

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GABRIEL MEMBROT Y SERVANO, ALIAS “BILING”; AND
ALFREDO ALIAS Y SIRIBAN (APPEAL WITHDRAWN, JUNE 28, 1974),
DEFENDANTS-APPEL...**

G.R. No. L-38507-08. March 15, 1982

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1b6fd4cbc1c1/>

CONCEPCION, JR., J.:

At about 1:30 p.m. of November 15, 1971, while victims Conrado Rodrigo and Cresencio Siazon were at a store near the public market of Aparri, Cagayan, a man suddenly appeared and fired two successive shots at them hitting and killing Conrado Rodrigo instantly and wounding Cresencio Siazon. When Cresencio Siazon was seated on a tricycle to be taken to the hospital, another man approached and stabbed him on the chest leaving the knife embedded.[1]

Two informations were filed on June 15, 1972, in the Circuit Criminal Court of the First Judicial District, Tuguegarao, Cagayan, as Criminal Case No. CCC-1-115, for murder, and Criminal Case No. CCC-1-133 for frustrated murder, as follows:

(1)

"The undersigned, Provincial Fiscal, accuses Gabriel Membrot alias Biling and Alfredo Alias of the crime of Murder, defined and penalized under Article 248, of the Revised Penal Code, committed as follows:

That on or about November 15, 1971, in the municipality of Aparri, Province of Cagayan, and within the jurisdiction of this Honorable Court, said accused Gabriel Membrot alias Biling and Alfredo alias, both armed with a pistol Cal. 45 and a kitchen knife, conspiring together and helping each other, with intent to kill, with evident premeditation, and with treachery, did then and there wilfully, unlawfully and feloniously attack, assault and shoot one Conrado Rodrigo, inflicting upon the latter gunshot wound which caused his death.

"Contrary to Law."[2]

(2)

"The undersigned, Provincial Fiscal, accuses Gabriel Membrot alias Biling and Alfredo Alias, of the crime of Frustrated Murder, defined and penalized under Article 248 in relation to Article 50, of the Revised Penal Code, committed as follows:

"That on or about November 15, 1971, in the municipality of Aparri, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Gabriel Membrot alias Biling and Alfredo Alias, armed with a gun and a pointed bolo, conspiring together and helping each other, with intent to kill, with evident premeditation and with treachery, did then and there wilfully, unlawfully and feloniously, attack, assault, stab and shoot one Cresencio Siazon, inflicting upon the latter gunshot wound and stab wound; that the accused had performed all the acts of execution which would produce the crime of Murder, as a consequence, but which

nevertheless, did not produce it by reason of causes independent of their own will.

"Contrary to law."[3]

After arraignment, plea of not guilty,⁴ and joint trial on the merits of Criminal Cases Nos. CCC-1-U5 and CCC-1-133, the Circuit Criminal Court of the First Judicial District, Tuguegarao, Cagayan, in its Decision dated January 31, 1974, convicted both the accused with dispositive portion as follows:

"WHEREFORE, the Court finds the accused Gabriel Membrot y Servano, after trial on the merits in Criminal Case No. CCC-1-115, GUILTY beyond reasonable doubt of the crime of Murder, qualified by treachery, as sole principal thereof, and there being no other aggravating or mitigating circumstances present in the commission thereof, hereby sentences him to suffer the penalty of Reclusion Perpetua, or life imprisonment, with the accessories of the law, to indemnify the heirs of the deceased Conrado Rodrigo in the amount of P12,000.00, plus P10,000.00 as moral and exemplary damages, without subsidiary imprisonment in case of insolvency, and to pay the costs of the case. The accused Alfredo Alias is hereby found NOT GUILTY in said criminal case, his guilt not having been proven beyond reasonable doubt and he is hereby ACQUITTED, with costs de oficio.

"In Crim. Case No. CCC-1-133, the accused Gabriel Membrot y Servano and Alfredo Alias y Siriban, are found GUILTY, after trial on the merits, of the crime of Frustrated Murder committed separately, qualified by treachery, and there being no attendant aggravating or mitigating circumstances present with respect to the accused Membrot, while the mitigating circumstance of voluntary surrender is favorably appreciated with respect to the accused Alias, hereby sentences accused Gabriel Membrot to the indeterminate penalty of imprisonment for SIX (6) YEARS and ONE (1) DAY of prision mayor, as the minimum, to TWELVE (12) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS of reclusion temporal, as the maximum, and the accused Alfredo Alias, to suffer the indeterminate penalty of imprisonment for FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional, as the minimum, to TEN (10) YEARS and ONE (1) DAY of prision mayor, as the maximum, both accused to indemnify the offended party Cresencio Siazon in the amount of P3,000.00 as actual damages, plus P8,000.00 as moral and exemplary damages, without subsidiary imprisonment in case of insolvency, and to pay the costs of the case proportionately.

