



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 March 2022** which reads as follows:*

**“G.R. No. 231364 (*People of the Philippines v. Benito Jacob, Jr. and Edwin Jacob, accused; Edwin Jacob, accused-appellant*)**. — This is an appeal<sup>1</sup> filed by accused-appellant Edwin Jacob (accused-appellant) assailing the July 28, 2016 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 07469. The CA affirmed the March 16, 2015 Decision<sup>3</sup> of the Regional Trial Court (RTC), Branch 65 of Sorsogon City, which found accused-appellant guilty beyond reasonable doubt of the crime of Murder in Criminal Case No. 139.

Accused-appellant, along with his brother and co-accused, Benito Jacob Jr. (Benito), was charged with the crime of Murder under the following Information:

That on the 24<sup>th</sup> day of October, 1996 at about 4:00 o'clock in the afternoon at Barangay Danao, Municipality of Bulan, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and armed with a bolo and a home-made knife, conspiring, confederating and mutually helping one another, and through treachery and with evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, hack and stab one Loreto Lee Jr., inflicting upon him hacked and stabbed wounds which directly caused his instantaneous death, to the damage and prejudice of his legal heirs.

CONTRARY TO LAW.<sup>4</sup>

<sup>1</sup> *Rollo*, pp. 21-23; Notice of Appeal dated August 23, 2016.

<sup>2</sup> *Id.* at 2-20. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela.

<sup>3</sup> *CA rollo*, p. 42-53. Penned by Judge Adolfo G. Fajardo.

<sup>4</sup> Records, p. 1.

11/6

The case against accused-appellant and Benito was initially archived by the RTC, subject to their apprehension, since the warrant for their arrest was returned unserved.<sup>5</sup> Benito went into hiding for 15 years until he was committed for detention on November 23, 2011.<sup>6</sup> On arraignment, Benito pleaded not guilty to the charge against him.<sup>7</sup>

#### **Version of the Prosecution:**

The prosecution presented the eyewitness accounts of Herminio Sus, Jr. (Herminio), the victim's cousin,<sup>8</sup> and Dr. Estrella A. Payoyo (Dr. Payoyo),<sup>9</sup> the Municipal Health Officer of Bulan, Sorsogon who conducted the autopsy of the remains of the deceased victim. They likewise submitted the victim's Certificate of Death and Anatomical Chart as prepared by Dr. Payoyo and the sworn statement of Herminio in evidence.<sup>10</sup>

Herminio testified that at about 4 p.m. of October 24, 1996, he, together with his cousins Filipina Sus (Filipina) and Loreto Lee, Jr. (Loreto), were whiling away their time in Filipina's house at Danao, Bulan, Sorsogon.<sup>11</sup> Suddenly, accused-appellant, armed with a knife, and his brother Benito, armed with a bolo, appeared and immediately hacked them.<sup>12</sup> Filipina was the first who noticed the Jacob brothers and shouted "Junior, sundang!" ("Junior, a bolo!").<sup>13</sup> Herminio turned and saw both the attackers, who both inflicted wounds on Loreto.<sup>14</sup>

Herminio recalled that he saw accused-appellant stab Loreto once while Benito hacked Loreto four times. He was able to escape to his house which was just at the other side of the fence; but Loreto was wounded. To his knowledge, Loreto had five stab wounds, and he was not able to count more because he had already left the scene. He waited inside his house until the two accused left, and he came out only when the barangay officials arrived.<sup>15</sup> He stated that the incident happened very quickly so he did not have the time to notify the barangay officials right away.<sup>16</sup> Herminio positively identified accused-appellant in open court.<sup>17</sup>

---

<sup>5</sup> Id. at 37.

<sup>6</sup> Id. at 40.

<sup>7</sup> Id. at 55; TSN, February 11, 2014, p. 5.

<sup>8</sup> TSN, October 2, 2012, pp. 2-12.

<sup>9</sup> TSN, February 5, 2013, pp. 3-10.

<sup>10</sup> Records, pp. 105-106, 110.

<sup>11</sup> TSN, October 2, 2012, pp. 2-3.

