

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CHUA HUY, LORENZO UY, CHUA TONG, TAN SI KEE, ANG UH ANG,
WILLIAM HAO, YOUNG KIAT, GO KING AND JIMMY YOUNG,
DEFENDANTS ...**

G.R. No. L-1931. August 31, 1950

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PER CURIAM:

This was a prosecution for kidnapping and illegal detention filed in the Court of First Instance of Manila. Over eight hundred pages of typewritten testimony were taken besides numerous exhibits, and the trial court has rendered an 113-page printed decision.

Stripped of non-essentials, the uncontroverted facts may be condensed as follows:

Joseph Dee, 20 years old, student at La Salle College and son of a rich Chinese merchant, was kidnapped on . December 7, 1946.. He was riding in the rear seat, of a Buick car driven by Ceferino Quiambao, coming from his fiancée's home on V. Mapa Street, Sta. Mesa, Manila, when, at about 10 o'clock p.m., not far from that house, a jeep apparently stalled in the middle of the street blocked the way of Dee's car. After the Buick stopped and Quiambao told a man who approached him that he could not push the jeep with his car, as requested, because the Buick's fender was low, two men entered the sedan through the front doors and two through the rear doors, one pair flanking Quiambao in the front seat and the other pair sitting on both sides of Dee in the rear compartment. Armed with pistols, the intruders threatened Dee and his chauffeur with harm if they resisted or cried out for help. Then they sealed Dee's and Quiambao's mouths and eyes with adhesive and drove to a house on Vision street, Sampaloc, with one of the kidnapers at the wheel. Dee's car was afterwards taken to Dewey Boulevard where it was abandoned, and recovered by the police the next day. The four men had other companions who remained on or around the jeep when Dee and Quiambao were whisked off.

In the house on Vision street, Dee and Quiambao were kept until the following night when they were removed in a hired 1946 Buick to a rented house in barrio Caruhatan, Polo, Bulacan. In the latter house, the two kidnapped men were locked up most of the time in a small unventilated toilet room till January 6, 1947, and Dee was told that he had been kidnapped for ransom. In the meantime, Dee's father and his fiancée's father were contacted by the Kidnappers by telephone and by letters and told to come across with one million peso's for Joseph Dee's release. And on various dates during Dee's and Quiambao's detention, Dee was handed various letters to copy, and the copies with Joseph Dee's signatures were sent to his father and his fiancée's father by the kidnapers. In those letters, Dee was made to beg the addressees to give what they could to spare his life and save him from further sufferings.

In the end, on December 31, 1946, Dee's father, Dee Hao Kim, delivered to the driver of a car for hire, one Luna Guanzon, the kidnapers' emissary, a cardboard box containing P50,000 in bills. Nevertheless Dee and Quiambao were not released.

In January, the Manila police were tipped by one of Dee's and Quiambao's guards, a man. named Romeo Chicano,

to the place of confinement of the captives and these were rescued on January 6, 1947 by Manila plainclothesmen.

Thirteen men and one woman, all Chinese or of Chinese extraction, were indicted and ten of them were arrested and put on trial. Of these Juan Yu was acquitted and nine—Go King, Chua Huy, Chua Tong, William Hao, Jaime Young alias Jimmy and Ang Uh Ang—were found guilty as principals of the crime charged and sentenced to reclusion perpetua, except Go King who was given the supreme penalty. Young Kiat, Ian Si Kee and Lorenzo Uy were pronounced guilty as accomplices and sentenced to suffer an indeterminate imprisonment of from ten years and one day, prison mayor, to twenty years, reclusion temporal. All the nine were further sentenced jointly and severally to pay Dee Hao Kim P36,000.98, the unrecovered portion of the P50,000 paid by him, and each to pay one-fourteenth of the costs. Manuel So alias Manuel Buenaobra, Sy Kao Su alias Elefante, John Doe and Mary Doe alias Fely had not been found.

Of the nine condemned men, all of whom appealed, Chua Hay, and Jaime Young have withdrawn their appeal.

The defendants-appellants set up alibis or denials of any participation in the crime, thus raising the sole question of the credibility or accuracy of observation of the witnesses for the prosecution. In this decision it is only necessary for us to confine our attention mainly to the evidence bearing on the identity of the malefactors.

Joseph Dee testified that the man who opened the rear left door of his car was Go King, adding that this accused levelled a nickel-plated revolver at him. The man who stepped in through the opposite door and seated himself at his (Dee's) right was Elefante (one of the accused who had not been apprehended). And he pointed to Chua Huy and Chua long as the men who entered through the left and right front doors respectively.

When Dee arose the next morning in the house on Vision street, the tapes on his eyes were loose sufficiently to enable him to see one of the men who were guarding him and his chauffeur. That man was Jimmy Young. He not only recognized Jimmy Young but this accused talked to him and told him that he knew some of Dee's relatives in Zamboanga where, Young said, he came from. Young also let him know that at 7:30, when the chief would be back, Dee would be transferred to another place. After, dusk, the chief did come, and told Dee and Quiambao to put on their shoes and gave the order to go. Dee was led to the stairs from which the chief carried him down to the car. Inside the car, the chief handed him dark glasses and ordered him to wear them. Then he and Quiambao were driven out of the city to a house which turned out to be in Polo, Bulacan.