"Atty. Jesus Degala, Jr., is hereby awarded the amount of P250.00 each in these two cases, or a total of P500.00, as compensation for his services as counsel de oficio, subject to the availability of funds.

"SO ORDERED."[5]

Both the accused appealed, but the appellant Alfredo S. Alias withdrew his appeal. The resolution of this Court became final and executory on July 2, 1974, with respect to accused Alfredo Alias [6]

The version of the prosecution is as follows:

On November 15, 1971, at about 1:30 p.m., victims Conrado Rodrigo and Cresencio Siazon were in the store of Felipe Allan at Macanaya Street, Aparri, Cagayan, near the public market. Rodrigo was standing near the doorway, slightly outside of the store, conversing with one Dima Chua, while Siazon was inside the store, leaning on a shelf, about a meter away from Rodrigo. While Rodrigo and Chua were conversing, appellant Gabriel Membrot and his co-accused Alfredo Alias arrived. Alias was about three meters behind appellant with his right hand inside his pocket. Appellant approached Rodrigo from behind. When appellant was between Rodrigo and Chua, he suddenly fired his .45 caliber pistol at Rodrigo, hitting Rodrigo on the left cheek. The bullet went through the back of Rodrigo's head causing him to fall down, mortally wounded. Appellant fired again, this time at Cresencio Siazon who was hit on his right cheek, the bullet going through his left cheek. Appellant then left. Siazon lost consciousness momentarily. On recovering his senses, Siazon went out of the store to look for a policeman. He stopped a passing tricycle and boarded it.[7]

Appellant's two shots drew Aparri Police Department Patrolman David Dancel to the place of the shooting. Patrolman Dancel was on that day detailed as a guard at the Aparri public market. On approaching, Dancel saw the body of Rodrigo prostrate on the road. He sat behind the driver of the tricycle in which the wounded Siazon was seated and directed the driver to proceed to the Northern Cagayan Hospital. Siazon told Patrolman Dancel that it was appellant who shot him. At that stage, Alfredo Alias drew a kitchen knife about four (4) to five (5) inches long and with it stabbed Siazon on the chest while the latter was reclined inside the tricycle. The knife used was left embedded on his chest as Alias fled. After he was stabbed, Siazon tried to draw the attention of Patrolman Dancel to Alias, by touching the Patrolman and pointing to the fleeing Alias. Patrolman Dancel was not aware of what had happened, or he deliberately ignored Siazon.[8]

When they reached the Northern Cagayan Hospital, there was no available doctor who could attend immediately to the twice wounded Siazon. A relative of Siazon, Mrs. Wilhelmina de la Cruz took him to the clinic of Dr. Mario Pablo in Aparri. Dr. Pablo gave Siazon an anti-tetanus injection but did not extract the knife embedded on the latter's chest, for lack of medicine to stop possible bleeding. Among the persons present in the clinic of Dr. Pablo at that time were Aparri Mayor Litaua and three uniformed policemen. Mayor Litaua asked Siazon who shot the latter. Knowing that appellant was a bodyguard of the Mayor, Siazon kept, silent. Mayor Litaua left the clinic, leaving behind two (2) uniformed policemen, Patrolman Dancel and Gonzalo. Patrolman Gonzalo took the Ante-Mortem Statement of Siazon (Exh. "F") wherein he identified appellant as the one who shot him. In said ante-mortem statement, appellant was referred to by Siazon as "Biling from Calamaniugan" without mentioning the family name "Membrot" as Siazon then feared for his life if he identified appellant too explicitly. The taking of this ante-mortem statement was witnessed by Patrolman Dancel, Mrs. Wilhelmina de la Cruz and Dr. Pablo.[9]

Meanwhile, the body of victim Conrado Rodrigo was taken in a fire truck to the Aparri Puericulture Center. Dr. Ricardo Alvarado, Municipal Health Officer of Aparri, conducted apost-mortem examination and found a gunshot wound on the left side of the deceased's cheek, one inch above the angle of the left lip, going through the left inferior portion of the occipital region. In his post mortem examination (Exh. "B") Dr. Alvarado stated the cause of Rodrigo's death as cerebral hemorrhage of the medulla oblongata.[10]

