

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAFAEL ESTOCADA ALIAS “BOY ESTOCADA”; ANTONIO
ESTOCADA, LUDOVICO ESTOCADA ALIAS “LODING”;
ROQUE ESTOCADA, ALADINO ESTOCADA...**

G.R. No. L-31024. February 28, 1977

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0d1f4bd2ae94/>

CONCEPCION, JR., J.:

Appeal from the decision of the Court of First Instance of Capiz, Branch III, Mambusao, Capiz in Criminal Case No. 467, the dispositive portion of which reads as follows:

"WHEREFORE, the Court sentences the accused Rafael Estocada alias Boy Estocada, Antonio Estocada, Ludovico Estocada alias Loding, Roque Estocada, Felicito Tolentino, Jr. and Fernando Lata, each to suffer the penalty of life imprisonment (cadena perpetua), notwithstanding the mitigating circumstance of voluntary surrender in favor of each of the accused Rafael Estocada and Antonio Estocada, which is offset by one of the aggravating circumstances, alleged and proven, to indemnify jointly and severally the heirs of the victim Dante Tupaz, in the amount of P12,000.00, but without subsidiary imprisonment in case of insolvency and to pay the costs.

"And as to the accused Aladino Estocada alias Dindin who is over nine (9) but under fifteen (15) years of age but who, by the nature of his participation, reveals that he had acted with discernment, he is hereby ordered to be confined to the Welfareville Boy's Reformatory, Mandaluyong, Rizal, pursuant to the provisions of Article 80 of the Revised Penal Code."[1]

During the pendency of the appeal, the appellants Felicito Tolentino, Aladino Estocada, and Antonio Estocada withdrew their appeal,[2] while the appellant Ludovico Estocada died,[3] and the case against him was dismissed.[4] Subsequently, the case against appellant Aladino Estocada was dismissed by this Court in Our resolution[5] dated February 20, 1976. Hence, only the appeals of appellants Rafael Estocada, Roque Estocada, and Fernando Lata remains to be resolved.

The evidence for the prosecution shows that during his lifetime the deceased Dante Tupaz was the partner of Macario Luching in the gambling business called "tombo-an" or "cara y cruz".[6]

Sometime on April 4, 1968, during the barrio fiesta of Jagnaya, Jamindon, Capiz, Macario Luching put up his "tombo-an" in a place where many people played the game, among whom was appellant Rafael Estocada. During the game, the other players discovered that Rafael Estocada put up a "doblon" or double faced coin, as a result of which, the game was stopped. When the deceased Dante Tupaz arrived at about 5:00 o'clock in the afternoon, Macario Luching re-reported the matter to him; whereupon the deceased admonished Rafael Estocada not to put up a double faced coin ever, which admonition the latter resented, and because of which he told the deceased, "There will be a day for you that you will pay your indebtedness."[7]

In the morning of Holy Thursday, April 11, 1968, Macario Luching again brought his "tombo-an" to the door of

the public market of Mambusao, Capiz. Many people joined and played the game. Among them were the accused Rafael Estocada, Wenceslao Mesias, Bello Potato, Roque Vito, and Ticoy Potato. In the course of the game, the other players discovered that Rafael Estocada had again put up a "doblon" or double faced coin. Because of this, the other players stopped playing the game.[8]

Thereafter, Macario Luching left the place and went to the house of the deceased Dante Tupaz and reported to the latter what had happened. The deceased advised Macario Luching to continue the game but not to allow the accused Rafael Estocada to play.[9] Macario Luching returned and continued the game until noontime, when his nephew arrived and invited him to have his lunch at the house of Macario's brother, which house faces the one of Rafael Estocada on the same street. Macario agreed and after taking his lunch, he went to the balcony to take a rest.[10]

