

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE BUENSUCESO, RODOLFO AGUILAR, CONRADO IZON AND ERNESTO JOSON, DEFENDANTS-APPELLANTS.

G.R. No. L-32103. September 28, 1984

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/41df232a944b/>

MELENCIO-HERRERA, J.:

This is an appeal from the Decision of the then Court of First Instance of Bataan, sitting in Balanga, in Criminal Case No. 6182, convicting Jose BUENSUCESO, Rodolfo AGUILAR, Conrado IZON and Ernesto JOSON, all members of the police force of Dinalupihan, Bataan, of Murder, and sentencing "said accused each to suffer the penalty of RECLUSION PERPETUA; to jointly and severally indemnify the heirs of the deceased Pariseo Tayag in the amount of P12,000.00; and each to pay the proportionate costs." [1]

The Information filed against said four accused together with two other policemen, Eduardo MALLARI and Fidel DE LA CRUZ, charged them with Murder as follows:

"That on April 21, 1967 at about 5:00 o'clock in the afternoon at Dinalupihan, Bataan, Philippines, and with-in the jurisdiction of this Honorable Court, the above-named accused by conspiring, confederating and helping one another, with intent to kill, treachery and by taking advantage of their official positions and superior strength, using their service revolvers did then and there willfully, unlawfully and feloniously shoot one PARESEO TAYAG Y ANGELES hitting him in the different parts of his body inflicting upon his person several gunshot wounds which caused his death to the damage and prejudice of his heirs." [2]

After pleas of not guilty and after due trial, accused BUENSUCESO, AGUILAR, IZON and JOSON were found guilty of Murder and, as aforesated, were sentenced to suffer reclusion perpetua.

MALLARI and DE LA CRUZ were both absolved on reasonable doubt. [3]

Three separate Briefs were filed: the first was for IZON and JOSON; the other was for BUENSUCESO; and the third one was for AGUILAR. The Solicitor General filed a consolidated Brief.

The prosecution synthesized the occurrence as follows:

"Between 5:00 and 6:00 o'clock in the afternoon of April 21, 1967, while prosecution witness Apolonio Salvador was in his small store beside the market near the municipal building of Dinalupihan, Bataan, he saw Patrolman Rodolfo Aguilar and Pariseo Tayag conversing as they were walking side by side, each resting his hand on the shoulder of the other, going towards the municipal building (pp. 22-24, tsn, July 25, 1967). Pat. Aguilar was trying to take the fan knife of Tayag, but could not take it because Tayag prevented him from taking it by gripping it with his right hand and swaying it left and right as if playing (p. 24, tsn, Id.). Tayag did not want to give the knife because he was not making any trouble (p. 25, tsn., Id.). At the suggestion of Pat. Aguilar, Tayag readily agreed to go to the office of the chief of police (pp. 25, 26, tsn, Id.).

"When they arrived in the said office, there were two persons there, namely, Enrique Mallo and Pat. Eduardo

Mallari (p. 27, tsn., Id.). Pat. Mallari was then the muni-cipal guard and in uniform (p. 8, tsn., July 26, 1967). Subsequently, a heated argument took place between Pat. Aguilar and Tayag arising from the latter's refusal to give his fan knife to the former (p. 28, tsn, July 25, 1967). Later on, Pat. Fidel de la Cruz appeared at the doorway (pp. 30, 32, tsn, Id.).

"Thereafter, when Tayag was about to leave the office, Chief of Police Adriano Canlas arrived and inquired what the trouble was all about (p. 31, tsn, Id.). Pat. Aguilar answered that the two of them (Aguilar and Canlas) had been cursed by Tayag (p. 32, tsn, Id.). Tayag asserted that he did not curse either of them, but that Aguilar was trying to force him to give up his knife (p. 32, tsn, Id.). Thereafter, Tayag hurriedly left the office. He was followed by Pat. Aguilar, Mallari, and de la Cruz who walked fast, with Aguilar and Mallari holding guns (p. 33, tsn, Id.). After having gone out of the building, Pat. Aguilar fired his gun upward (p. 34, tsn, Id.).

