

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OSCAR CASTELO, AUGUSTO MELECIO ALIAS AUGUST, BIENVENIDO MENDOZA, ALIAS BEN ULO, JOSE DE JESUS Y LINGAT ALIAS PEPING, HIPOL...

G.R. No. L-10774. May 30, 1964

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PER CURIAM:

This is an appeal from the decision of the Court of First Instance of Rizal in its Criminal Case No. 3023, finding appellants Oscar Castelo, Bienvenido Mendoza alias Ben Ulo, Jose de Jesus y Lingat alias Peping, Hipolito Bonifacio y de Guzman alias Pol, Domingo Gonzales y Salvacion alias Doming & Jockey Salvacion, Felix Miray y Gutierrez alias Pile, Pedro Enriquez alias Pedring Pasig alias Busog, and Augusto Melencio alias August, guilty of murder and sentencing them to death. These eight defendants, together with eight others, were charged with having murdered Manuel P. Monroy in the night of June 15, 1953. During the course of the proceedings, however, the case was dismissed for lack of evidence, as against Adelaida Reyes, Dra. Herminia Castelo-Sotto, Felix Tamayo and Leonardo Caparas. Rogelio Robles turning state witness, was discharged. The three others - Salvador Realista, Rading Doe and John Doe - were still at large. A joint trial was held at which about 150 witnesses testified and more than one thousand documentary exhibits were introduced. The Hon. Emilio Rilloraza, Judge, in a long and exhaustive decision (186 printed pages) convicted the herein mentioned appellants.

About a week after the promulgation of the decision, state witness Rogelio Robles executed an affidavit dated April 16, 1955 (Exh. 1-New Trial) wherein he repudiated all he had testified to, branding it to be a series of falsehoods. This prompted Castelo to move for a new trial, which was granted by vacation judge Juan L. Bocar, because Judge Rilloraza who had penned the original decision was then on vacation. The Solicitor-General questioned the Bocar order by certiorari in G.R. No. L-9050. However, we sustained His Honor's decree. A new trial was had only with respect to Castelo, as the seven other appellants had already perfected their appeal. After the re-hearing, again Castelo was found guilty and sentenced as before; but he was in addition required to indemnify the heirs of the deceased in the amount of P3,000.00.

During the pendency of this appeal, Castelo filed a motion for bail and new trial on the ground of newly discovered evidence; and the seven other appellants likewise filed a motion for new trial on identical grounds. These two motions were acted upon in our Resolution of July 15, 1957, to the effect that "action on the motions for bail and for new trial filed by appellants' counsel is deferred until the time when the appeal is considered upon the merits." Thereafter, several motions for reconsideration and for bail were one after another, filed by Castelo, which were repeatedly denied.

Considering now the appeal on the merits, it appears that the prosecution has established the following:

FACTS: In January 1953, appellant Oscar Castelo, then a Judge of the Court of First Instance of Manila, became Secretary of Justice; and on March 1st of that year, he was designated to act as Secretary of National Defense in addition to his duties in the Justice Department. He held these twin positions until the end of the year 1953.

Sometime in April, 1953, Bienvenido Mendoza alias Ben Ulo, a police character and an ex-convict, got acquainted with Secretary Castelo at the Country Club in Baguio through Capt. Alejo, his aide. Both being from Nueva Ecija, the ex-convict apprised the Secretary of his enemies (those he had sent to jail as judge) and this aroused Castelo's interest. So he invited Ben Ulo to "help him" and the latter became his trusted bodyguard.

On April 29, 1953, Senator Claro M. Recto, now deceased, aired on the floor of the Senate charges against Castelo for bribery and extortion, allegedly perpetrated when Castelo was still Manila judge. The following month and at the instance of Secretary Castelo, Senator Recto found himself a defendant, in a bigamy case in the Court of First Instance of Bulacan. Recto countered with a disbarment charge, and the feud between them gained wide publicity, involving as it did two prominent public officials. Recto's charges were investigated by the Senate Blue Ribbon Committee, with Monroy as Recto's star witness^[1] - to the chagrin or irritation of both Castelo and Ben Ulo who had exerted efforts to prevent him from so testifying. Moreover, Monroy was likely to be again a witness in the disbarment proceedings - instituted by Recto - before the Supreme Court, which rested on the same charge of bribery.

With this background, and not long after Ben Ulo had become the personal bodyguard of Secretary Castelo, one early morning in the latter part of May, 1953, Ben Ulo sent for his "boys" Rogelio Robles and Florentino Suarez alias Scarface. When these arrived at his house at the corner of Perla and Sande streets, Tondo, Ben Ulo told them that Senator Recto and Secretary Castelo were mutually suing each other (nagdedemandahan); and so he wanted his said "boys" to kill Monroy; both agreed. Ben Ulo then told them to wait downstairs. The trio left in Ben Ulo's jeep driven by Felix Miray and headed for Castelo's residence at Sampaloc Avenue, Quezon City, arriving there after eight that same morning. Ben Ulo introduced Robles and Scarface to Secretary Castelo in the balcony or porch of the house saying, "These are my boys," Castelo nodded and smiled. Forthwith, in the presence of and within the hearing of Robles and Scarface, Castelo told Ben Ulo, *kailangan mapatay si Monroy* (Monroy must be killed), to which Ben Ulo nodded in quiet assent. Thereupon, Castelo and Ben Ulo went inside. Five minutes later, Ben Ulo came out and told Robles and Scarface to wait in the yard where Ben Ulo's "other boys" were idling by; namely, Domingo Gonzales, Jose de Jesus, Pedro Enriquez and Salvador Realista, all of whom were confidential agents of the Department of National Defense, appointed by Castelo - at the recommendation of Ben Ulo. Later that same morning, Ben Ulo, Robles and Scarface rode in a P.I. jeep driven Felix Miray and, together with the "other boys" riding in another jeep, escorted Secretary Castelo to his office at Camp Murphy. Castelo and Ben Ulo entered the office while Robles Scarface remained outside. When Ben Ulo came out, he told Robles to come back on June 1st to get his appointment as special agent of the Department of National Defense.