Meanwhile, on the same day, April 11, 1968, at about noontime, Ernesto Bogo, a resident of Bo. Malocloc, Ivisan, Capiz, arrived in Mambusao, Capiz "to collect something from Macario Luching." After alighting from the jeep in front of the public market, he saw and heard the accused Rafael Estocada telling his son, Aladino Estocada, "to go to Kapul-an and tell them that he (Rafael) has an enemy." After Aladino Estocada had left-riding on a tricycle - Bogo inquired from Rafael Estocada if the latter had seen Macario Luching, which query the latter answered in the negative.[11]

Thereafter, Bogo left and went to look for Macario Luching. An hour later, he again saw Rafael Estocada who invited him to take lunch in his house, which invitation Bogo accepted. Upon arriving thereat, Bogo saw the brothers of Rafael, namely, Antonio Estocada and appellant Roque Estocada. Later, Rafael Estocada requested Bogo to fetch the deceased for a drinking spree at Rafael's house. So, Bogo went to the house of the deceased and relayed the invitation through the latter's wife, after which Bogo returned to Rafael Estocada's house.[12]

Ernesto Bogo, who was at the balcony of the house of Rafael Estocada,[13] Macario Luching, who was then in the balcony of his brother's house facing the house of Rafael Estocada,[14] and Tiburcio Kapunan, a tricycle driver, who at the time of the incident was with his tricycle at the crossing of Roxas Avenue Street and Sta. Catalina Street,[15] saw the deceased arrive in a tricycle.[16] Upon alighting therefrom, appellant Fernando Lata embraced him from behind - putting his arms around the upper part of the body of the deceased. At this juncture, Felicto Tolentino, Jr., stabbed the deceased in the stomach, after which Antonio Estocada also attacked him and hacked him with a bolo on the left side of the neck.[17] In the process, appellant Fernando Lata was also hit on the left side of his neck,[18] thus releasing the latter's hold on the deceased,[19] who staggered towards the sugar cane plants.[20] Suddenly, Rafael Estocada, Ludovico Estocada, and Roque Estocada, who were hiding among the sugar cane plants, emerged. Rafael Estocada hacked the deceased with a bolo on the back of the neck, followed by Ludovico Estocada and Roque Estocada who also hacked the deceased.[21] When the latter fell to the ground, Aladino Estocada likewise hacked him on the left foot.[22] As a result, the deceased sustained ten (10) wounds on the different parts of his body,[23] which caused his death.

On the other hand, appellant Rafael Estocada claims that he and he alone inflicted all the wounds which caused the death of the deceased but claims he did so in self-defense. According to him, on April 11, 1968 at about 8:30 a.m. he was in the public market of Mambusao, Capiz, and played "tombo" or cara y cruz, which was then operated by the deceased and Macario Luching. About twelve noon, the game was stopped because of a quarrel between Felicto Tolentino, Jr. and four unidentified persons, who suspected the former of having used a "doblon" or double faced coin. When the deceased arrived, he confronted Felicto Tolentino, Jr. as to why he was cheating. The latter answered: "Toto Dante, I did not make any trouble", to which the deceased retorted, "Look at this now, you see, no more persons playing because you are abusing. I am going to stab you. Womb of your mother." [24]

When the deceased attempted to draw his knife to stab Felicito Tolentino, Jr., Rafael Estocada rushed to the deceased and wrested the knife from him, and in the scuffle the deceased suffered an injury on his palm. Then the deceased ran to the house of Ticoy Potato, got a bolo and ran after Rafael. While being pursued, he looked back and said, "Toto Dante, I have no fault." At this juncture, Judge Federico Andaya, who was at the balcony of his house, fired his gun in the air as a warning to the deceased to desist from further aggression. It was only then that he did.[25]