"Hearing the shot, Tayag turned about, then retreated backwards until he reached the fence of the plaza (Id.). When Tayag was near the wooden fence about a knee high, Pat. Aguilar aimed his gun at Tayag and fired, hitting him above the right knee (pp. 34, 35, tsn, Id.). Tayag continued to run towards his house followed by de la Cruz without a gun (p. 36, tsn, Id.). Pat. Mallari went to the waiting shed to intercept Tayag (Id.). Pat. Mallari had a gun at that time (p. 37, tsn, Id.). Pat. Aguilar followed Mallari in the shed and they took opposite sides of the road, that is, Rizal Street, in front of the Catholic Church (d.). Then there were several successive gun shots, more or less nine in number (p. 39, tsn, Id.).

"After the commotion, Tayag was seen lying prostrate near the back of a jeep packed at the corner of Rizal and San Juan Streets, about 60 meters away from the municipal building (p. 38, tsn, Id.). Pat. de la Cruz took the knife from Tayag and gave it to Pat. Jose Buensuceso (p. 39, tsn, Id.), who at the precise moment had his revolver tucked in its holster (p. 42, tsn, Id.). Pat. Conrado Izon and Pat. Ernesto Jose were also seen in the immediate vicinity of the crime scene by witness Apolonio Salvador (Id.). Wit-ness did not know, however, where Pat. Izon and Joson came from (p. 45, tsn, Id.). Both had their guns in their holsters (Id.).

"Later, at about 5:50 that afternoon of April 21, 1967, Sgt. Romualdo Espiritu of the P.C. stationed at Ba-langa, Bataan, arrived at the corner of Rizal and San Juan Bautista streets in Dinalupihan (pp. 1, 2, tsn, July 26, 1967). He noticed a commotion in the plaza and as a peace officer he inquired from people around what was going on (p. 2, tsn, July 26, 1967). He was told that a certain per-son was shot (Id.). He went to the place where people were converging and found Pariseo Tayag dead, lying down in a pool of blood, some 10 to 15 yards from the corner of Rizal and San Juan Bautista Streets (Id.). He ordered that de-ceased be brought to the municipal health center where a cursory inspection of the cadaver was made by the Municipal Health Officer, Dr. Sta. Maria (Id.) and photographs (Exhs. 'F' and 'G', p. 6, tsn, Id.) taken of the deceased (p. 5, tsn, Id.).

Thereafter, he proceeded to the municipal building and investigated (p. 2, tsn, Id.). Upon learning that some police officers were involved he investigated the suspects. He first saw Pat. Aguilar who was then recounting the inci-dent to Pat. de la Cruz (Id.). He asked for his service pistol, inspected the cylinder and found three (3) empty shells and three (3) live ammunitions (Id.). He smelled the barrel of the gun and found out that it had been fired (Id.). Then he proceeded to the office of the chief of police (p. 3, tsn, Id.) Moments later, Pat. Buensuceso arrived (Id.). He asked for Buensuceso's service revolver, inspected the cylinder, and found four (4) empty shells and two (2) live ammunitions (Id.). He smelled the barrel of the gun and found that it also had been fired. He also asked for the service revolver of Pat. de la Cruz but the latter mani-fested that he had no firearm at the time but pointed to Pat. Mallari from whom he (Pat. de la Cruz) got a pistol while they were on the ground door of the municipal buil-ding (Id.).

