

### ### Title

People of the Philippines v. Luisito Gaborne y Cinco

### ### Facts

On the evening of February 2, 2007, in Barangay Mugdo, Hinabangan, Samar, Rey Perfecto De Luna and Sixto Elizan were attacked while at a videoke bar, resulting in Elizan's death and De Luna's serious wounding. Luisito Gaborne, along with two others, was charged with Murder with the Use of Unlicensed Firearm (Criminal Case No. CC-2007-1650) and Frustrated Murder (Criminal Case No. CC-2007-1640), based on the allegations of conspiring and carrying out the attack with premeditation, treachery, and the use of an unlicensed firearm. Gaborne pleaded not guilty.

Subsequent investigations led to Gaborne and one accomplice undergoing a paraffin test; both Gaborne's alibi and the paraffin test results, which were negative, were contested in court. The Regional Trial Court (RTC) found Gaborne guilty of both charges, sentencing him to reclusion perpetua for the murder and an indeterminate sentence for the frustrated murder. The Court of Appeals affirmed this decision, modifying damages awarded.

### ### Issues

1. The validity of Gaborne's arrest and its effect on the jurisdiction of the trial court.
2. The merits of Gaborne's defenses of denial and alibi.
3. The qualification of the crimes committed as Murder and Frustrated Murder under the Revised Penal Code.
4. The reliability of eyewitness identification versus Gaborne's defense.
5. The significance of the negative paraffin test results presented by Gaborne.
6. The appreciation of the unlicensed firearm use as an aggravating circumstance in the crimes committed.

### ### Court's Decision

The Court held that any objection to the arrest must be raised before plea; thus, Gaborne's appeal on this ground was dismissed. His defenses of denial and alibi were deemed insufficient against the positive identification by eyewitnesses, satisfying the elements of Murder and Frustrated Murder. The Court dismissed the reliability of the paraffin test as not conclusive. The use of an unlicensed firearm was deemed an aggravating circumstance, not a separate offense, altering the crime's qualification and penalties.

### ### Doctrine

The use of an unlicensed firearm in the commission of a crime, as per amendments to R.A. No. 7659 by R.A. No. 8294 and R.A. No. 10591, serves as an aggravating circumstance, not meriting separate prosecution but affecting the gravity of the offense and penalties imposed.

### ### Class Notes

- **Legal Arrests and Jurisdiction**: Any objection to the arrest or the court's jurisdiction over an accused's person must be filed before a plea is entered.
- **Defense of Alibi and Denial**: The defense of alibi or denial is considered weak against positive identification by eyewitnesses.
- **Murder and Frustrated Murder**: The elements for Murder and Frustrated Murder established in the RPC must be proven beyond reasonable doubt, with specific emphasis on qualifying circumstances like treachery.
- **Eyewitness Testimony vs. Physical Evidence**: Eyewitness testimony, when found credible, is given precedence over physical evidence like negative paraffin test results.
- **Use of Unlicensed Firearm**: The use of an unlicensed firearm in committing a crime is treated as an aggravating circumstance, impacting sentencing but not constituting a separate offense.

### ### Historical Background

This case highlights the evolving interpretation and application of laws concerning the illegal possession of firearms in the Philippines and their impact on related criminal offenses. Through amendments to existing laws, the legislative intent focused on the integration of illegal possession as a factor in determining the severity of punishments for crimes like Murder and Frustrated Murder.