Came June 1st, Robles and Scarface went back to Camp Murphy where Ben Ulo handed Robles the latter's appointment as confidential agent, signed by Castelo. At eleven o'clock that noon, Castelo went home to Sampaloc riding in Car No. 6, followed by Ben Ulo, Robles and Scarface in a jeep driven by Miray, and by another jeep occupied by the other "boys" Peping de Jesus, Domingo Gonzales, Salvador Realista and Pedro Enriquez. Once in the house, Castelo and Ben Ulo had a huddle inside, while Robles and Scarface remained at the balcony. Later Ben Ulo came out and sat beside the two. Shortly afterwards, Castelo joined the trio in the balcony and told them, *"Gusto kong mapatay si Monroy pagkaalis ko"* (I want Monroy killed after my departure), to which Ben Ulo replied in Tagalog, "I will take care of it."

On June 8, 1953, Secretary Castelo left for Korea; but before boarding the plane at the airfield, he called his nephew Augusto Melencio (who was also agent of the Defense Department) and Ben Ulo and told them, *"Huwag lang hindi ninyo mapatay si Monroy bago ako dumating"* (Don't fail to kill Monroy before my return) to which Ben Ulo replied, *"Huwag kang magalaala, halos patay na siya"* (Don't you worry, he is as good as dead.)

About two days after Castelo had left, Ben Ulo gathered his "boys" at his house in Tondo and discussed the

killing of Monroy. In the evening, the group headed by Ben Ulo, went to Pasay looking for Monroy, but he could not be found. They decided to postpone the killing and agreed to watch Monroy's habitual movements, taking turns in this observation day and night. In the morning of June 13th, Robles and Scarface using Ben Ulo's jeep, went to Pasay and again reconnoitered in the vicinity of Monroy's place, but they did not see him. They reported the negative results to Ben Ulo.

Then in the afternoon of June 15th, about two or three hours before the actual killing, and in furtherance of their conspiracy, Ben Ulo and his "boys" Enriquez, Realista, Miray, Gonzales and Peping de Jesus, gathered again, this time at the Happy Valley in Quezon City, and there finalized their plans. They agreed to use three motor vehicles: two cars and an AC jeep, Ben Ulo enjoining them that should there be any opposition or untoward incident, they should shoot it out. After everything had been set, the group proceeded to Camp Murphy to get car No. 6 and fetch Caparas. They went to Pasay in two cars, as follows: Ben Ulo, Enriquez, Melencio, Caparas, Felix Tamayo in car No. 6, and Jose de Jesus, Gonzales, Miray and Realista in a Plymouth car bearing plate No. P.I. 1176. On the other hand, and upon previous understanding, Robles, Scarface and Hipolito Bonifacio went in an AC jeep directly from Tondo to Camp Murphy where they were supposed to meet Ben Ulo, but upon finding that he and the "boys" were not there, they proceeded to Pasay and parked their jeep near the corner of Harrison and David streets. It was dark already. Car No. 6 and the Plymouth arrived later. Ben Ulo briefly asked Scarface whether Monroy was there, and the latter answered affirmatively. Ben Ulo then gave hurried instructions to Gonzales, Enriquez, De Jesus, Scarface and Realista, after which he, attired in coat and tie, went back to Car No. 6 and sped towards Manila.[2] At least five men in the group were armed: Hipolito Bonifacio had a Thompson sub-machine gun; Robles and Enriquez had a .45 caliber gun each; Scarface had another gun; and Jose de Jesus had a super .38 caliber automatic pistol. In addition, there were spare guns in the cars.

At the time Ben Ulo was giving last-minute instructions to his "boys", Manuel P. Monroy was unconcernedly playing "majong" with his wife, Mario Bautista and Donato Baras at the ground floor of No. 18-C Gamboa Apartments occupied by Paula Montes, Monroy's neighbor. These apartments were located inside a compound and consist of twin buildings facing each other, separated by a wide blind alley or "pasillo", the only entrance or exit being from David Street. The Montes apartment was well lighted with fluorescent bulbs and the game could be seen from the door. It was then about 7:30 in the evening.

After Ben Ulo had left and pursuant to his instructions, Scarface, De Jesus, Gonzales, Enriquez and Realista walked along David Street. Scarface who was supposed to be the triggerman, showed some hesitation, so De Jesus[3] entered the "pasillo" and went towards the apartment where Monroy was playing. De Jesus tarried a while pretending to watch the game from the door, almost blocking the way, in such a manner that when William Clemens, a neighbor, entered to deliver the cigarettes he had bought for one of the players, he had to ask De Jesus to allow him to get in. When Clemens was already inside, De Jesus suddenly fired three successive shots at Monroy who, clutching his belly, exclaimed, "Pinatira ako" (Someone had me shot). Commotion ensued and De Jesus, gun in hand, retraced his steps towards David, thence to Harrison, and then boarded a passing passenger jeep which was heading towards Manila.

Alerted by the shots, Pablo Canlas and Jose Moratalla (a Quezon City policeman off-duty) who were listening to another neighbor strumming a guitar at the entrance of the "pasillo", spotted and tried to chase de Jesus but lost him.

Monroy was taken to the hospital where he soon died, and upon autopsy performed by Dr. Pedro Solis of the NBI the following day, he was found to have received three gunshot wounds, one of which was fatal (Exh. A-3).

Immediately after the shooting, Robles, Scarface and Bonifacio boarded their AC jeep and returned to Tondo,

while those in car No. 6 and in the Plymouth No. PI -1176 proceeded to the house of Adelaida Reyes, Castelo's mistress, taking different routes. Meanwhile, gunman De Jesus alighted from the passenger jeep at Taft Avenue near La Salle College, took a taxi, and headed also for Adelaida's place where he found the two cars already there as well as Ben Ulo and the "boys". Later that night, they disbanded and returned to their respective homes.

The Pasay police soon started its investigation and Chief Antonio C. Amor requested the NBI (National Bureau of Investigation) and the Manila police to have a conference with him so as to coordinate police work, as it was believed that the culprits were from Manila; and this request was confirmed by him in a letter to Mayor Lacson (Exh. KK).

Castelo returned from Korea on June 26th. On hand to greet him in the airport were Ben Ulo and Melencio, and a picture was taken of the occasion (Exh. RRR). The following morning, Ben Ulo and the "boys" were again at Castelo's house. In a gay mood and fingering his bow tie, Castelo tapped Ben Ulo's shoulder and said, "Mabuti wala na tayong iintindihin ngayon; pero, Ben, natitiyak mo kayang walang nakakita?" (Good, now we have nothing to worry about; but, Ben, can you be sure nobody saw?) Ben retorted, "Wala; malinis na malinis ang trabaho"(Nobody; the job was very neatly done).