<sup>12</sup> Id. at 3-4, and 6.

<sup>13</sup> Id. at 4.

<sup>14</sup> Id. at 3-5, 9.

<sup>15</sup> Id. at 4, and 7-8.

<sup>16</sup> Id. at 8.

<sup>17</sup> Id. at 5-6.

Dr. Payoyo testified that she conducted the post-mortem examination on Loreto.<sup>18</sup> Her examination revealed that Loreto sustained 12 stab and hack wounds. Most of the wounds were fatal, but the two most fatal wounds were the hack wounds penetrating the skull and the left lateral neck which almost severed the neck. The brain, the large vein on the neck, and the lungs were affected by the injury. From the wounds sustained by the victim, death would immediately set in.<sup>19</sup> Dr. Payoyo testified that the wounds showed the possibility that more than one bladed weapon were used and that there was more than one assailant.<sup>20</sup> On cross-examination, Dr. Payoyo clarified that there were two hack wounds and nine stab wounds.<sup>21</sup> In a hack wound, there is a forceful impact while the injury caused by a stab wound is more penetrating or deep. She reiterated the possibility that two weapons were used and that there were more than one assailant.<sup>22</sup> The attack was frontal.<sup>23</sup>

### **Version of the Defense:**

The defense presented the testimony of accused-appellant<sup>24</sup> and Joven Jacob (Joven),<sup>25</sup> accused-appellant's nephew.

Joven testified that on October 24, 2006, he and accused-appellant were on their way home from fishing when they were suddenly waylaid by Loreto who was armed with a bolo. Just when Loreto delivered the hacking blow, accused-appellant immediately embraced Loreto and stabbed him with the knife which he used to carry when fishing. Accused-appellant was not injured by Loreto's hacking blow. Meanwhile, Joven ran home for help. Joven stated that at the time of the incident, his other uncle, Benito, was fishing in Pon-od, Bulan, Sorsogon.<sup>26</sup> On cross-examination, Joven testified that he ran away when accused-appellant pulled out the knife, and that he only came to know that accused-appellant stabbed Loreto because he learned that the latter died.<sup>27</sup>

Accused-appellant testified that while he and Joven were on their way home from fishing, Loreto suddenly waylaid them near the school and attacked him with a bolo.<sup>28</sup> Despite Loreto already in the act of hacking accused-appellant, Loreto was unable to hack him because he wrestled with him. Accused-appellant then stabbed Loreto with an approximately one-foot long knife.<sup>29</sup> Accused-appellant could not recall how many times he stabbed Loreto, and explained that he had a knife with him because he used to bring it during

---

<sup>18</sup> TSN, February 5, 2013, p. 4.

<sup>19</sup> Id. at 4-6.

<sup>20</sup> Id. at 6-7.

<sup>21</sup> Id. at 7.

<sup>22</sup> Id. at 7-8.

<sup>23</sup> Id. at 9.

<sup>24</sup> TSN, February 11, 2014, pp. 2-8; TSN, August 8, 2014, pp. 2-7.

<sup>25</sup> TSN, November 4, 2013, pp. 2-9.

<sup>26</sup> Id. at 3-4.

<sup>27</sup> Id. at 6-7.

<sup>28</sup> TSN, February 11, 2014, p. 3.

<sup>29</sup> Id. at 3-4.

fishing, for cutting fishing nets that got entangled with the boat propeller. After stabbing Loreto, his nephew Joven ran away while he went home. Accused-appellant denied that his brother Benito inflicted the other injuries on Loreto's person and stated that at the time of the incident, Benito was in Pon-od, Bulan, Sorsogon.<sup>30</sup> It did not occur to accused-appellant to surrender to the authorities, and he was arrested only in 2013 because he left their place and stayed in Camarines Norte after the incident. Accused-appellant could not think of any reason why Loreto would attack him with a bolo, nor did he have any grudge or ill feeling against the victim before the incident.<sup>31</sup>

