convinced beyond a reasonable doubt of the guilt of the accused."⁴ Here, the degree of proof was adequately met.

The extrajudicial confessions, even if recanted, were correctly relied upon by both the RTC and the CA as they were interlocking confessions. Also, there was direct evidence showing that Mostrales was indeed the gunman who killed Cervantes. Their recantation during the second trial made the recantation more dubious when they said they never knew appellant nor met with him before the killing. As correctly observed by the RTC, it is unnatural and contrary to human experience to incriminate a complete stranger and give a detailed narration of what transpired. Clearly, the three definitely colluded in their recantation solely to protect appellant considering that their retracting cannot benefit them anymore as they did not appeal their conviction.

Also, the apologies of the three during the media conference reveal not only the involvement of another principal (though at that time unidentified) who had "used" them, it also disclosed an act of conscience as they were made voluntarily and with clear repentance. Thus, their admission before the media cannot be disregarded by the Court just because they recanted the same. Courts look upon retractions with considerable disfavor because they are generally unreliable.⁵

Moreover, appellant's going on AWOL after being implicated and his six-year hiding without justifiable excuse are clear badges of guilt. In criminal law, flight means the act of evading the course of justice by voluntarily withdrawing oneself to avoid arrest or detention or the institution or continuance of criminal proceedings. Flight, in jurisprudence, has always been a strong indication of guilt, betraying a desire to evade responsibility.⁶

However, as regards the amount of damages, we find a modification in order. Pursuant to prevailing jurisprudence,⁷ we increase the award of civil indemnity and moral damages to ₱75,000 each and the award of exemplary damages to ₱30,000. Interest at the legal rate of 6% per annum is imposed on all the damages awarded in this case from the date of finality of this Resolution until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The September 26, 2012 Decision of the Court of Appeals in C.A. G.R. CR HC No. 04102 is hereby **AFFIRMED with MODIFICATIONS**. The amount of civil indemnity and moral damages are both increased to ₱75,000, while the award of exemplary damages is increased to ₱30,000. Interest at the rate of 6% per annum is imposed on all the damages awarded in this case from the

⁴ *Bacolod v. People*, G.R. No. 206236, July 15, 2013, 701 SCRA 229, 234.

⁵ *People v. Zafra*, G.R. No. 197363, June 26, 2013, 700 SCRA 106, 121.

⁶ *People v. Gomez*, 450 Phil. 253, 263 (2003).

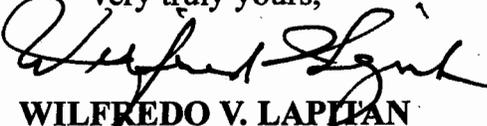
⁷ *People v. Sanchez*, G.R. No. 188610, June 29, 2010, 622 SCRA 548, 569-570.

date of finality of this Resolution until fully paid.

With costs against the appellant. (Peralta, J., no part, as his spouse, Honorable Court of Appeals Justice Fernanda Lampas Peralta, concurred in the assailed decision; Jardeleza, J., no part, due to his prior action as Solicitor General; Perlas-Bernabe and Del Castillo, JJ., designated Members per Raffles dated November 19, 2014 and November 10, 2014, respectively.)

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPILAN
Division Clerk of Court

12/10/14

Atty. Cesar D. Santamaria
Counsel for Accused-Appellant
38-C Bulusan St., Sta. Mesa Heights
1100 Quezon City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 275, 1740 Las Pinas City
(Crim. Case No. 02-0791)

COURT OF APPEALS
CA G.R. CR HC No. 04102
1000 Manila

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OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Judgment Division
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Mr. Raul A. Cardeno
c/o The Chief Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Chief Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City