"Sgt. Espiritu then proceeded to the Patrol base or detachment of the 161st PC Co. at Layac, Dinalupihan, Bataan and from there he reported the incident by calling up headquarters in Balanga, Bataan (Id.), and at the same time asked for investigators to come over (Id.). Later on, while Sgt. Espiritu was preparing an on-the-spot report in the office of the Dinalupihan Police Dept., Capt. Antonio Resurreccion of the 161st PC Co. arrived

with his investi-gators (Id.). Sgt. Espiritu turned over to Capt. Resurrec-cion the revolvers of Aguilar and Buensuceso, which are both Smith and Wesson Cal. 38, Sgt. Espiritu identified in court as Exhibit 'C' a Smith and Wesson cal. 38 revolver, with Serial No. K-617092 as belonging to Pat. Buensuceso, and as Exhibit 'D' the other revolver with Serial No. C--73130, Cal. 38, as belonging to Pat. Aguilar (p. 4, tsn, July 26, 1967).

"Jose Penaflor, Acting Chief of Police of Dinalu-pihan, Bataan (pp. 12, 13, 14, tsn, Id.) and the municipal treasurer, Ludovico Simpao (pp. 17, 18, tsn, Id.), testified that on the basis of the memorandum receipt and records in their offices (Exhibits 'H', 'I', 'J'), the respective firearms issued to the policemen of Dinalupihan, Bataan, bear the following serial numbers:

Eduardo Mallari Serial No.L-597615 (Exh. H-1) J-4

Rodolfo Aguilar Serial No. C-73130

Jose Buensuceso Serial No. K-617092 (Exh. H-3; J-3)

Ernesto Joson Serial No. K-617201 (Exh. H-4; J-3)

Conrado Izon Serial No. 73534 (Exh. H-5; I-1)

"The deceased Pariseo Tayag died of gunshot wounds as found by Dr. Ceferino Cunanan, a medico-legal officer of the National Bureau of Investigation. His findings and conclusions are reflected in his necropsy report No. N--67-445 (Exh. L; p. 5, tsn., Aug. 15, 1967), as follows:

1. Entrance located at the scapular re-gion, left, *** directed forward slightly upward and medially; ***
2. Entrance located at the infrascapular region, left, *** directed forward, upward and medially; *** .
3. Entrance located at the thigh, right, distal 3rd, antero-lateral aspect, *** directed backward, downward and laterally; ***.
4. Entrance located at the leg, right, proximal ward, antero-lateral aspect *** di-rected upward, backward and laterally; *** fracturing comminutely the upper 3rd of the tibia and a slug was recovered at a point at the level of the knee,***."

"Dr. Cunanan testified that gunshot wound No. 4 is not a through and through wound, but instead the bullet was recovered with its course at Exhibits Q-3 and S (pp. 7, 8, tsn, Aug. 15, 1967). The bullet is preserved in their office and the photo of the slug is shown in Exhibits T and T-1 (p. 8, tsn, id.). He explained that gunshot wounds Nos. 1 and 2 were inflicted by a .38 caliber bullet (p. 8, tsn, Id.), while wound No. 3 may have been inflicted by a .32 or .38 cal. bullet. Wound No. 1 must have been fired by an assailant behind and to the left of the victim (p. 9, tsn, Id.). The shot causing Wound No. 2 must have been fired by an assailant while in the same position when Wound No. 1 was inflicted on the victim. Wound No. 3 is located on the lower extremity which is movable part of the body and could be inflicted on the victim assuming different positions. Wound No. 4 could be inflicted when the victim was lying down and assailant was in a lower position than the victim both standing erect face to face. Wounds No. 1 and 2 were fatal. Wound No. 1 involves the heart and lungs and Wound No. 2 involves the lungs, spleen and the liver (pp. 9, 10, tsn, id.).

"Lunge's diphenylamine tests were made on the dorsal aspect of both hands of the accused from the wrist joint to the fingertips, which produced the following results, to wit:

Chemistry Report No. G-67-204 Conrado Izon

Left Hand Positive

Right Hand Negative

Chemistry Report No. G-67-203 Fidel de la Cruz

Negative results

Chemistry Report No. G-67-202 Ernesto Joson

Left Hand Positive

Right Hand Negative

Chemistry Report No. G-67-200 Eduardo Mallari

Negative results.