On cross-examination, accused-appellant stated that he only had one bladed instrument at the time of the incident, and that they were fronting each other so most of the stabbing blows he delivered landed on Loreto's stomach. He denied having inflicted the wound on Loreto's skull, and claimed that after he hit Loreto on the stomach, the latter fell on the ground and accused-appellant left him.<sup>32</sup> He stated that he did not know his brother's whereabouts and testified that he merely defended himself when he stabbed Loreto.<sup>33</sup> He likewise affirmatively answered that in defending himself, he was able to hack Loreto 10 times on the skull, on the neck, and different parts of his body.<sup>34</sup>

#### **Ruling of the Regional Trial Court:**

On March 16, 2015, the RTC rendered its judgment convicting accused-appellant of Murder, thus:

**WHEREFORE**, premises considered, the prosecution having established the GUILT of accused Edwin Jacob beyond reasonable doubt to the crime of MURDER, he is hereby sentenced to suffer the single indivisible penalty of Reclusion Perpetua; to indemnify the heirs of Loreto Lee, Jr., in the amount of P75,000.00, as moral damages and P20,000.00, as exemplary damages.

Meantime, the case against accused Benito Jacob, Jr. shall continue to be archived until such time that he is apprehended and brought before the law.

x x x x

**SO ORDERED.**<sup>35</sup>

In convicting accused-appellant, the RTC observed that the prosecution's version that accused-appellant and Benito perpetrated the crime, is more tenable than the accused-appellant's version of self-defense. It found Herminio's positive identification of the accused-appellant and Benito as the persons who stabbed and hacked the victim to be credible, and noted that Dr. Payoyo's

---

<sup>30</sup> Id. at 4-5.

<sup>31</sup> Id. at 5.

<sup>32</sup> Id. at 4-5.

<sup>33</sup> Id. at 5-6.

<sup>34</sup> Id. at 6.

<sup>35</sup> Records, pp. 151-152.

testimony corroborated the prosecution's position that there were two assailants, and that two bladed instruments were used in the commission of the crime, a knife and a bolo.<sup>36</sup> In qualifying the killing to Murder, the RTC opined that the crime was attended by treachery due to the suddenness of the assault upon the victim, leaving him no chance to defend himself.<sup>37</sup>

### **Ruling of the Court of Appeals:**

In his appeal, accused-appellant maintained that he only acted in self-defense and decried the RTC's finding of his guilt. He argued that the RTC erred in giving weight and credence to the testimony of the prosecution witness. In the alternative, assuming without admitting that he is guilty of killing Loreto, treachery and evident premeditation may not be appreciated against him.<sup>38</sup>

On the other hand, the Office of the Solicitor General (OSG) asserted that (a) accused-appellant's claim of self-defense is bereft of credibility, being inconsistent with Dr. Payoyo's testimony and belied by his flight from the crime scene and the authorities, and (b) the guilt of accused-appellant for the crime of Murder has been proven beyond reasonable doubt, considering accused-appellant's admission that he killed Loreto, albeit allegedly in self-defense, and Herminio's clear and categorical testimony and positive identification of accused-appellant and Benito as the perpetrators of the crime.<sup>39</sup>

In its July 28, 2016 Decision,<sup>40</sup> the CA sustained Edwin's conviction for the crime of Murder:

**WHEREFORE**, the appealed Decision dated March 16, 2015 of the trial court is affirmed, subject to modification that accused-appellant is ordered to pay the heirs of the victim civil indemnity of Php100,000.00, moral damages of Php100,000.00, exemplary damages of Php100,000.00 and interest at the rate of six percent (6%) per annum to be applied on the award of damages from the finality of judgment until full payment thereof. Accused-appellant is not eligible for parole. In all other respects, the Decision is affirmed.

**SO ORDERED.**<sup>41</sup>

The CA rejected accused-appellant's claim of self-defense. The CA declared that accused-appellant's plea of self-defense necessarily involves his admission that he killed the victim, and the shifting of the burden of evidence on accused-appellant to prove the elements of self-defense, which he failed to do. The CA observed that there is no showing that accused-appellant suffered any injury to substantiate his claim of the victim's unlawful aggression, or that

---

<sup>36</sup> Id. at 147-149.