Pursuant to the request of Chief Amor of Pasay, the Manila police made its own investigation, and on June 26th, Scarface and Robles were arrested. At this, Ben Ulo's "boys" became so apprehensive and jittery that he had to calm them down saying, "Hindi be sinabi ko sa inyo na kaya ng matanda iyan, maski anong asunto. Puede ba tayong iwanan ng matanda (Secretary Castelo) ay kasama siya diyan." (Didn't I tell you already that the old man (Castelo) can take care of any case? Can the old man desert us when he is in it himself?)

Scarface and Robles were later set free, but were under police surveillance.

Some days after, while Ben Ulo and this "boys" were hanging around Castelo's office at Camp Murphy, Ben Ulo told Melencio, "Tila merong masamang nangyari. Babaliktad na si Scar-face, pick apen natin. Kailangan makausap ng matanda (It seems that something went wrong. Scarface is about to turnaround. Let's pick him up. It's important that the old man talk to him).

Consequently, in the evening of July 13th, Scarface found himself in the Shellborne Hotel with Ben Ulo, Miray, Enriquez, Gonzales and De Jesus (Exh. JJJ). Castelo, who had a suite in the fifth floor, was also there and knew that Scarface was with the "boys" in the second floor.

Mayor Lacson of Manila likewise knew that both Castelo and Scarface were in the hotel that night. The Mayor, accompanied by armed policemen, photographers and newspapermen (whom he had alerted earlier in the afternoon promising them that something "big" would be coming) went to the Shellborne Hotel at about eight o'clock that evening and posted himself and his men at the Ambassador Hotel nearby, presumably waiting for some signal for them to rush to the Shellborne Hotel and take pictures of Castelo and Scarface while talking and, if possible, get a tape recording of their conversation (Exh. 57-A-Castelo to 57-U-Castelo). Informed that Lacson and some thirty "armed hoodlums" were looking for him, Castelo observed from his suite and noticed that really there were armed men around the Shellborne. Alarmed, Castelo directed that some constabulary soldiers be sent to the hotel for his protection. (Remember, he was Secretary of National Defense). Inasmuch as the constabulary was slow in coming, Castelo directed his confidential assistant to telephone Capt. Alejo, the Secretary's aide at Camp Murphy, to send Army troops. Thirty enlisted men and two officers under Capt. Orestes Montano, "in full combat gear," were dispatched posthaste to the Shellborne Hotel, riding in two weapon carriers, a scout car and a jeep. Capt. Montano found Castelo in his suite "pale and jittery" thereupon Castelo ordered the Captain to arrest Mayor Lacson, but the Captain failed to meet the latter after looking for him in several places, including the Mayor's house. Meantime, Col. Antonio Sayson, Deputy Chief of the constabulary (who was also called by

Castelo), arrived with twelve men and two officers at ten o'clock that evening. Sayson was likewise ordered by Castelo to arrest Mayor Lacson and to provide security for Scarface in the second floor of the hotel. Col. Sayson went down, saw the Mayor and informed the latter that he was being arrested upon orders of the Secretary. Asked whether the Colonel had a warrant of arrest, Sayson answered in the negative; whereupon Mayor Lacson said that if the Colonel would insist in arresting him, he would have to do it over Lacson's dead body. Sensing that the situation was tense, there being two opposing armed groups standing by, Sayson desisted and reported back to Castelo. Then Generals Vargas and Selga, Cols. Velarde and Cabal arrived. Castelo at last lifted his order, and the incident was closed. Upon suggestion of Capt. Gayares, Scarface was taken to Camp Crame for better security instead of leaving him in the hotel under the Captain's protection (Exhs. BBBB, BBBB-2, BBBB-3, BBBB-4, BBBB-5, BBRB-6, BBBB-7, BBBB-11).

One month after the Shellborne incident, Castelo went to the United States, but before his departure, he told Ben Ulo in the presence of Melencio, "Ben, ang mga bata, ikaw ang bahala sa kanila. Siguruhin mo lang na walang magsasalita at delikado tayo" (Ben, take care of the boys; be sure nobody talks as we would be in danger).

On October 20, 1953, three months after the Shellborne incident, Robles and Scarface were called to Ben Ulo's house where the latter handed a super .38 caliber pistol (Exh. 6) and a magazine to Scarface, saying "Iyan daw ang ginamit pagpatay kay Monroy" (That's said to be the one used in killing Monroy). Scarface and Robles left. Ten minutes later, both went to Robles' house and there Scarface wondered where they could hide the gun and the bullets. Scarface then dismantled the gun the handle and the bullets (Exh. G-3, to G-2-L; G-3 to G-3-14) were wrapped by Scarface. Both bundles were hidden by them in two places: one was buried in the ground, seven inches deep, under the "papag" bed in the house of Robles' aunt, and the other (Exh. H-6, H-7, H-8 and H-9) in the house of Robles' sister.

Five days later, Scarface was found dead, with multiple stab wounds. His death still remains a mystery.

It appears that the day after Monroy's murder, Francisco Villa, an agent of the N.B.I, was assigned to make the corresponding investigation. He contacted Clemens and thru him, ascertained the identity of the killer Peping de Jesus. Having known the latter's connection with Ben Ulo and his "boys", the authorities cautiously proceeded and having been informed by Floring Cabanatuan that Pile (Felix Miray) was probably the least tough of the gang, they took the latter into custody (the NBI) on December 18th for questioning. He confessed, and his narration was tape-recorded and later reduced to writing in five pages (Exh. 2). He did not sign it until he obtained the assurance from the NBI that he would be given adequate protection. In his statement, Miray named Ben Ulo, Peping de Jesus, Domingo Gonzales, Robles, Pedro Enriquez, Salvador Realista and a certain Rading as among the conspirators. This revelation resulted in several apprehensions. Enriquez was arrested on December 24, 1953. He confessed, and his statement was tape-recorded and later written and subscribed before Atty. Arturo Xavier of the N.B.I.

Domingo Gonzales was arrested on the 28th, and his narration was likewise tape-recorded, then reduced to writing. During said tape-recording, Miray was listening to it in another room, - unknown to Gonzales - and Miray assured the NBI that what Gonzales had said was all true. In his statement Exh. BB, Gonzales linked Enriquez, De Jesus, Realista, Scarface, Tamayo and Rading to the murder and conspiracy. Gonzales even made corrections with his initials, on pages 2 and 4 of his written statement.

The N.B.I. on December 30th, picked up Ben Ulo but he denied everything, and refused to make any declaration.