"Filemon Mamaril, Supervising Ballistician and Chief, Forensic Ballistic of the National Bureau of Investigation, who conducted a ballistic examination of the firearms and shells and ammunitions received from the office of the provincial fiscal of Bataan in connection with this case, rendered his Ballistic Reports Nos. B-41-867 and B-44-867 (Exh. V, pp. 4, 5, tsn, April 17, 1968).

"Exhibit W, which is a deformed jacketed bullet which was received from Dr. Cunanan (p. 6, tsn, Id.), showed that it was fired from the Smith and Wesson revolver, Cal. 38, bearing Serial No. K-617092 (p. 7, tsn, Id.). He also found that the empty shells, Exhs. 'Y', 'Y-1' and 'Y-2' and 'Y-3' were fired from the revolver marked Exh. 'C' (Id.). The three empty shells, Exhs. 'Y-4', 'Y-5' and 'Y-6' were fired from a Smith and Wesson revolver, Cal. 38, with Serial No. C-73130 (pp. 123, 124, tsn., April 18, 1969) marked Exh. 'D' (p. 4, tsn., July 26, 1967)." [4]

The testimony of one of the accused, Eduardo MALLARI, in his defense was summarized by the Trial Court thus:

"In his defense, the accused Eduardo Mallari testified that at about 5:30 o'clock in the afternoon of April 21, 1967, he closed the office of the Chief of Police on the 2nd floor of the municipal building. Then he went down to the office of the Deputy Chief of Police on the ground floor. While descending to the ground floor, he saw a person in the office of the Deputy Chief of Police facing Cpl. Aguilar. The person was holding a knife and cursing the Chief of Police. Suddenly the person raised his right hand with the knife stating, 'You can only get this from me, Aguilar, when I am already dead.' Then the person and Aguilar pursued one another around the table, the person with a knife as the pursuer. He saw the person pushed aside Aguilar and stabbed him, but Aguilar was not hit. Thereupon Aguilar ran towards the outside of the building. The person followed Aguilar. At this juncture Pat. Fidel de la Cruz arrived. De la Cruz asked Mallari what happened. As De la Cruz and Mallari were conversing, Mallari heard a shot fired outside the building. Thereupon, De la Cruz grabbed Mallari's gun and rushed outside the building. Mallari also ran outside of the building. He saw the person, whom he later recognized as Pariseo Tayag, running away. He heard other shots, not less than five of them. He was short distance from the main door of the municipal building and he saw a commotion of the people. Fidel de la Cruz returned Mallari's gun after the shooting and when they were already inside the building. Thereafter Sgt. Romualdo Espiritu of the P.C. arrived. Sgt. Espiritu got Mallari's gun from De la Cruz, smelled it, then handed it back to De la Cruz, saying: 'It was not fired'."

Another defense witness, Corazon Cruz, a waitress, testified that the deceased together with some companions had drunk beer inside Freddie's Restaurant before the shooting incident. After her testimony, the defense without

presenting the other accused on the witness stand, offered its evidence and submitted the case for decision.

Accused-appellants, in their respective Briefs, assigned the following errors:

1) By IZON and JOSON:

"I

"THE LOWER COURT ERRED IN HOLDING THE APPELLANTS CONRADO IZON AND ERNESTO JOSON GUILTY OF THE CRIME CHARGED IN THE INFORMATION PENALIZED UNDER ARTICLE 248 OF THE REVISED PENAL CODE.

"II

"THE LOWER COURT LIKewise ERRED IN FINDING THE APPELLANTS IZON AND JOSON AS CO-PRINCIPAL IN THE COMMIS-SION OF THE CRIME."