Upon reaching his house, Rafael saw his wife, his children, and Felicito Tolentino, Jr. His wife then inquired from him what was the trouble between him and the deceased, and he answered that even if the latter boxed him he did not mind it because the deceased was drunk. At this juncture, his brother, Antonio Estocada and his sister, Consolacion Estocada, arrived. Thereafter someone shouted, "You hide because Dante is here." He went inside the house, and then he heard a shot from a .22 caliber revolver, after which his sister, Consolacion shouted, "Help, Manong Tonio is dead. He was shot by Dante Tupaz." After hearing another shot, he pushed his wife and children aside, and got a bolo. When he opened the door, he saw his brother, Antonio Estocada, lying flat with face downward on the floor. Thereupon, he got his brother's bolo, unsheated it and ran after the deceased, who fired at him but missed. Then he hacked the deceased but instead hit somebody who passed by. The deceased again fired at him, but he (Rafael) continued to hack the deceased, hitting him on the leg, on the stomach, and on the left side of the neck. The deceased then staggered near the well and fell down. While lying flat with his face upward, Rafael again hacked the deceased and it was only then that the latter dropped his gun to the ground. Thereafter, Rafael picked up the gun and went to his house where he saw his sister Consolacion Estocada holding in her arms their brother Antonio Estocada. He gave to Antonio the gun of the deceased, and his (Rafael's) own bolo. Then he went to the municipal building to surrender.[26]

For his defense, the accused Fernando Lata testified that at about 1:00 o'clock in the afternoon of April 11, 1968, he left his house in order to go to the plaza to refresh himself, riding on his bicycle. Along the way, he stopped in front of the house of appellant Rafael Estocada because there were many children gathered thereat. Moments later, Lata heard somebody shout, "Hide, all of you." So, he pushed some of the children to the other side of the road, after which he heard an explosion. When he looked back, he saw the deceased Dante Tupaz point his gun at Antonio Estocada and shoot him, hitting the latter on the breast. At this point, Consolacion Estocada placed herself between Antonio and the deceased, at the same time shouting, "Manong Dante, please don't. Have pity." Thereafter, Lata ran to the deceased to pacify him, and to prevent Consolacion from being shot by the deceased, he held the latter's arms from behind, and turned him to the left side. In that position Lata was hacked on the left side of his neck. He staggered from the place wounded and was brought to the Mambusao General Hospital,[27] and later, to the Capiz Emmanuel Hospital for medical treatment and confinement for fourteen (14) days.[28] While in jail, appellant Rafael Estocada told him that it was he (Rafael) who accidentally boloed him.[29]

Appellant Roque Estocada did not take the witness stand to testify in his own defense.

The trial court rejected the version of the accused and convicted them of murder. Hence, this appeal.

Appellant Rafael Estocada maintains that he alone is responsible for the wounds inflicted on the deceased, but that he did it in self-defense.[30] Moreover, he assails the trial court in giving weight and credence to the testimonies of the prosecution witnesses claiming that they are false and rehearsed inasmuch as they are identical in every detail.[31]

We find these contentions to be untenable. As aptly observed by the trial court, appellant's version of the incident is infirmed by the following circumstances: firstly, the autopsy report[32] does not show any wound on the left or right palm of the deceased, which disproves the alleged attempt of the deceased to stab Felicito Tolentino, Jr. and

the alleged wresting of the knife from the deceased by appellant Rafael Estocada; secondly, the defense failed to present Judge Federico Andaya who could have corroborated the testimony of appellant Rafael Estocada that the latter was attacked and chased by the deceased, despite the fact that it previously manifested its intention to do so. Such failure amounts to suppression of evidence which gives rise to the presumption that said witness, if presented, would have given testimony adverse to the defense; and thirdly, Patrolmen Alfredo Toledo and Conrado Delfin, both members of the police force of Mambusao, Capiz, and who were on detail at the public market at the time of the supposed quarrel between the deceased, on the one hand, and appellant Rafael Estocada and Felicito Tolentino, Jr., on the other hand, positively testified that there was no such fight or commotion as claimed by appellant Rafael Estocada.[33]

Besides, appellant's claim of self-defense is belied and negated by the number of wounds on the body of the deceased and their location as shown in the autopsy report.[34] Such wounds are indicative of aggression,[35] and confirms the theory of the prosecution that several persons assaulted the deceased.[36] On top of that, it is highly unbelievable that appellant, who claims that the deceased repeatedly fired a gun at him at close range, was never hit.