The Manila Police, on its part, arrested on December 29, Peping de Jesus who executed statement Exhibit EE describing how he shot Monroy, and the conspiracy with Ben Ulo, Enriquez, Realista, Miray, Gonzales and Melencio in the manner already stated.

Hipolito Bonifacio was likewise taken into custody by the Manila Police; and he also made the confession Exh. DD, naming Ben Ulo, De Jesus, Domingo Gonzales, Scarface and Robles.

Rogelio Robles was then apprehended and questioned. He confessed too; and upon his indication, the police recovered the gun parts hidden by him as well as the bullets, which were turned over to the NBI and then to Major Cabe, the ballistics expert of the Armed Forces. The three slugs (Exh. K, K-1 and K-2) as well as the three empty shells (Exh. J, J-1 and J-2) found on the night of June 15th by Patrolman Matias Soriano of the Pasay Police on duty at Harrison at the time of the shooting, were likewise turned over to Major Cabe who, upon laboratory tests, concluded that the three slugs came from the three empty shells which, in turn, were fired from that gun (Exh.G).

Miray, Gonzales, Enriquez and Ben Ulo were turned over by the NBI to the Manila Police where, except Ben Ulo, they again made confessions (Exh. GG, GC and FF).

Augusto Melencio voluntarily surrendered to the police. Then on May 24th and 26th, 1954 (Exh. JJ and HH-1) while out on bail and when the case was already being heard, he made the revelations later to be quoted herein.

All these statements or confessions[3-a] relate, with some variations as to minor details, the story of the assassination, the motives thereof and the names of the raiding parties.

DEFENSES: Appellants set up the defense of alibi, even as they claimed that the statements they gave to the NBI and the Manila Police had been extorted from them by means of violence, and that the contents thereof were not true. Their alibi consisted in the following:

Jose de Jesus.- The night Monroy was killed (June 15, 1953), he was playing "cuajo" in the house of Rizalina de la Rosa in Calle Asuncion, Manila; he started playing from about two or three o'clock in the afternoon up to five o'clock the following morning, having taken his supper at Rizalina's house.

Pedro Enriquez.- After receiving his salary at three o'clock in the afternoon of June 15th, he went to La Loma where he took a siesta with his common-law wife Andrea Marifosque; at about dark, one Remedios Tagle came and had supper with them; and there after, he went to bed and never left the house that night.

Felix Miray.- He stayed the whole day, June 15th, at home at 707 Pablo Carreon, Manila, nursing a toothache.

Domingo Gonzales.- After taking a siesta on June 15th, he trained his fighting cock with other roosters until he was called for supper; then he read comics and retired at about eight or nine o'clock.

Hipolito Bonifacio.- He was in his house at 1247 Interior 9, Juan Luna, on June 15th, because his wife had a severe attack of asthma, which lasted up to June 17th; and between six and eight o'clock on the night of June 15th, he was Massaging his wife's back on account of her ailment.

Ben Ulo.- He escorted Mrs. Castelo from six o'clock in the evening of June 15th, to a party at the Jai-Alai with friends, such as Mrs. Gianzon, Mrs. Leuterio, and others, and stayed there until early hours in the morning when he conducted Mrs. Castelo home.

He denied all the imputations of Robles, admitting, however, that he was not forced to make a statement nor subjected to any physical violence by the police, although he was somehow threatened; and that Lacson had offered to give him -10,000 if he would turn witness against Castelo, which offer he refused.

Augusto Melencio.- In the afternoon of June 15th, he went to Cabanatuan City with Major Vina of the Quezon City Police on a robbery case which they were investigating; that they rode in a jeep driven by Patrolman Maximo Francisco, arriving there at about seven o'clock; that they returned from Cabanatuan the following morning, June 16th. He further said that on January 5, 1954, after learning from the newspapers that he was included in the

information, he voluntarily surrendered to Mayor Lacson and that his statements Exh. JJ and HH-1 were not given by him voluntarily, as the contents thereof were merely dictated by Fiscal Andres Reyes to stenographer Miss Paredes; and that he merely cajoled into making said statements.

Oscar Castelo.- He was in Korea on June 15th, having left Manila on the 8th and returned on the 26th.

He denies having told Ben Ulo, on the last week of May, in the presence of Robles and Scarface, to kill Monroy because, having been a fiscal and a judge, he could not have committed the gross indiscretion of telling such serious matter in the presence of strangers, as Scarface and Robles, whom he did not know; adding that if he really ever wanted to do away with anybody, he could have just told his brother to shoot the victim without the need of anybody else's help, because his brother is a sharpshooter of note and is a worthy representative of the Philippines in international shooting competitions; besides, his catholicity does not permit him to entertain such a wish to kill. He further said that it would have been better for him to have Monroy alive because it was Monroy who could precisely vindicate him from the accusations of Senator Recto; because, after having testified before the Blue Ribbon Committee, Monroy, accompanied by his cousin, Atty. Cacnio, purposely came to see him on May 21st, wept, embraced him, and asked for forgiveness for having so testified; that he and Monroy made up since then, Monroy promising that at some subsequent time, he would retract what he had testified before the Committee and would issue a statement to that effect in the press.

Castelo likewise denied the imputation of Robles that on June 1st, he instructed Ben Ulo, in the presence of witness Robles and Scarface, that Monroy be killed after he had left for Korea; he swore that this is a lie because he did not go to his office that morning as he had a cruise on board a navy vessel around Manila Bay with prominent persons such as Commodore and Mrs. Francisco, Clarita Tan Kiang, Fiscal Milagros German, Mr. and Mrs. Gianzon and others, and that after the cruise he attended a BZSCOM meeting, then went to the Philippine National Bank at the Escolta to act on some important papers, after which he went to V. Luna Hospital for dental treatment.

He similarly branded as false the insinuation in Melencio's written statement that before he boarded the plane for Korea he (Castelo) called Ben Ulo and Melencio aside and reminded them that Monroy should be killed before his return. He also denied another Melencio insinuation that after his arrival from Korea he asked Ben Ulo in the presence of Melencio how was the "job" done and if anybody saw it done; that it was likewise false that before he left for the United States in August, he told Ben Ulo take care of the "boys" and see to it that they do not talk.

DISCUSSION: We shall first take up the case of the six defendants against whom the People recommends conviction. Afterwards, we shall consider that of both Melencio and Castelo, whose acquittal the Solicitor-General recommends.