<sup>37</sup> Id. at. 150.

<sup>38</sup> CA *rollo*, pp. 34-40.

<sup>39</sup> Id. at 66-69.

<sup>40</sup> *Rollo*, pp. 2-20.

<sup>41</sup> Id. at 19-20.

the victim was armed or had any ill will against accused-appellant. Moreover, the CA observed that his claim of self-defense is not credible since accused-appellant fled and went into hiding for 15 years. The CA also noted that Dr. Payoyo corroborated Herminio's testimony on the material points, and that treachery attended the crime since the manner and mode of attack by the accused-appellant was sudden, rendering the victim defenseless.<sup>42</sup>

Hence, this appeal.<sup>43</sup> Accused-appellant and the OSG manifested that they were adopting their respective briefs filed with the CA and dispensing with the filing of supplemental briefs.<sup>44</sup>

### Issue

The sole issue for resolution is whether or not the accused-appellant is guilty beyond reasonable doubt of Murder.

### Our Ruling

The instant appeal is partially granted.

It is settled that in criminal cases, the prosecution has the burden to prove the guilt of the accused beyond reasonable doubt. Nevertheless, once the accused invokes self-defense, the burden of proof shifts from the prosecution to the defense and thus, the accused must rely on the strength of his or her evidence and not on the weakness of the prosecution's evidence.<sup>45</sup> The accused then has the burden to prove the concurrence of the following: (1) unlawful aggression on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel such aggression, and (3) lack of sufficient provocation on the part of the person resorting to self-defense.<sup>46</sup> At the heart of a claim for self-defense is the unlawful aggression committed by the victim against the accused, which is the condition *sine qua non* for upholding the same as a justifying circumstance. If there is nothing to prevent or repel, the other two requisites of self-defense will have no factual and legal bases.<sup>47</sup>

Accused-appellant miserably failed to prove any unlawful aggression committed by the victim, thus belying his claim of self-defense. As observed by the RTC and CA, accused-appellant's testimony that he stabbed the victim only in the stomach and that he was the lone assailant is inconsistent with Dr. Payoyo's testimony that the victim suffered two hack wounds and nine stab wounds mostly located at the skull, neck, the middle of the chest, or at the right side of the body. In stark contrast to the accused-appellant's initial claim that he stabbed the victim on the stomach, there were no wounds in the stomach of

---

<sup>42</sup> Id. at 11-18.

<sup>43</sup> Id. at 21-23.

<sup>44</sup> Id. at 27-29, 31-35.

<sup>45</sup> *People v. Zapata*, G.R. No. 241952, March 17, 2021.

<sup>46</sup> *People v. Aguila*, G.R. No. 238455, December 9, 2020.

<sup>47</sup> *People v. Lopez, Jr.*, 830 Phil. 771, 779 (2018).

the victim. Moreover, if the accused-appellant's version were true, it is very unlikely that Loreto would fail to land a single hit upon accused-appellant's body while Loreto sustained several hack and stab wounds.

Significantly, after Loreto was killed, accused-appellant immediately went home and then left for Camarines Norte. He hid for 15 years until he was apprehended in November 2011. Accused-appellant never gave any explanation to justify his failure to surrender to the authorities or his flight to Camarines Norte. Flight is an indication of guilt. In the absence of a credible explanation, the flight of an accused would be a circumstance from which an inference of guilt may be established, for a truly innocent person would normally grasp the first available opportunity to defend himself and to assert his innocence.<sup>48</sup>

On the other hand, prosecution witness Herminio positively and categorically identified accused-appellant and Benito as appearing suddenly, running towards them and stabbing and hacking Loreto without provocation. His testimony is corroborated by Dr. Payoyo's findings relative to the number, nature, and location of the hack and stab wounds sustained by the victim, and his testimony that two different weapons may have been used to inflict the injuries. The credibility of the prosecution witnesses had also been weighed by the RTC, and it found their testimonies to be more convincing.

