

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE BERNAL, HERMENEGILDO SALVORO AND VICENTE ROLEDA, DEFENDANTS AND APPELLANTS.

G.R. No. L-4409. July 14, 1952

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0d83bffe18e2/>

MONTEMAYOR, J.:

For the killing of Alfonso Pilonos, Ricardo Benting, Vicente Roleda, Jose Bernal, and Hermenegildo Salvoro, were accused of murder in the Court of First Instance of Leyte. When the case was called for trial, only the last three appeared and pleaded not guilty to the charge. Renting was not cited to appear because it was said that he was then busy in the campaigns being waged against the Hukbalahaps. So, only Bernal, Salvoro and Roleda went to trial, after which, they were all found, guilty of the charge, and finding in their favor the mitigating circumstance of obfuscation, the trial court sentenced each of them to an indeterminate penalty of from ten (10) years and one (1) day of prision mayor to seventeen (17) years of reclusion temporal, with the accessory penalties prescribed by law, to indemnify jointly and severally the heirs of the deceased in the sum of P2,000, and to pay three-fourths of the costs.

All three accused appealed to the Court of Appeals from that decision; but said appellate court by resolution certified the case to us on the ground that in the opinion "the mitigating circumstance of obfuscation did not exist", and that there being neither generic aggravating nor mitigating circumstance, the penalty should be imposed in its medium degree, which is reclusion perpetua.

The following facts are not disputed. On September 20, 1947, appellant Jose Bernal, a member of the military police stationed at Barugo, Leyte, under a pass for three days, went to his hometown Albuera in connection with a civil case to be heard in court. On his way and in the barrio of Binolho, Albuera, Leyte, while witnessing a game of "hantak", he had an altercation with the now deceased Alfonso Pilonos, in the course of which, Bernal punched him. In the evening the two men again met and the dispute was apparently renewed, culminating in the infliction of superficial bolo wounds in the left forearm and on the left hand of Bernal by his adversary. Acting upon the advice of Sgt. Geneston of the military police stationed at Camp Downes, Canadieng, Ormoc City, Bernal reported the incident to Capt. Trinidad of said camp, who later called Sgt. Ricardo Benting (one of the accused) and instructed him to organize a patrol to find and investigate Alfonso Pilonos in connection with the incident reported by Bernal. Benting called Pvts. Roleda, Salvoro and Lomod to accompany him and with Bernal acting as their guide, the patrol proceeded to the house of Pilonos in barrio Binolho. Benting carried a pistol while each of the enlisted men except Bernal who was unarmed, carried a garand rifle. Upon being informed by Pilonos' wife that he had gone to the house of his brother-in-law, Jose Rosal, in Ormoc, the patrol went to the house of the latter and there found Pilonos whom Sgt. Benting forthwith informed that he was wanted at headquarters. Jose Rosal at first objected to their taking his brother-in-law, because the patrol had no warrant of arrest and he asked that he be allowed to accompany Pilonos to the camp and his request was granted. On the way to the camp and when already very near it, Pilonos was shot and killed by appellant Roleda supposedly by is order of Sgt. Benting. From here on

the story told by the witnesses for the Government and for the defense, widely differ, specially as to how and why Pilones was shot and killed.

According to the defense, Pilones grabbed the garand rifle of appellant Salvoro and while he (Pilones) was trying to take possession thereof, Salvoro cried for help; that Benting ordered Roleda to fire shots in the air to scare Pilones, and Roleda fired four shots in the air, but Pilones paid no attention and continued in his struggle with Salvoro, until he finally succeeded in getting possession of the garand rifle after which, he ran down a slope toward a banana tree with the intention of hiding behind it and then shooting at the soldiers; and that to forestall the criminal design of Pilones, Roleda by order of Sgt. Benting fired at him, hitting him in the back and causing his death.

The story given by the prosecution thru its witness Jose Rosal, however, is radically different. According to Rosal, Pilones was shot in cold blood by order of Sgt. Benting. He said that on the way to the camp, Sgt. Benting had been questioning Pilones about his possessing an unlicensed firearm and his having killed a military police soldier and a barrio lieutenant, and that as they neared camp and were approaching a guard post, Sgt. Benting referring to Pilones said to his soldiers, "he is a bandit so we will maltreat him". Thereafter, he (Benting) gave the order to fire and immediately Vicente Roleda shot the deceased in the back killing him instantly.