The defense of alibi set up by Miray, Gonzales, Enriquez, Hipolito and De Jesus deserves little attention for its flimsiness, bearing in mind that Manila is just 15 to 20 minutes drive to the scene of the crime. Besides, it contradicts their individual confessions wherein each mutually names one another as his partner in crime, each describing his own participation therein, and each corroborating or supplementing one another's narration of material facts, and all mentioning Ben Ulo as their leader. These confessions unfurl a picture of conspiracy amongst themselves and other persons to snuff out the life of Monroy, De Jesus actually firing the fatal shots and the others lending him support while posted at strategic places. De Jesus was positively identified by William Clemens, a disinterested witness, and by Canlas who singled him out in a police line-up.

Their claim that their confessions were extorted by means of force and violence may not be taken at its face value. Ben Ulo himself refutes them on this score when he testified that he was never subjected to any indignity; on the contrary, he stated that he was even offered P10,000 by Mayor Lacson if he would testify against Castelo - which

he rejected. He even declined to make any statement before the NBI and the Manila Police - and was not bothered at all. If torture were the standard police practice in obtaining statements, it surely strikes us why Ben Ulo, the acknowledged leader of the group, should have been spared from such ordeal. We are, therefore, reluctant to believe that these five appellants had no other choice but to make statements. They could have refused, same as Ben Ulo. Moreover, it is hard to believe that the NBI and the Manila Police could have added incidental details to said confessions without the declarants having furnish them themselves.[4]

With respect to Ben Ulo, the positive testimony of Robles conclusively shows that this appellant was the active leader of the plot, from its inception down to its actual accomplishment. It was he who broached the subject of killing Monroy to Robles and Scarface, and introduced his "boys" to Castelo, who immediately confirmed that "Monroy must be killed;" it was Ben Ulo who planned the whole strategy of the rub-out; and it was he who delivered the lethal gun Exh. G to Scarface and Robles for them to hide. The testimony of Robles is amply corroborated not only by the confessions of Miray, De Jesus, Bonifacio, Enriquez, Gonzales and Melencio - all of whom point to Ulo as the leader and moving spirit - but also by the mass of evidence on record, that leaves no room for doubting his guilt. To cap it all, his flight while under detention betrayed a guilty conscience[5]. Note further, that as proved by the prosecution, he left the scene of the crime at about 6 p.m. already well-dressed. So he could have gone from there directly to accompany Mrs. Castelo, as he claimed, to lay the basis for his alibi.

Elaborating on the contention that the interlocking contentions of De Jesus, Enriquez, Gonzales, Miray and Hipolito had been extracted thru violence, their attorney-de-officio calls attention to the several days they had been under detention before they signed the corresponding confessions (before the police). But it is of record that Enriquez was arrested of December 24, 1953, the National Bureau of Investigation and on the same day, confessed his participation; and that Domingo Gonzales was taken into custody by the NBI on December 28, 1953, and on the same day, he too confessed. This point, besides refuting the defense's contention that it was Mayor Lacson and the Manila Police who had framed up this prosecution and extracted the confessions, lends special credence to the People's theory, because the NBI operates under the Department of Justice, and it is very unlikely that the officials of that Bureau would lend themselves to any moves to frame up their boss.[6] In fact, and this is significant, the original information did not include Castelo.

At this juncture, it may be stated that Mayor Lacson's participation and interest was due to the request for help from the Pasay police, and partly perhaps, to his natural apprehension that the police officers might be slow or reluctant to pursue the "lead" implicating an official of the highest level, a member of the Cabinet - holding two pivotal portfolios at that.

But not all confessions are attacked as having been obtained thru violence. Melencio never claimed that the police laid violent hands on him.

Melencio.- He merely said he confessed because he was afraid yet he made his confession while he was at liberty under bail. And many details could not have appeared therein unless he had given them out himself voluntarily.[7]

This confession has a very peculiar value, because he is the nephew of Castelo and was his confidential agent at the time. Here are pertinent parts thereof:

"Q.- Mr. Melencio, why are you here now before me?

"A.- To give information that I wish to be a state witness in the case of 'PPI vs. Castelo, et al.' wherein I am one of the accused.

"Q.- Do you realize what you are doing?

"A.- Yes, sir.

"Q.- Have you studied this matter seriously?

"A.- Yes, sir.

"Q.- Have you consulted your father and mother?

"A.- Yes, sir. They told me it is up to me.

"Q.- Have you consulted your wife?

"A.- She told me that if I knew something I should tell it.

"Q.- Have you been promised any reward, job or money for you to testify in this case as state witness?

"A.- No, sir.

"Q.- Do you have any criminal record?

"A.- None, sir. x x x."

"Q.- Where did you finish your high school?

"A.- In a private college run by catholic priests.

"Q.- If I am not mistaken Mr. Melencio, you are related to Mr. Oscar Castelo, one of the accused in this case, are you not?

"A.- Yes, sir, he is the cousin of my father.

"Q.- How do you call him?

"A.- I call him Tio Oscar.

"Q.- And in spite of that you are coming to me and are willing to testify against him in the trial?

"A.- Yes, sir.

"Q.- What is your motive?

"A.- Because I want to have a clear conscience. Since the very beginning of this case I have been thinking to testify in this case in favor of the prosecution but thinking that Oscar Castelo is my relative, I was ashamed to testify against him and I feared Ben Ulo.

* * * * *

"Q.- One of the reasons why you did not testify in the very beginning is because you were afraid of Ben Ulo. Who is this Ben Ulo?

"A.- He is one of the accused in this case.

"Q.- Why are you afraid of him?

"A.- Because I have known him as a killer.

"Q.- Did he threaten you or intimidate you?

"A.- I think so, since the very beginning of my assignment.

"Q.- How did he threaten you?

"A.- He was telling me that he will liquidate me and my family if I testify against them.

* * * * *

"Q.- At the time that Robles was testifying you were one of the accused present, were you not?

"A.- Yes, sir .

"Q.- After Robles testified, why did you not think of testifying?

"A.- I had been thinking of my uncle, ex-secretary Oscar Castelo.

"Q.- I understand that you were working before in the Office of the National Defense?

"A.- In the office of the Secretary, in the National Defense.

"Q.- When was that?

"A.- I started working in April, 1953.

"Q.- What was your position in the office?

"A.- Confidential Agent.

* * * * *

"Q.- Up to when did you stay in the National Defense as confidential agent?

"A.- In the middle part of July, 1953.