Trial courts have the advantage of personally scrutinizing the conduct and attitude of witnesses when giving their testimonies. Thus, assignment of values to the testimony of a witness is virtually left, almost entirely, to the trial court which has the opportunity to observe the demeanor of the witness on the stand. Due to their unique position, the trial courts' factual findings and appreciation of the witnesses' testimonies are given much respect, more so when their conclusions are affirmed by the CA.<sup>49</sup> While this rule admits of exceptions, none of the said exceptions obtain in this case. Hence, considering that Herminio's positive identification of the accused-appellant and Benito as the perpetrators of the killing of the victim is reliable, and corroborated by the evidence on record, the same must prevail over the unsubstantiated claim that accused-appellant acted only in self-defense.

The Court also affirms the RTC and the CA in finding the presence of treachery in the commission of the crime. The following elements must be established for treachery to be appreciated: (1) that during the attack, the victim could not have defended himself or herself from the offender, and (2) that the offender deliberately chose a form of attack which would render him or her immune from risk or retaliation by the victim.<sup>50</sup> The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to

---

<sup>48</sup> Id. at 782.

<sup>49</sup> *People v. Magallano, Jr.*, G.R. No. 220721, December 10, 2018.

<sup>50</sup> Id.

resist or escape.<sup>51</sup> The presence of eyewitnesses, even if a few meters away, does not prevent the Court from making a finding of treachery; that eyewitnesses were unable to stop or prevent the attack despite their proximity even bolsters the fact that the attack was executed suddenly and swiftly.<sup>52</sup>

Here, the evidence on record shows that Loreto could not have defended himself from the accused-appellant and Benito's assault, and the assailants deliberately chose the time, place, and method of assault to ensure that the victim could not defend himself or escape. At the outset, there was no prior provocation or altercation between the parties. Loreto and his cousin were inside the latter's house and unarmed, obviously whiling away their time when Edwin and Benito suddenly attacked swiftly and without warning. Significantly, Herminio only became aware of their presence upon Filipina's exclamation of "Junior, *sundang!*" implying that the assailants employed some manner of stealth so that they would approach the unsuspecting victim and his companions without detection until they were in striking distance.<sup>53</sup>

While most of the victim's injuries were frontal, Dr. Payoyo testified that some injuries may have been inflicted from the back.<sup>54</sup> Regardless, a frontal attack may be regarded as treacherous when it was so sudden on an unsuspecting or an unarmed victim who had no chance to repel the attack or avoid it.<sup>55</sup> Moreover, stabbing a victim where vital organs are found shows that an accused consciously and deliberately adopted a mode of attack intended to ensure the killing.<sup>56</sup> Here, the multiple stabbing and hacking wounds inflicted upon Loreto are fatal, affecting several organs and capable of causing instantaneous death, which shows that accused-appellant deliberately adopted his method of attack to ensure Loreto's death.<sup>57</sup>

Verily, the accused-appellant's attack on Loreto constitutes treachery, thereby qualifying the crime to murder. However, we find that evident premeditation did not attend in the case at bench. For evident premeditation to be appreciated, the following must be proven beyond reasonable doubt: (1) the time when the accused determined to commit the crime, (2) an act manifestly indicating that the accused clung to his or her determination, and (3) sufficient lapse of time between such determination and execution to allow him or her to reflect upon the circumstances of his act. The prosecution must be able to show concrete evidence on how and when the plan to kill was hatched, or how much time had elapsed before it was carried out.<sup>58</sup> Here, the evidence of the prosecution was limited to the commission of the crime by accused-appellant and Benito, absent any showing that accused-appellant and Benito deliberately

---

<sup>51</sup> *People v. Archivido*, G.R. No. 233085, September 21, 2020.

<sup>52</sup> *People v. Maghuyop*, G.R. No. 242942, October 5, 2020.

<sup>53</sup> TSN, October 2, 2012, pp. 3-5 and 8.

<sup>54</sup> TSN, February 4, 2013, p. 9.

<sup>55</sup> *People v. Abierra*, G.R. No. 227504, June 13, 2018.

<sup>56</sup> *People v. Maghuyop*, *supra*.

<sup>57</sup> TSN, February 4, 2013, pp. 4-6.