2) By BUENSUCESO:

"I

"THE LOWER COURT ERRED IN GIVING UNDUE CREDENCE TO THE NECROPSY REPORT (EXHIBIT L) OF DR. CEFERINO CUNANAN AND THE BALLISTICS REPORT (EXHIBIT V) OF THE BALLISTICIAN FILEMON MAMARIL, AS WELL AS THEIR TESTIMONIES AND IN RELYING THEREON OR MAKING THE SAME AS ITS BASIS FOR COLLUDING THAT THE SLUG (EXHIBIT W) WHICH WAS ALLEGEDLY RECOVERED FROM THE KNEE OF THE ALLEGED VICTIM WAS FIRED FROM THE REVOLVER (EXHIBIT C) OF THE APPELLANT JOSE BUENSUCESO.

"II

"THE TRIAL COURT ERRED IN RULING THAT THE TWO FATAL WOUNDS WHICH CAUSED THE INSTANTANEOUS DEATH OF THE ALLEGED VICTIM WERE INFLICTED BY BULLETS FIRED FROM THE GUNS OF THE APPELLANTS JOSE BUENSUCESO, RODOLFO AGUILAR, CONRADO IZON AND ERNESTO JOSON.

"III

"THE COURT BELOW ERRED IN CONVICTING THE APPELLANT JOSE BUENSUCESO FOR MURDER NOTWITHSTANDING ITS OWN FINDING THAT THERE WAS NO CONSPIRACY ESTABLISHED BY THE PROSECUTION, ASIDE FROM THE FACT THAT THERE WAS ABSOLUTELY NO EVIDENCE ON RECORD TO SHOW THAT HE ACTUALLY PARTICIPATED IN THE KILLING OF THE VICTIM."

3) By AGUILAR:

"I

"THE LOWER COURT ERRED IN HOLDING THAT THERE WAS TREACHERY, MORE SPECIFICALLY ON THE PART OF DEFENDANT AGUI-LAR THAT WOULD QUALIFY THE CRIME TO MURDER.

"II

"THE LOWER COURT ERRED IN HOLDING THAT THE ACCUSED AGUILAR THOUGH ACTING INDEPENDENTLY SHOULD BE LIKewise HELD LIABLE AS THE REST OF THE ACCUSED FOR THE DEATH OF THE VICTIM.

"III

"THE LOWER COURT ERRED IN NOT HOLDING THAT DEFENDANT WAS MERELY ACTING IN LEGITIMATE SELF-DEFENSE WHEN HE INFLICTED THE WOUND ON THE VICTIM."

The assigned errors find no support from the evidence on record.

Firstly, all four appellants were seen by Apolonio Sal-vador, one of the prosecution eyewitnesses, to have been pre-sent at the crime scene at the time of the incident, armed with .38 caliber service revolvers.[5]

Secondly, the autopsy conducted on the body of the vic-tim showed that he died as a result of four (4) gunshot wounds[6] , two of which were fatal.[7] The examining physician testified that the wounds were inflicted by .38 cal. revolvers and that a deformed bullet, also .38 cal., which caused wound No. 4, was recovered (Exhibit "W").

Thirdly, upon an on-the-spot inspection by PC Sgt. Romualdo Espiritu soon after the incident, he found that the service pistol of AGUILAR had been fired and that its cylinder contained three (3) empty shells and three (3) live ammunitions. Similarly, he smelled the barrel of BUENSUCESO's re-volver and found that it, too, had been fired and that its cylinder had four (4) empty shells, and two live ammunitions.[8]

Fourthly, ballistic examination disclosed that the de-formed jacketed bullet recovered from the knee of the victim was fired from a .38 cal. Smith & Wesson revolver, with Serial No. K-617092, (Exhibit "C") issued to BUENSUCESO; that the four (4) empty shells (Exhibits "Y", "Y-1", "Y-2", and "Y--3") were fired also from BUENSUCESO's firearm; while the three (3) other empty shells (Exhibits "Y-4", "Y-5", and "Y-6") were fired from AGUILAR's Smith & Wesson revolver, .cal. 38, with Serial No. C-73130 (Exhibit "D").[9]

Fifth, the Chemistry Reports on the paraffin tests showed the following results, particularly in respect of IZON and JOSON:

"Chemistry Report No. G-67-204 Conrado Izon

Left Hand Positive

Right Hand Negative

"Chemistry Report No. G-67-203 Fidel de la Cruz

Negative Results.