After about an hour in the clinic of Dr. Pablo, Siazon was taken" [11] the Calamaniugan Emergency Hospital. Dr. Maxima in, Resident Physician of that hospital found the following wounds on Siazon: "gunshot wound, mandible, thru and thru. Stab wound, chest, non-penetrating"" Dr. Aquilizan stated that Siazon would not have survived the gunshot wound without medical attention. She extracted the knife embedded in the chest of Siazon and then gave it to a hospital security guard who turned it over to Mrs. Wilhelmina de la Cruz. The knife however could not be accounted for during the trial as Mrs. de la Cruz had passed away in the meantime.[12]

Siazon stayed at the Calamaniugan Emergency Hospital for five days. On November 17 or 18, 1971, P.C. Sgt. Elias Soriano took another ante-mortem statement (Exh. "F-I") from Siazon. This time in reply to the question: "Who inflicted your wounds?", Siazon answered: "Biling Membrot and Freddie Alias".

Siazon was transferred to the Cagayan Provincial Hospital on November 20, 1971, and stayed there for one month. He spent P3,000.00 for medical expenses.[13]

On December 2, 1971, Sgt. Jimmy Canapi, Investigator of the 111th P.C. Detachment stationed in Tuguegarao, Cagayan, took another sworn statement (Exh. "D") from Cresencio Siazon. In that sworn statement Siazon again identified appellant and Alfredo Alias as the persons who attacked him and the victim Rodrigo on November 15, 1971.

During the investigation of the case in Aparri, Sgt. Canapi saw appellant in the P.C. Detachment thereat. Sgt. Canapi was informed by Sgt. Elias Soriano, Detachment Commander of the Aparri P.C. Unit, that appellant was a

suspect in the incident of November 15, 1971. In spite of his being a suspect then, appellant went in and out of the headquarters of the P.C. Aparri Unit as he pleased. Sgt. Canapi did not take the written statement of appellant as it was the latter's wish to be assisted by a lawyer when he gave his statement. On July 10, 1972, appellant gave his sworn statement (Exh. 2, Membrot) to Sgt. Canapi.[14]

The defense of alibi and denial interposed by appellant is in substance summarized in the trial court's decision, thus:

"On his part, accused Gabriel Membrot presented testimonial evidence to show that he was and still is a resident of Camalaniugan, Cagayan, where he works as a helper in a ricemill; that on November 15, 1971, he went to Aparri, which is the next town to the north, to buy a tube for his Coleman lamp; that after shopping for sometime, he proceeded to the Luz Carindaria near the Aparri public market to take his lunch, where he was seen by his friend, Mario Mata, a helper in a La Mallorca tanker; that while eating, he heard gun reports and upon seeing people scampering outside, he paid his bill and followed them to the scene of the incident which is about 150 meters from the carindaria; that he peeped through the crowd of bystanders and saw a dead person lying on the sidewalk; that he then left for barrio Minanga to the house of Aparri Mayor Oscar Littaua to ask for a recommendation but finding the latter's house closed, he left; that on the way he met Mario Mata who told him that people were saying that he (Membrot) had shot Rodrigo and Siazon; that he denied the same and went home; that upon learning a few days after that he was being pointed to or implicated in the shooting, and fearing for his life because he had heard that the men of (Congressman) Puzon were notorious, he went to the detachment headquarters of the 115th PC Company at Aparri and surrendered to PC S/Sgt. Elias Soriano, who investigated him informally; that he did not give or made to give any written statement then or during his one month stay at the PC barracks; that he left thereafter and went home as no formal complaint had been filed against him. He presented Mario Mata to corroborate his defense of alibi, Sgt. Soriano to support his supposed "surrender and detention" at the PC barracks at Aparri, and Chua Lim, alias Dima, to support his claim that he did not shoot the victim. He also denied knowing, being friendly, or having any previous grudge or misunderstanding with Rodrigo or Siazon or any motive for shooting any of both of them. Lastly, he denied knowing or being acquainted with his co-accused Alias.

"Accused Membrot also presented his written unsworn statement taken on July 10, 1972 by PC S/Sgt. Jimmy Canapi at the 11th PC Company Barracks at Tuguegarao (Exh. "2-Membrot", pp. 16-17, record) after his arrest on July 8, 1972, wherein he denied shooting Rodrigo and Siazon or knowing anything about the said incident." [15]

As correctly argued by appellee, the only issue in this appeal is whether or not on the basis of the evidence presented by the prosecution and the defense, the appellant was correctly convicted beyond reasonable doubt by the trial court.