"Q.- Who was the secretary of the National Defense at that time when you started as confidential agent?

"A.- Oscar Tombo Castelo.

"Q.- You stated that you chose to be an escort of Oscar Castelo, what did you do?

"A.- We used to go every where he went.

"Q.- When you say, we, were you accompanied by other people?

"A.- Yes, sir, Ben Mendoza, Pedro Enriquez, Jose de Jesus, Domingo Gonzales, Salvador Realista, Alfredo de Leon, Elueterio Espiritu, Felix Miray and Totoy Reyes, Several times I have seen Rogelio Robles join us.

* * * * *

"Q.- You said that Ben Mendoza also escorted Secretary Castelo, do you know what was the relationship between Ben Mendoza and Oscar Castelo?

"A.- He is the personal bodyguard of the secretary.

"Q.- How do you know that he was the personal bodyguard?

"A.- I know it because I have seen him day and night with the secretary and he is the one who gives order to some of the escorts.

* * * * *

"Q.- Do you know Rogelio Robles?

"A.- Yes, because I saw him with Ben Mendoza in the residence of the Secretary of National Defense.

"Q.- When was that you saw him there for the first time?

"A.- In the latter part of May, 1953.

* * * * *

"Q.- What was Robles doing in the house of Castelo during the latter part of May?

"A.- When I saw Rogelio Robles there in the house of Castelo, I can remember that I asked the guard in the house. He told me that is the companion of Ben. When I learned that, I asked Miray who is that small fellow and Miray answered: 'Matigas na bata ni Ben yan' and since then I saw him once in a while going with us to escort the secretary.

* * * * *

"Q.- Did you hear about the name of Manuel Monroy again?

"A.- Yes, sir, the latter part of May.

"Q.- On what occasion?

"A.- When we were in Camp Murphy. Ben Mendoza told me to go with him in company of Gonzales and Felix Miray to survey the place where Manuel Monroy lives.

"Q.- Did you ask Ben Mendoza why he wanted to survey the place?

"A.- Certainly, sir, he told me that the Secretary desired that Monroy be silenced.

"Q.- What was your reaction when Ben Mendoza told you that?

"A.- I felt a little nervous.

* * * * *

"Q.- Do you know the reason why Castelo wanted to silence Monroy?

"A.- Because Ben Ulo told me that Castelo was double crossed by Monroy, they tried all their efforts to prevent him from testifying and in spite of that he testified.

"Q.- Now, did you verify or later on did you find out if it was really the desire of Castelo to silence Monroy?

"A.- I cannot call it verify because when Castelo was leaving for Korea, when we escorted him on the plane, he called Ben and me in a place where we will not be heard by any body and he told us in a hurried manner, he told Ben in Tagalog in my presence: 'Huwag lang hindi ninyo mapatay si Monroy bago ako dumating', and then the reply of Ben was, 'Huwag kang magalala, halos patay na siya'.

"Q.- What were you doing there near Castelo?

"A.- We are leading the Secretary to the plane. I was even carrying his portfolio.

"Q.- Did you see him (Castelo) after he arrived from Korea?

"A.- Yes, sir.

* * * * *

"Q.- Who was with you when you saw him?

"A.- The gang but we left them outside and we went inside.

"Q.- Who was 'we'?

"A.- Ben Ulo and myself.

"Q.- Why did you not bring the gang?

"A.- They just stayed outside.

"Q.- What did you do then?

"A.- We waited for the Secretary to come because he was dressing when we arrived. We were then in the sala of his house when he came down. He was very happy, and holding his bowtie he tapped the shoulder of Ben and said 'Mabuti, wala na tayong intindihin ngayon, pero Ben, natitiyak mo kaya walang nakakita?' and Ben said, 'Wala, malinis na malinis ang trabajo.'

"Q.- What was the reaction of Ben Ulo when he learned that Scarface was arrested?

"A.- Ben Ulo further stated: 'Kaylangan maareglo ito baka bumaliktad ito'.

* * * * *

"Q.- What happened?

"A.- While we were conversing, Ben Ulo came out excited from the Office of the Secretary and he called me personally and told me: 'Tila merong masamang nangyari. Babaligtad na si Scarface. Pick apen natin. Kaylangan makausap ng matanda'.

In connection with this confession, the Solicitor- General's Office appears to have taken a peculiar stand. It says "We are not prepared to admit as true everything stated" In it because he was "wheedled" by the Police Department to testify for the prosecution. "Wheedled" means coaxed by soft words, flattery, etc. We do not think such "wheedling" could invalidate the confession. And then, that prosecuting arm of the Government would seem

to reject the confession in so far as it affects Castelo and Melencio, but would apparently consider it as against the other co-defendants. What is the difference? At least, in so far as Melencio was concerned, was it not a confession that, interlocked with the confessions of the other defendants and must accordingly be considered with such confessions? Specially because unlike the other defendants, Melencio never claimed to have been physically harmed by the Police; and, furthermore, was out on bail when he signed it.

And there is one decisive consideration. Unlike the other confessions of the accused (De Jesus, Gonzales, Miray, Enriquez, and Bonifacio), which were merely "subscribed and sworn to" before Fiscal Andres Reyes, the confession of Melencio contains this certification signed by two women stenographers.[8] "We hereby certify that this is a true and correct transcription of the stenographic notes taken during the preliminary investigation conducted on May 26, 1954 by Asst. Fiscal Andres Reyes.

"(Sgd.) JULIETA HERRERA

"Clk-Stenographer

"(Sgd.) ESTER P. PAREDES

"Clk-Stenographer"

Which certification shows the answers given by Melencio had been given before said two women - not the police - and taken down stenographically by them, in an ordinary investigation by the Fiscal.

All of which means: the confession of Melencio like those of De Jesus, et al., must be accorded full evidentiary value. It must be observed that said confessions were presented a joint trial of all the accused.

Coming now to Castelo, the only direct evidence[9] against him is the testimony of Robles, who swore: (1) that when he and Scarface were introduced by Ben Ulo one morning in May, 1953, Castelo told the latter in the presence of both Robles and Scarface that there was NEED to kill Monroy; and (2) that on June 1st, Castelo again suggested to Ben Ulo, Scarface and witness that Monroy should be killed AFTER he had left for Korea. In addition to this, Melencio mentions in his confession (3) that before Castelo boarded the plane for Korea on June 8th, Castelo called him and Ben Ulo aside, and urged that Monroy be killed BEFORE his return; (4) that a day after his return on June 26th, Castelo, in a gay mood patted Ben Ulo's back to say, "Good, we have nothing to worry about; but, Ben are you sure nobody saw?" to which Ben Ulo replied, "Nobody; it was a clean job." and (5) that before Castelo left for the United States in August, Castelo admonished; Ben Ulo in the presence of Melencio, "Ben, take care of the boys; be sure nobody talks, otherwise, we would be in a bad fix."