<sup>58</sup> *People v. Magbuhos*, G.R. No. 227865, November 7, 2018.



hatched a plot to kill Loreto, and that they had sufficient lapse of time to cling to this determination.

Based on the foregoing, accused-appellant is guilty beyond reasonable doubt of the crime of Murder. Under Article 248 of the RPC, as amended, the crime of Murder qualified by treachery is penalized with *reclusion perpetua* to death. The lower courts were correct in sentencing him to suffer the penalty of *reclusion perpetua* considering the absence of any aggravating and mitigating circumstances that attended the commission of the offense.<sup>59</sup>

In *People v. Jugueta*,<sup>60</sup> the Court ruled that the amount of damages to be paid by the principal for Murder are the following: (1) ₱75,000.00, as civil indemnity; (2) ₱75,000.00, as moral damages; (3) ₱75,000.00, as exemplary damages; and (3) ₱50,000.00 as temperate damages when no documentary evidence of burial or funeral expenses is presented in court. Accordingly, the awards of ₱100,000.00 each for civil indemnity, moral damages, and exemplary damages should be reduced to ₱75,000.00 each. Moreover, an additional award of ₱50,000.00 as temperate damages is in order. All damages awarded shall earn six percent (6%) interest per *annum* from the date of finality of this Resolution until full payment.

**WHEREFORE**, the appeal is hereby **DISMISSED**. The July 28, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 07469 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant EDWIN JACOB is found **GUILTY** of Murder and sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay the heirs of deceased Loreto Lee, Jr. the following:

1. ₱75,000.00 as civil indemnity;
2. ₱75,000.00 as moral damages;
3. ₱75,000.00 as exemplary damages; and
4. ₱50,000.00 as temperate damages.

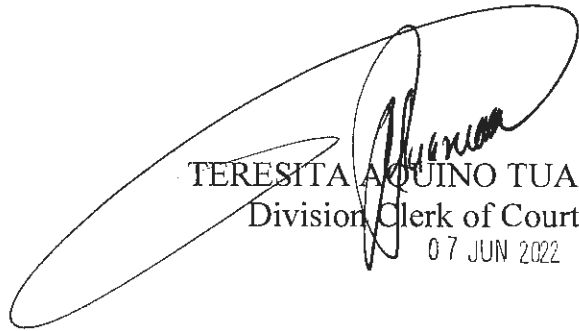
Interest at the rate of six percent (6%) per *annum* shall be imposed on the aggregate amount of the monetary awards computed from the finality of this Resolution until full payment.

**SO ORDERED.”**

<sup>59</sup> See Article 63 (2) of the Revised Penal Code.

<sup>60</sup> 783 Phil. 806, 847-848, 853 (2016).

By authority of the Court:



TERESITA AQUINO TUAZON  
 Division Clerk of Court  
 07 JUN 2022

\*PUBLIC ATTORNEY'S OFFICE (reg)  
 Special and Appealed Cases Service  
 Department of Justice  
 PAO-DOJ Agencies Building  
 NIA Road corner East Avenue  
 Diliman, 1104 Quezon City

\*OFFICE OF THE SOLICITOR GENERAL (reg)  
 134 Amorsolo Street  
 1229 Legaspi Village  
 Makati City

\*EDWIN JACOB (reg)  
 Accused-Appellant  
 c/o The Director  
 Bureau of Corrections  
 1770 Muntinlupa City

THE DIRECTOR (reg)  
 Bureau of Corrections  
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 65  
 Sorsogon City  
 (Crim. Case No. 139)

JUDGMENT DIVISION (x)  
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
 LIBRARY SERVICES (x)  
 [For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)  
 OFFICE OF THE REPORTER (x)  
 PHILIPPINE JUDICIAL ACADEMY (x)  
 Supreme Court, Manila

COURT OF APPEALS (x)  
 Ma. Orosa Street  
 Ermita, 1000 Manila  
 CA-G.R. CR-HC No. 07469

\*with a copy of the CA Decision dated 28 July 2016  
*Please notify the Court of any change in your address.*  
 GR231364. 3/16/2022(124)URES