Furthermore, his contention that the testimony of the principal prosecution witnesses, namely, Ernesto Bogo, Macario Luching, and Tiburcio Kapunan, are false and[37] rehearsed because they are identical in every detail, is likewise devoid of merit. A cursory perusal of their testimony shows that, contrary to appellant's claim, their seeming similarity refers merely to the general details of the incident, that is, as to the commission of the crime. Their testimony is but a reiteration of what they stated in their affidavits[38] executed before the Municipal Judge of Mambusao, Capiz on April 12, 1968, only one day after the incident in question, before they could possibly fabricate evidence against the herein appellants. At any rate, being all eyewitnesses to the commission of the crime, it is not surprising that their testimony dovetailed in vital particulars.[39]

On the other hand, appellant Roque Estocada, who did not testify in his behalf during the trial, maintains that he was not present during the fight, thus setting up the defense of alibi. In support thereof, he claims that Aladino Estocada did not inform him of the alleged incident in the public market of Mambusao, Capiz. Neither could he have known anything about it since he lived in Kapul-an, Mambusao, Capiz.[40]

We find no merit in appellant's contention. Kapul-an is a sitio less than 1/2 kilometer from the poblacion of Mambusao where the incident in question took place;[41] hence, the proximity of his place of residence to the scene of the crime does not preclude the possibility that he was at the place of the crime at the time it was committed. For the defense of alibi to prosper, it is not enough that the defendant was somewhere else when the crime was committed, but he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission.[42] His alibi does not meet this requirement.

Besides, "the rule is well-settled, to the point of being trite, that the defense of alibi, which is easy to concoct, must be received with utmost caution, for it is one of the weakest defenses that can be resorted to by an accused and becomes worthless in the face of positive identification by prosecution witnesses pointing to the accused as *particeps criminis*." [43] The herein appellant having been positively identified by the prosecution witnesses Ernesto Bogo, Macario Luching, and Tiburcio Kapunan as one of the participants in the commission of the crime, his defense of alibi must necessarily fail.

Appellant Roque Estocada, likewise, assails the credibility of prosecution witness Tiburcio Kapunan and Ernesto Bogo, contending that their testimonies are inconsistent as to who hacked first the deceased, pointing out that while the former testified that the deceased was right away boloed by Roque Estocada, Ludovico, and Aladino Estocada,[44] the latter declared that Ludovico Estocada boloed the deceased followed by Roque Estocada. He

also points to an alleged conflict in the testimony of Tiburcio Kapunan that after the incident, he went home immediately and did not fetch any passenger anymore, while in his affidavit[45] he stated that he fetched a passenger after the incident.[46] The alleged inconsistencies, however, refer only to minor and collateral matters that do not impair the credibility of prosecution witness Tiburcio Kapunan and Ernesto Bogo. The discrepancies signify that the two witnesses did not deliberately pervert the truth in their narrations. The discordance in their testimonies on collateral matters heightens their credibility and shows that their testimonies were not coached or rehearsed. Far from being evidence of falsehood they could justifiably be regarded as a demonstration of their good faith.[47]

Nor do We find merit in the appellant's claim that the failure of the two prosecution witnesses to state what particular parts of the body of the deceased were hit by Ludovico Estocada and the herein appellant, negates their alleged presence at the place of the stabbing incident.[48] Considering the fast occurrence of the events, and, the fear and excitement upon seeing the deceased being attacked by the appellants, it was not unnatural for them to overlook what particular parts of the body of the deceased were boloed by Ludovico Estocada and the herein appellant, although they were able to recall what parts of the body of the deceased were hit by the other appellants. In any event, this circumstance does not establish the fact that they were not present at the time and place of the incident in question.