However, Castelo's counsel and the Solicitor-General strenuously insist that the lone testimony of Robles, which should be received with caution, is insufficient to warrant conviction; that Melencio's confession is utterly incompetent as against Castelo, for being double hearsay, to say nothing of Melencio's repudiation thereof; and that considering Robles' recantation, no proof remains in the record against Castelo who, a. fortiori, must be acquitted. This, then, requires examination of the testimony of Robles in both the original and the new trials, to determine which of his conflicting stories reflected the true facts.

We have carefully examined his lengthy testimony during the original trial and have come to the conclusion that the facts narrated therein, although quite unusual, are not improbable considering the situation as a whole. Noteworthy it is that when subjected for several weeks to a searching and unrelenting cross-examination by several defense lawyers, this witness stood firm and steadfast in his assertions and answered his questioners with straightforward alacrity, and apparent spontaneity[9-a]. On the other hand, his recantation at the new trial, alleging mistreatment and coercion, has been so completely rebutted by Feliciano Lazaro, Francisco Espiritu,

Enrique A. Morales and Adolfo Arguelles of the Manila Police, as well as by Mayor Lacson, Fiscal Andres Reyes and newspaperman Primitivo Mijares, that we do not hesitate to hold it to be a mere afterthought, designed to rescue his former co-defendants and to deliver Castelo from the hands of the law[9-b]. This, apart from our wariness and skepticism in matters of retraction of prosecution witnesses made after a judgment of conviction. (Cf. U.S. vs. Valdes, 30 Phil.293 U.S. vs. Cu Unjieng, 61 Phil. 906; U.S. vs. Dacir, 26 Phil. 503.)

Furthermore, the testimony of Robles linking Castelo with the conspiracy does not stand alone, as claimed, for it finds adequate support, and confirmation not only in the collective confessions of Miray, De Jesus, Bonifacio, Gonzales, Enriques, and Melencio and the finding of the gun parts in his possession, but in the totality of the evidence. These confessions are so intimately interwoven that it is hard, if not impossible, to draw a line with a view to sifting the individually admitted facts. In the absence of collusion among the declarants, their confession should be read together, in order to form a complete picture of the whole situation, and to consider them collectively merely at corroborative and/or confirmatory of the evidence independent therefrom. Thus, it is not improbable that Castelo and Ben Ulo had previously discussed between themselves the elimination of Monroy before Ben Ulo ever broached the subject to Scarface and Robles one morning. Neither is it improbable that when Ben Ulo introduced them later that same morning as his "boys", Castelo must have understood that they could be trusted; and so he was outspoken in suggesting Monroy's destruction, either, perhaps, to impress upon the "boys" that Ben Ulo was not joking, or to show that he, Castelo, was backing them up to the hilt with his double barrelled power as head of both the Justice Department and the Armed Forces of the country.

It is unbelievable, the defense contends, that Castelo should be so imprudent as to speak out his liquidation order to Mendoza in the presence of strangers. In the light of the confessions and the testimony, there are at least two additional reasons to explain this apparent "imprudence". First, he was issuing orders to a loyal subordinate or to would-be-subordinates; and the Shellborne incident shows him to be capable of carelessness - if not haughtiness - when he directed a colonel to arrest the Mayor of the City of Manila without any judicial warrant[10]; Second, having been a fiscal, he assumed nobody would believe any witness who would testify to such recklessness of a Cabinet member. And third, his experience foresaw an airtight alibi should Monroy be killed while he was in Korea.

At this point, this thought occurs to us: if this prosecution were a mere concoction of Mayor Lacson and his police - as defense insinuates - how did they know that on June 1 (date when he made the order to kill Monroy during his absence), he had already made up his mind to proceed to Korea? (Castelo, himself, during the trial admitted that before June, he had made plans to travel abroad.) And why should the operatives of the NBI- subordinates of Castelo - cooperate in getting confessions reflecting against their boss? Not to mention the three fiscals - also under Castelo- who vigorously handled the prosecution.

Castelo argued that if he had wished to eliminate Monroy, he could have asked his brother who was a sharpshooter - instead of employing so many accomplices. Yet it is not certain that his brother would be willing to expose his own neck. And this mode of reasoning does Castelo no credit, because besides assuming that his brother would do it, it reveals him as a man who would not hesitate to endanger the life or liberty of his own brother to further his ends.

The defense insists that contrary to the prosecution's theory, Castelo did not want Monroy to die; because the latter had voluntarily promised to retract his testimony given before the Blue Ribbon Committee. But knowing him as a "blackmailer", and double-crosser[11], Castelo had reasons to distrust such promise, supposing it was made; and so, partly in revenge and partly to silence him forever, Castelo chose violent death having as he had, hardy henchmen to bring it about. The Blue Ribbon investigation could only produce removal from office. But disbarment will scuttle his means of support; and a rap for bribery could lead to prison. So "kailangan mapatay si

Monroy," as he said.

The Solicitor-General regards Ben Ulo as the central figure in the conspiracy, sans Castelo, and suggests that he killed Monroy merely to curry Castelo's favor.[11-a] This view is highly speculative, for it is not likely that one would take another man's life, place his head on a silver platter and give it as a present to his master merely for a pat in the back. The evidence shows that none of Castelo's co-appellants had any motive for desiring Monroy's demise. It was only Castelo, who had such motive. Monroy, whom he knew as a man "without scruples and capable of swindling his own mother," had testified in the Senate imputing bribery to him. Castelo's reputation and career, which were being trampled upon by a mere "police character", had to be protected; so that even though Monroy had already testified, there was still time to avert any further harm, i.e. disbarment and jail. And so, liquidation of Monroy appeared to be the only solution. And his trip to Korea offered a favorable coincidence.

His agents acted swiftly and surely. And as instructed, they kept their mouths shut. Even the MPD which was in the right track when it arrested Robles and Scarface ten days after the crime failed in its efforts because of the stubborn silence of both; and released them. Robles later explained that he did not confess anything at that time because he and Scarface enjoyed a certain degree of immunity, Ben Ulo being still "strong" and Castelo powerful. So the MPD had to release them.[12] This is an indication that - contrary to defense's theory - the police were not bent on obtaining confessions, by hook or by crook.