"Chemistry Report No. G-67-202 Ernesto Joson

Left Hand Positive

Right Hand Negative

"Chemistry Report No. G-67-200 Eduardo Mallari

Negative Results."[10] (Italics ours)

The positive finding, insofar as IZON and JOSON are concerned, confirm prosecution witness Apolonio

Salvador's declaration that they were in the vicinity of the crime at the time of its occurrence. Although they had their guns in their holsters when Salvador saw them the fact remains that, upon examination, their left hands were positive for nitrates.

AGUILAR's plea of self-defense is evidently unmeritorious. AGUILAR followed the victim right after the latter hurriedly left the office of the Chief of Police. Once outside the building, AGUILAR fired his gun upward. And when the victim turned around and retreated backwards, AGUILAR fired upon him hitting him above the right knee.

If, as contended, the victim had thrust his knife at AGUILAR inside the Municipal Building making the former the unlawful aggressor, to be sure, the incident would have happened there and then and not some 60 meters away from the building. We discredit AGUILAR's testimony that it was the victim who had pursued him rather than the other way around.

BUENSUCESO's contention that there is serious doubt that the body autopsied was that of the victim hardly deserves even passing consideration.

All told, there is ample evidence establishing that AGUILAR, BUENSUCESO, IZON, and JOSON had fired their guns at the victim hitting him on different parts of his body. True, it has not been established as to which wound was inflicted by each accused. However, as this Court has held, where the victim died as a result of wounds received from several persons acting independently of each other, but it has not been shown which wound was inflicted by each assailant, all of the assailants are liable for the death of the victim.[11]

The crime is Murder, qualified by treachery. The victim was already retreating backwards until he reached the fence of the town plaza when AGUILAR fired his revolver at the former hitting him above the right knee.[12] Notwithstanding that he was already hit and wounded, and possibly immobilized, he was still subjected to successive shots as shown by the wounds that he had received, even at his back. Certainly, the means employed by the accused-appellants tended directly and specially to insure the execution of the crime without risk to themselves arising from any defense which the victim might have made.[13]

The killing of the victim was aggravated by abuse of superior strength as shown by the number of assailants, which circumstance, however, is absorbed by treachery.[14] No other circumstances modify the commission of the crime.

WHEREFORE, the judgment appealed from is hereby AFFIRMED, except that the indemnity to the victim's heirs is hereby increased to P30,000.00.[15] With proportionate costs.

SO ORDERED.

Teehankee (Chairman), Plana, Relova, Gutierrez, Jr., and De La Fuente, JJ., concur.

[1] Decision, p. 17.

[2] Rollo, p. 3.

[3] Ibid., p. 34.

[4] Brief for the Appellee, pp. 2-10, Rollo, p. 175.

[5] T.s.n., July 25, 1967, pp. 35-45.

[6] T.s.n., August 15, 1967, p. 6.

[7] Ibid., pp. 10-11.

[8] T.s.n., July 26, 1967, pp. 2-3, 9.

[9] T.s.n., April 18, 1968, pp. 123-124.

[10] Decision, p. 8, Rollo, p. 25.

[11] U.S. vs. Abiog, et al., 37 Phil. 137, 147 (1917).

[12] T.s.n., July 25, 1967, pp. 34-36.

[13] Article 14, par. 16, Revised Penal Code.

[14] People vs. Briosio, 37 SCRA 337 (1971); People vs. Mori, 55 SCRA 383 (1974); People vs. Velez, 58 SCRA 22 (1974).

[15] People vs. de la Fuente, 126 SCRA 524 (1983).

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.