Moreover, the appellant Roque Estocada's imputation of bias to prosecution witness Tiburcio Kapunan and Macario Luching because the former is the nephew of Mauricio Tupaz, father of the deceased,[49] while the latter is a family friend of the deceased,[50] does not deserve serious consideration. Mere relationship to the victim does not impair the positive and clear testimony of witnesses.[51]

There is, likewise, no merit in appellant Roque Estocada's insistence that the testimony of the two prosecution witnesses should be discredited because they did not notify or inform the wife or father of the deceased of the stabbing incident immediately thereafter, and that Macario Luching despite his friendship to the deceased did not volunteer to be a witness to the case.[52] Their conduct immediately after the incident may be explained by the natural reticence of most people to get involved in a criminal case.[53] As was stated in the case of *People vs. Delfin*,[54] "the initial reluctance of witnesses in this country to volunteer information about a criminal case, and their unwillingness to be involved in or dragged into a criminal investigation is common, and has been judicially declared not to affect credibility."

As to the appeal of appellant Fernando Lata, We are not impressed by his pretense that he was a mere bystander at the time of the incident and that his only purpose in holding the hands of the deceased from behind was merely to prevent the latter from shooting Consolacion Estocada, thus interposing the justifying circumstance of having allegedly acted in defense of a stranger.[55] It would have been foolhardy and suicidal on his part to approach the deceased, who, according to him, had already started firing his gun and had already in fact shot the accused Antonio Estocada. It should be noted that he was not related in any manner to the Estocadas nor a close friend to anyone of them. There was, therefore, no compelling reason for him to risk his life and act in the manner he would like this Court to believe. In the light of the facts and circumstances of this case, We find that his defense is untenable.

The findings and conclusions of the trial court on the credibility of the witnesses are not to be disturbed on appeal, unless there is proof that said court, in making the findings, had failed to appreciate some fact or circumstance of weight and substance that would have altered the results of the case. In the case before Us, appellants failed in the exercise of that task. It results that their guilt had been established beyond reasonable doubt.

WHEREFORE, the judgment as to appellants Rafael Estocada, Roque Estocada, and Fernando Lata is hereby

affirmed, with costs.

Fernando, (Chairman), Barredo, Antonio, and Aquino, JJ., concur.

[1] p. 570, Record.

[2] pp. 84, 633, 826, Rollo.

[3] pp. 877-878, Rollo.

[4] p. 881, Rollo.

[5] The Resolution of this Court reads as follows:

"Considering the Special Report of Mrs. Constanca G. Bolinao, Officer-in-Charge, National Training School for Boys stating that the accused Aladino Estocada who was committed to their custody, being then a minor below 15 years of age, is now 21 years old and fully rehabilitated with recommendation that the case against him be dismissed and that he be discharged from the aforesaid school and turned over to the custody of his mother, Mrs. Estrella Estocada, as well as the comment of the Solicitor General stating that he has no objection to the release of said accused as he in fact recommended in the plaintiff-appellee's brief, the acquittal of said accused on the ground of reasonable doubt as to his guilt, the Court Re-solved to DISMISS the case in so far as the accused Aladino Estocada is concerned and to ORDER his immediate RELEASE from the National Training School for Boys, to the custody of his mother." (p. 909, Rollo.)

[6] p. 80, t.s.n.

[7] pp. 80-84, t.s.n.

[8] pp. 84-85, t.s.n.

[9] pp. 85-86, t.s.n.

[10] p. 86, t.s.n.

[11] pp. 12-15, t.s.n.

[12] pp. 15-18, t.s.n.

[13] p. 34, t.s.n.

[14] p. 86, t.s.n.

[15] p. 150, t.s.n.

[16] pp. 18-19, 86-87, 151, t.s.n.

[17] pp. 20-21, 87-88, 151-152, t.s.n.

[18] pp. 59-60, t.s.n.

[19] pp. 56-57, t.s.n.

[20] pp. 88, 153, t.s.n.

[21] pp. 23-25, 88-89, 153, t.s.n.

[22] pp. 89, 153, t.s.n.

[23] Exhibit "H".