But truth will always out. The Shellborne incident occurring three weeks thereafter marked the beginning of the revelation. It confirmed that Castelo and Scarface were not, after all, strangers to each other. The MPD watching Scarface's movements must have known when he was actually "picked up"[13] and brought to the Shellborne Hotel where Castelo had his suite. This accounts for Mayor Lacson's leading the press, photographers and policemen to the Shellborne in order to take pictures of Castelo and together and/or to tape-record their conversation. Given his guilty connection with Scarface, Castelo's reaction to this could not be other than fright. So he had to summon the Constabulary and the Army to come to his aid, fearing that his complicity with the Monroy murder would at last be uncovered. He was "pale and jittery" (quoting Captain Montano) and, brushing aside his knowledge of the law and forgetting that he had been a fiscal and a judge, he ordered, without warrant, the arrest of Lacson, only to be frustrated by the Mayor's presence of mind. Melencio's confession furnishes a very plausible explanation why Scarface was in the hotel; he states that Ben Ulo had told him that they would pick up Scarface for confrontation with the old man (Castelo) because Scarface was about to spill the beans (babaliktad). Castelo must have been apprised of this, and thus his reaction and pronounced interest in keeping Scarface out of the reach of the police[14] - conduct which is certainly incompatible with his innocence. And a few weeks later, the potential squealer was killed mysteriously, and, what a coincidence - while Castelo was abroad, again.

CONCLUSION: To summarize, the following sufficiently show beyond reasonable doubt, the guilt of all the appellants:

Bienvenido Mendoza.- All the confessions point to him as the mastermind, directing his "boys" in the slaying expedition. He in turn had received orders from Castelo: Rogelio Robles so declared in court. There is no doubt, he was the trusted bodyguard of Castelo - and a known killer.

Jose de Jesus.-

Hipolito Bonifacio.-

Domingo Gonzales.-

Felix Miray.-

Pedro Enriquez.-

... Their confessions, wherein admitting their own participation in the crime, they indicated the other members of the liquidating squad. They were all pointed out at the trial by Rogelio Robles. Jose de Jesus shot Monroy[15], while the others were located at strategic places nearby ready to shoot it out if necessary and/or to furnish means of retreat. Felix Miray drove one of the cars that carried the group to David Street, Pasay. At that time, Gonzales, Enriquez, Robles, Melencio and De Jesus were special agents of the Department of National Defense (recommended by Ben Ulo, his "boys"). And shortly after the death of Monroy, Bonifacio was appointed agent too - by Castelo naturally.

De Jesus as the triggerman, was seen by William Clemens and by Canlas, both of whom identified him in court. And Pedro Enriquez' confession corroborated their assertions.

Augusto Melencio.- His confession, parts of which have been transcribed above. The testimony of Robles linking him with the liquidation squad. The confessions of his co-accused describing his participation.

Oscar Castelo:- His desire and interest to eliminate Monroy. The testimony of Robles as to his orders to kill. The confession of Melencio as to such orders too. He had subservient bodyguards or Agents to do his bidding. The confessions of such agents. On top of all this, his conduct at the Shellborne Hotel revealed his culpable connection with the assassination plot. In fine, the case of the People is so strong against him, that it would be unjust to set him free and yet imprison his seven subordinates who merely carried out his commands.

Motion for New Trial.- There is pending here a motion for new trial, for the purpose of proving that others killed Monroy. The Solicitor-General recommending conviction of six appellants, impliedly disagrees with the motion. So, given our findings, and our rulings in the matter, such motion is denied. (Cf. *People vs. Hernandez*, May 23, 1952, L-3391; *People vs. Buluran*, May 24, 1964, L-5849; *People vs. Manadi*, 52 Off. Gaz. 2010.)

Wherefore, the conviction for murder – qualified by premeditation - of all the herein accused-appellants is affirmed. There are aggravating circumstances, like night-time, aid of armed men, etc. but for lack of sufficient votes, they are all sentenced to life-imprisonment and to indemnify the heirs of Monroy, jointly and severally, in the sum of six thousand pesos (P6,000.00), and to pay costs.

So ordered.

Bengzon, C. J., Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] He claimed to have acted as the intermediary when Castelo(then judge) received a bribe from Jose D. Cortes.

[2] He was to claim later the alibi of having allegedly escorted Mrs. Castelo to an evening affair at Jai-Alai.

[3] Obviously a bully. In open court, he boxed Canlas when the latter fingered him, and shouted insults at Clemens, (t.s.n. p. 25.)

[3-a] Not quoted herein, because appealed decision transcribes them in full.

[4] For instance: the trip to Pangasinan of Ben Ulo, Pedring Enriquez, et al., after the murder. They stayed at Hotel Vicar, Dagupan.

[5] He escaped from jail during the proceedings.

[6] Miray also confessed to the NBI before signing a statement before the Manila Police.

[7] For instance, the fact that Ben Ulo invited him that night to a party and the fact that Castelo offered to bail him out.

[8] Who declared in court about the voluntariness of Melencio's statement.

[9] Direct is emphasized, because there are other circumstantial evidence.

[9-a] The shrewdness and tenacity of defense counsel often placed him in tight corners - it must be admitted.

[9-b] The Solicitor-General himself recommends death for six appellants on the basis of Robles' original testimony (brief pp.88-90).

[10] Without intending to be uncharitable, one cannot down the impression, upon reading the record, that with so many tough bodyguards and special agents at his beck and call, the then Secretary of Justice & National Defense must have felt so powerful that he thought he could get away with murder of one obnoxious "blackmailer and swindler" as he considered Monroy.

[11] Monroy was ex-convict, according to defense, "notorious police character", "opportunist" - given to "blackmail".

[11-a] Untenable stand. He would convict Ben Ulo with Robles testimony (see pages 88-92, brief) which is the decisive evidence against Ulo. And yet, he would disregard that same testimony to recommend Castelo's acquittal.

[12] It may be suspected that the police purposely set them free under surveillance, and catch the other members of the cons-piracy. The Shellborne incident was the outcome.

[13] See Melencio's statement.

[14] He told Army officers to give Scarface "protection".

[15] Because Ben Ulo asked him; and it was Ben who in fact got his appointment as agent of the DND.

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