

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MORO ALI, ET AL., DEFENDANTS; MORO ALI, JAWAD AND AUSALIN, DEFENDANTS-APPELLANTS.*G.R. No. L-7431. May 28, 1958*

Ponente: PARAS, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/23b09009e778/>**PARAS, C.J.:**

Moros Ali and others were charged in the Court of First Instance of Zamboanga with the crime of robbery in band with physical injuries. The only accused apprehended were Moros Ali, Jawad and Ausalin who, after trial, were found guilty and sentenced to reclusion perpetua and to return the articles stolen and not recovered in the amount of P8,341.00, with legal accessory penalties. The three accused have appealed. The appeal of Moros Ali was dismissed by this Court because he had escaped from the provincial jail, while the appeal of Moro Ausalin had been withdrawn. We have thus before us only the appeal of Moro Jawad.

While the commission of the crime charged is not in effect questioned, appellant Jawad contends that the evidence identifying him as one of the offenders merits no consideration for the following reasons; (1) If witness Maria Tobel had really known him as a customer of the store in question, why did she not immediately reveal his identification when the crime was investigated in the morning after its commission, and why did she have to wait until another crime was committed and investigated? (2) Witness Florita Cabiligno did not have a clear mind at the time she allegedly saw the appellant, and she was in a state of confusion because of the gunshot wound. (3) Witness Lim Ih Eng could not have seen the appellant because at the very first opportunity when the house was ransacked, he escaped away; and if he had really seen the appellant because the latter used to buy from the aforesaid store, why did he not point to the appellant during the investigation of the crime? It is also argued that his defense of alibi is corroborated and strengthened by evidence which was not rebutted; that Jaji Mora, a tenant in a coconut plantation, and Rogelio la Chica both testified that the appellant was with them on the night of the crime in another place, unshelling coconuts; that even appellant's co-accused testified not only that they did not know him but that he was not with them on the night of the robbery.

The issue thus refers to the sufficiency of the evidence identifying appellant Jawad as one of the offenders. The records reveal that Lim Ih Eng and Maria Tobel knew the appellant because the latter used to buy cigarettes and sugar from them; that in the evening in question they saw him in a room lighted not only by a lamp but also by the flashlights the robbers used in ransacking the nooks and corners of the house; that the malefactors were not masked. We have carefully examined and studied the entire evidence and are convinced that the appellant had been sufficiently identified.

The delay in incriminating the appellant should not militate against the validity or competency of the supporting proof. It is reasonable to suppose that said delay was due to the fact that it was only on March 28, 1953, that Maria Tobel again saw the appellant since the date of the crime, considering that a person may know another without being able to fully describe him. The witnesses in this case had to see and be confronted with the person

of the appellant in order to identify him. Thus, when Maria Tobel saw the appellant pass by with a police officer for investigation for another crime, she readily recognized him as one of the participants in the crime committed in the store in question. It is noteworthy that the witnesses have not been shown to harbor any grudge or prejudice against the appellant.

We find, however, that the penalty imposed by the lower court is erroneous. The leg injury inflicted on Florita Cabiligno required hospitalization for more than 30 days. Said physical injury is covered by paragraph 4 of Article 363 of the Revised Penal Code. Accordingly, the robbery committed should be punished in accordance with paragraph 4 of Article 394. The proper penalty is prision mayor in the maximum period to reclusion temporal in its medium period, which must be imposed in the maximum degree, because there are three aggravating circumstances, namely, nighttime, dwelling, and abuse of superior force, without any mitigating circumstance.

Wherefore, it being understood that appellant Moro Jawad is sentenced to undergo imprisonment for an indeterminate period of not less than 8 years and 1 day, prision mayor, and not more than 14 years, 10 months and 21 days, reclusion temporal, the judgment appealed from is in all other respects affirmed with costs against said appellant. So ordered.

Bengzon, Montemayor, Reyes, A., Baustista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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.