Under the circumstances preceding the shooting, we can not accept the version of the defense. Both parties agree that the shooting occurred not far from the camp of the soldiers and very near a guard post. Even if Pilones had the intention to escape from the patrol, it was not likely that he would select such place to do so. Considering the proximity of the camp and the guard post, his chances of escape were practically nil. Furthermore, according to the very witnesses for the defense, at the time that Pilones was said to have grabbed the rifle of Salvoro, he was practically surrounded by the soldiers, Benting and Roleda leading the way, Pilones, a few meters behind walking side by side with Salvoro, Pvt. Bernal a few meters behind, Rosal following the him and Pvt. Lomod bringing up the rear. An attempt to escape under the circumstances, specially when before doing so he tried to wrest a rifle from a soldier, would have been extremely foolhardy. And during the struggle between Salvoro and Pilones, when the former cried for help, what were Benting and Roleda doing? Why did not they rush to Salvoro's aid and over-power Pilones? According to the defense, when Bernal heard Salvoro's shouts for help and saw him struggling with Pilones, instead of going to the succor of his comrade in arms, he just sat down. The story of the defense is simply improbable and incredible. Besides, if Pilones really not only tried to escape but tried and succeeded in wresting the garand rifle of Salvoro, all against probabilities, why was not Pvt. Lomod presented as a witness to corroborate the testimony of Roleda and Bernal, and more important still, why was not Benting summoned or cited to testify on this crucial point inasmuch as he was the one who gave the order to fire? In this connection, the court cannot understand why Benting who appears to be the most guilty, he being in charge of the patrol and having given the order to shoot Pilones, was not cited and ordered to stand trial, and even assuming that at the time he was really engaged in campaigns against the dissidents, why until now he has not stood trial?

We are more inclined to accept the version given by the prosecution, namely, that because Benting suspected or possibly even believed that Pilones was not exactly a law-abiding citizen, that he not only kept a firearm without license, but that he was responsible for the killing or liquidation of a lieutenant of a barrio and a member of the military police, he (Benting) decided to liquidate the prisoner and gave the order to shoot. Benting's criminal responsibility is clear. What about his companions? It is true that Roleda fired at the prisoner following the order of his sergeant, but the order was obviously illegal and unwarranted, and for following an illegal order, he must answer for the consequences.

Bernal and Salvoro were convicted by the trial court on the theory that there was conspiracy between all of them, and so are liable for the acts of their co-conspirators (Benting and Roleda). After a careful review of the evidence,

we agree with the Solicitor General who believes that Bernal and Salvoro are innocent and recommends their acquittal. We find no proof of conspiracy. The patrol was ordered by Capt. Trinidad only to find and question or investigate Pilonas regarding this trouble or fight with Bernal, and the latter accompanied the patrol only as a guide. He was not even armed. He evidently was satisfied to leave the case with the authorities. In fact, he reported the matter to the camp commander only because he was advised to do so by a sergeant. And as to Salvoro, he joined the patrol by order and not thru desire. He was merely present during the shooting without taking part in it. The fact that he did not fire at Pilonas when he heard Benting's order to shoot is proof that he had no previous agreement or understanding with his companions about harming the deceased. In order to establish conspiracy, it is not enough that the persons supposedly engaged or connected with the same be present when the crime was committed, or might have been interested in its commission. The prosecution must establish a logical relation between the commission of the crime and the supposed conspirators and a closer and more intimate connection between and among the latter, such as by their conduct or overt acts committed in pursuance of their common criminal design. These things are wanting in the present case as regards Bernal and Salvoro.

The trial court gave Roleda the benefit of the mitigating circumstance of passion or obfuscation. The Solicitor General disagrees and believes that Roleda was not influenced by any such passion or obfuscation, but merely obeyed the order of his sergeant. Considering that Benting by his questions directed at Pilonas while on their way to the camp and by his assertions and declarations led his companions to believe that Pilonas had killed not only a barrio lieutenant but also a member of the military police,—a comrade in arms, this may have aroused in Roleda a feeling of resentment that may have impelled him to readily and without questioning follow the order of Sgt. Benting. To this may be added the fact of his being a subordinate of Sgt. Benting who gave the order, and while out on patrol when the soldiers were supposed to be under the immediate command and control of the patrol leader, in this case, Sgt. Benting.[1]

In view of the foregoing, appellants Jose Bernal and Hermenegildo Salvoro are hereby acquitted with costs de oficio. With this modification, the decision appealed from is hereby affirmed, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, and Labrador, JJ., concur.

[1] U. S. vs. Cuison, 20 Phil., 439.

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.