Victim Cresencio Siazon positively and clearly identified the appellant as the person who shot him and Conrado Rodrigo on November 15, 1971. Siazon had known appellant from a number of years before November 15, 1971, as a bodyguard of Mayor Littana of Aparri.[16]

On the other hand, by appellant's own admission, no ill feelings existed between him and Siazon prior to November 15, 1971.[17]

Thus the appellant stated:

"Q -

All right, Mr. Membrot, let us make this clear. On November 15, 1971 you did not know Cresencio Siazon, is that correct?

A -

No, sir.

"Q -

You did not know Conrado Rodrigo?

A -

No, sir.

"Q -

Before November 15, 1971, you did not know of any occasion to meet them casually or socially?

A -

No, sir.

"Q -

You did not even know their names on that day?

A -

No, sir.

"Q -

And they did not know you also on that date?

A -

No, sir.

"Q -

What is your nickname?

A -

Gabriel Membrot and my nickname is Biling.

"Q -

Now, Mr. Membrot, will you give any reason or motive why Cresencio Siazon should point to you or identify you as the one who shot him and Conrado Rodrigo, if according to you, you did not even know them, and they did not even know you?

A -

I do not know, sir.

"Q - You did not have any reason whatsoever?

A - None, sir."[18]

It is quite clear that there is no known reason for Siazon to testify falsely and point to appellant as the assailant if that was not the fact. Possibility of mistaken identification is almost nil, considering the fact that Siazon had known appellant for years before the incident. Appellant was not wearing any disguise nor mask during the noon-time incident very near the street. Siazon was able to identify appellant during the spot investigation conducted by Patrolman Dancel on November 15, 1971 (Exh. "C")- Siazon also pointed to the appellant as his assailant in his ante-mortem statement (Exh. "F") taken by Patrolman Gonzalo on November 15, 1971, and in his ante-mortem statement (Exh. "I") taken by P.C.Sgt. Soriano on November 17 or 18, 1971. The Sworn statement (Exh. "D") of Siazon taken by Sgt. Canapi on December 2, 1971 contains the same identification of appellant. These previous identifications of appellant were all confirmed by Siazon in his testimony.[19]

We cannot also ignore corroborating testimony of prosecution witness Oligario Cortes who stated that he saw the incident when appellant shot the victim Rodrigo and the victim Siazon on November 15, 1971.[20]

Appellant tried to cast doubt on the identification of the appellant by the victim Siazon thru the testimony of Dr. Maxima Aquilizan, a prosecution witness who on September 18, 1972, stated:

"Q - Did you not ask the victim (referring to Siazon) who shot him or stabbed him?

A - I asked.

"Q - What did he (Siazon) say?

A - Maybe it was Mr. Membrot, he suspected Mr. Membrot." [21]

Dr. Aquilizan was only involved in the case when she treated the victim Siazon at the Camalaniugan Emergency Hospital. She could not be expected to know or remember the details of the incident in the same manner as the victim Siazon.

Regarding the alleged inconsistency between the narration of Patrolman David Dancel [22] to the effect that when he arrived at the scene of the shooting, he saw Siazon already shot and with a knife embedded on his chest, and the narration of Siazon that he was stabbed inside a tricycle, suffice it to say that this aspect properly pertains to the appeal of Alfredo Alias which was withdrawn on June 28, 1974. [23]

Regarding the testimony of witness Chua Lim, previously identified by Siazon as "Dima Chua", that Chua was not in conversation with the victim Rodrigo or Siazon when the shooting happened because he had already left the premises, contrary to what Siazon said, this denial on the part of Chua is understandable as he, being of alien extraction, did not wish to get involved in the case or perhaps it was more prudent and practical for him to take the side of appellant who was close to Mayor Littana of Aparri. [24]

Appellant committed a serious and glaring error exposing the weakness of his alibi when in his testimony he stated that immediately after the incident he went to the scene, peeped through the crowd of bystanders and saw a dead person lying on the sidewalk, [25] whereas in his sworn statement (Exh. "2-Membrot") given to Sgt. Jimmy Canapi on July 10, 1972, appellant said:

"Q - Do you know when and where did the incident take place?

A - I do not know, sir."

