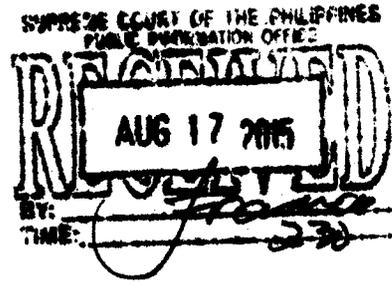




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 8, 2015 which reads as follows:

“G.R. No. 217727 (Alberto Marcial v. People of the Philippines).- After a judicious perusal of the records, the Court resolves to **DENY** the instant petition and **AFFIRM** the September 15, 2014 Decision¹ and March 6, 2015 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 35820 for failure of petitioner Alberto Marcial (petitioner) to show that the CA committed any reversible error in affirming his conviction for the crime of Frustrated Homicide, punishable under Article 249 of the Revised Penal Code. However, to conform with prevailing jurisprudence,³ the Court deems it proper to modify the award of damages as follows: (a) ₱30,000.00 as civil indemnity; and (b) ₱30,000.00 as moral damages. In addition, legal interest at the rate of six percent (6%) per annum shall be imposed from the finality of this judgment until full payment.

As correctly found by the CA, all the elements for the crime of Frustrated Homicide were duly established. The nature of the weapon used and the wound sustained showed intent to kill on the part of petitioner which would have caused the victim’s death had it not been for the timely medical attention accorded to him. Moreover, it is settled that the positive and categorical identification of petitioner as the assailant prevails over his plain denial, which findings, when supported by ample evidence and concluded by the trial court, are accorded great weight and respect,⁴ as in this case.

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¹ *Rollo*, pp. 47-54. Penned by Associate Justice Japar B. Dimaampao with Associate Justices Elihu A. Ybañez and Carmelita S. Manahan concurring.

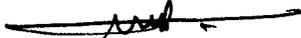
² *Id.* at 64-65.

³ *De Guzman, Jr. v. People*, G.R. No. 178512, November 26, 2014.

⁴ See *Serrano v. People*, 637 Phil. 319, 330-331 (2010).

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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Gonzales Ave., San Vicente
Apalit 2016 Pampanga

Court of Appeals (x)
Manila
(CA-G.R. CR No. 35820)

The Solicitor General (x)
Makati City

The Hon. Presiding Judge
Regional Trial Court, Br. 54
Macabebe 2018 Pampanga
(Crim. Case No. 03-3381 [M])

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Judgment Division (x)
Supreme Court

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