[24] pp. 202-204, t.s.n.

[25] pp. 204-205, t.s.n.

[26] pp. 206-211, t.s.n.

[27] pp. 314-318, t.s.n.

[28] pp. 335-336, t.s.n.

[29] p. 331, t.s.n.

[30] Appellant's Brief, pp. 795-796, Rollo.

[31] Appellant's Brief, pp. 788-794, Rollo.

[32] Exhibit "H", p. 2, Record, which shows that the deceased sustained the following wounds:

"1. Wound No. 1, external from the nape downward to the chin cutting the part of the ear lobe, the wound is about 9 inches long and deep to cut the major vessels of the neck. And just 2 inches below wound No. 1 another incised wound, at the right side of the base of the neck. That is about 4-1/2 inches long. It involves skin and subcutaneous tissues only.

2. Stabbed wound, from the dome of the skull down the front of the right ear, about 6 inches long. It fractured the skull, from the dome of the skull is another wound that extends down the forehead that is about 4-1/2 inches in length.

3. Stabbed wound, that extends from the right base of the neck to the shoulder is about 4 inches in length involving skin and muscles.

4. Stabbed wound, penetrating 1-1/2 inches below and to the left of the umbilicus.

5. Stabbed wound, penetrating chest left at the level of the fifth interspace and 1 inch in front at mid-auxiliary.

6. Stabbed wound, left side of the neck 1-1/2 inches below the ear about 5 inches in length. It involves only subcutaneous tissues and muscles.

7. Stabbed wound, at the right thigh involving skin and subcutaneous tissues and muscles.

8. At the lateral side of left elbow are the two (2) superficial incised wounds are almost parallel to each other, and about 1 inch in length.

9. Stabbed wound, at the sacral region in a 6 inches horizontal wood that cuts into the bone.

10. At the lateral side of the left foot in a penetrating wound from which extracted a piece of wood that is about 2 inches in length, but a quarter of an inch in diameter."

[33] pp. 549-550, Record.

[34] In U.S. vs. Gonzales, 8 Phil. 443, this Court considering the ten (10) wounds inflicted on the deceased held that the allegation of self-defense is "incredible because it is improbable."

[35] People vs. Somera, 83 Phil. 548.

[36] People vs. Manzano, L-33643 & L-33644, July 31, 1974, 58 SCRA 250, 259.

- [37] Appellant's Brief, pp. 788-790, Rollo.
- [38] pp. 5-8, Record.
- [39] People vs. Velez, et al., L-30038, July 18, 1974, 58 SCRA 21, 28.
- [40] Appellant's Brief, pp. 547-550, Rollo.
- [41] p. 273, t.s.n.
- [42] People vs. Sarmiento, L-26183, June 19, 1975, 64 SCRA 350; People vs. Alcantara, L-26867, June 30, 1970, 33 SCRA 813; People vs. Jamero, L-19852, 24 SCRA 207.
- [43] People vs. Cortez, L-31106, May 31, 1974, 57 SCRA 308.
- [44] Appellant's Brief, p 551, Rollo.
- [45] Exhibit 1, p. 5, Record.
- [46] Appellant's Brief, p. 554, Rollo.
- [47] People vs. Reyes, L-33154, Feb. 27, 1976, 69 SCRA 474 and cases therein cited; People vs. Pajenado, L-26458, Jan. 30, 1976, 69 SCRA 172.
- [48] Appellant's Brief, p. 552, Rollo.
- [49] Ibid., p. 553, Rollo.
- [50] Ibid., p. 558, Rollo.
- [51] People vs. Reyes, supra; People vs. Pajenado, supra.
- [52] Appellants' Brief, pp. 555-560, Rollo.
- [53] People vs. Cariño, et al., L-33608 Feb. 12, 1974, 55 SCRA 516.
- [54] L-15230 & L-15979-81, July 31, 1961, 2 SCRA 911.
- [55] Appellant's Brief, pp. 701-703, Rollo.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.