It is a cardinal rule that the defense of alibi cannot stand when faced with clear positive identification of the accused as the person who committed the crime and the clear possibility of the appellant's access to the scene of the crime at the time it was committed.

We cannot find any justification to question the ruling of the trial court on the issues of alibi and motive stated as follows:

"The defense of alibi to the mind of the Court was not satisfactorily established nor sufficient to overthrow the positive identification of the accused by Siazon and Cortes. Not only was such defense weak and implausible, but it has not been shown or proven that the accused were both in such places as to render it very difficult or impossible for them to commit the crimes. Aside from that, the defense of alibi was sought to be corroborated by witnesses who were not credible and who testified with reservations, bias and prejudice.

"As has been oft-stated, alibi is at best a weak defense (People vs. Bulawin, 29 SCRA 710), is easily concocted (People vs. Bagsican, 6 SCRA 400), and in order to prosper, the evidence to support it must be clear and convincing as to preclude the possibility of the accused's presence at the scene of the crime, while the evidence as to his identification must be weak and insufficient (People vs. Dayday, 14 SCRA 935; People vs. Lumantas, 28 SCRA 764; People vs. Alcantara, 33 SCRA 812). It cannot prevail over the positive identification of witnesses and where its supporting witnesses were vague and uncertain in their statements (People vs. Gande, 31 SCRA 347). Alibi which has the aspect of fabrication is not credible (People vs. Rivalal, 10 SCRA 462) and its flimsiness as a defense may be shown by the nearness of the accused to the scene of the crime (People vs.

Castelo, 11 SCRA 192).

"As to the question of motive, on the part of both or either of the accused to commit the crimes in question, it must be pointed out that its existence is not essential to conviction when there is no doubt as to the identity of the culprits (People vs. Lumantas, 28 SCRA 764; People vs. Ner, 28 SCRA "51), and is unessential when there are reliable witnesses who fully identified them (People vs. Evaristo, 13 SCRA 892). It assumes pertinence only when there is doubt as to the culprits identity, not when the perpetrator of the offense is known or has been identified (People vs. Sales, G.R. No. L-29340, April 27, 1972)."[26]

WHEREFORE, and upon recommendation by the Solicitor General, the decision dated January 31, 1974, in Criminal Case Nos. CCC-1-115 and CCC-M33, of the Circuit Criminal Court of the First Judicial District, Tuguegarao, Cagayan, establishing the guilt of the appellant is hereby **AFFIRMED IN TOTO**, insofar as said decision affects appellant only, with costs.

SO ORDERED.

Barredo (Chairman), Aquino, Abad Santos, De Castro, Ericta and Escolin, JJ., concur.

[1] pp.19-21, Rollo.

[2] p. 1, Original Record, CCC-1-115, Tuguegarao, Cagayan.

[3] p. 1, Original Record, CCC-1-133, Tuguegarao, Cagayan.

[4] pp. 3-5, t.s.n., July 18, 1972.

[5] pp. 410-412, Original Record.

[6] p. 74, Rollo

[7] pp. 83-88, t.S.n., August 24, 1973; pp. 3-14, t.s.n., August 3, 1973.

[8] pp. 14-16, 31-35, Aug. 3, 1973; pp. 88-89, t.s.n., Aug. 24, 1973; p. 54, t.s.n., Aug. 2, 1973.

[9] pp. 16-22, 71-73, t.s.n., Aug. 3, 1973.

[10] pp. 30-42, t.s.n., Sept. 18, 1972.

[11] Exhibit "A".

[12] pp. 5-58, t.s.n., Aug. 3, 1973.

[13] pp. 19-31, t.s.n., August 3, 1973.

[14] pp. 22-65, t.s.n., July 5, 1973.

[15] p. 395-397, Original Record.

[16] pp. 58-59, t.s.n., August 3, 1973.

[17] pp. 131-132, t.s.n., January 22, 1974.

[18] pp. 131-132, t.s.n., January 22, 1974. 19

[19] pp. 6-73, t.s.n., August 3, 1973.

[20] pp. 83-88, t.s.n., August 24, 1973.

[21] p. 23, t.s.n., September 18, 1972.

[22] Exh. "C", and pp. 45-49, t.s.n., August 2, 1973.

[23] p. 74, Rollo.

[24] pp. 12-13, Appellee's Brief.

[25] pp. 89-90, t.s.n., January 22, 1974.

[26] pp. 21-23, Decision; pp. 34-36, 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.