In that house, the glasses and the tapes were removed from his eyes and he was told to relax. Then the chief explained in Chinese that he had asked Dee's father for a "donation" of P1,000,000 within three days, with the warning that if the senior Dee did not comply the following day, Joseph's arm would be cut off, and if, within three days thereafter, Dee Jr.'s father still failed to give the money, the boy would be slain. The next day, Dee was given a letter written in Chinese characters to copy and he obeyed. The man who gave Dee that letter was the chief himself, but the one who wrote it was Jimmy Young. Jimmy Young himself told him so at the police station after Young was arrested. With that letter was enclosed a 20-peso bill. on which the chief told Dee to write his name in Chinese characters although he wrote his name in Roman letters. He also copied Exhibits C, D, E and F from models handed him by his captors. The note marked Exhibit F-2, which was enclosed with Exhibit F, was handed to him by the chief at a time when the latter was holding a nickel-plated .45 caliber pistol. The text of Exhibit G which he was also ordered to copy was brought to him by Chua long.

Referring to the identity of the chief he had been referring to, Dee stated it was Go King.

Later in his examination in chief, Dee said that because he was ill for a week on account of the stuffy condition of the water closet, he was allowed to sleep in a bigger room two nights a week. The first night permission was given him by the chief who was with him all that night. The second permission was given him by Jimmy Young who

was also with him during the second night.

On cross-examination, Dee said he was well acquainted with Lorenzo Uy, Juan Yu, Chua Tong, Go King, Chua Huy and Ang Uh Ang. Lorenzo Uy and Juan Yu used to be his playmates in basketball; Tan Si Kee was at one time his tenants' cook; and he had known Chua Tong since Dee was seven. He knew Chua Huy as driver of colorum cars in Ongpin street, and Go King he came to know when this accused was working at the U. P. bar during the Japanese occupation and later at the Black Cat Night Club. As to Ang Uh Ang, Dee had done this accused many favors with financial assistance, he declared.

The first time Dee talked with Tan Si Kee during his detention was on December 29, the first day Chicano came to that place to stand guard. Dee said he asked Chicano for a glass of water but Chicano told him to talk to Tan Si Kee. The second time he talked with Tan Si Kee was on January 7, in the car in which they were riding with detectives after the rescue. Tan Si Kee told him, he said, that he was unfortunate because, according to Tan Si Kee, he had just arrived from Amoy and he had only been hired as a cook. Dee added that from December 27 to January 6, Tan Si Kee was the cook in the house where he was detained.

Ceferino Quiambao declared that the man who walked up to his car and requested him to push the jeep was Chua Huy. This accused was also one of the two who sat beside him and grabbed the Steering-wheel. The other who sat at his right was Chua Tong. The latter, when the car was already in motion, bound his hands and pasted adhesive on his eyes and mouth. Quiambao stated that he did not recognize the two men who were in the back seat with Dee. All that he knew was that they were very noisy talking in Chinese which he did not understand. "When he and Dee were released, there was only one Chinese in the premises, and it was Tan Si Kee.

Abraham Espiritu- was sworn to say that he was the encargado of Quirino Gregorio's house where the offended parties were detained in Polo. He testified that on November 26, 1946, Tomas (Chua Tong), Fely and Tony (Go King) came and said that they wanted to spend a vacation in that house. Later those people talked with the owner in his (witness') presence in Gregorio's office at the State Building in Manila, and they moved in on December 1. He had known Chua Tong for the first time in November, but with Tony he had been acquainted since 1928. Chua Tong and Fely were introduced to him as husband and wife. Upon the occupation of the house by the trio, the witness and his family transferred to a small nipa house nearby, on the same lot. During the time the house was rented other Chinamen frequently came and went. He noticed that there was always a guard at the stairs of the house, the door was always closed, and the windows were only half open. Go King, Lorenzo Uy, Young Kiat, Tan Si Kee and Chua Huy alternated as guards. "They were the ones he saw there on the ground floor of the house and * * * whenever we went to the house to get something, those men blocked our way and asked us what we wanted."

Romeo Chicano said that he lived on Benavides Street in Manila. Tony (Go King) took him on December 31 to the house in Polo to act as guard. There he stayed six days ending on January 6, 1947. During that period "there were many who kept coming back." They were Young Kiat, Tan Si Kee, Lorenzo Uy, Chua Tong, William Hao, Ing Uh Ang and Go King. There were others whom he did not see in court at the trial—about three. He remembered the nickname of one of them, Elefante. The witness and those persons all had arms. There were about 16 hand grenades and 18 pistols besides Thompson submach guns and grease guns. Chicano said that he and Go King had known each other since the Americans arrived. Go King had a companion, Jaime Young, when he (Go King) came to employ Chicano. The two told him that the house he was to guard was in Lucena, Tayabas, but he was taken to Caruhatan in Polo, Bulacan, instead.

Chicano stated that he reported the kidnapping to the Manila Police and on January 6 Manila detectives released the kidnapped men and arrested Tan Si Kee, the only one among the defendants who was in Caruhatan at the time.

Luna Guanzon, residing in Bacoor, Cavite, and driver of a motor vehicle for hire, said that on December 31, 1946, at about o'clock in the afternoon, Go King hired him at Plaza Sta. Cruz to take him to Dewey Boulevard but directed him to turn back upon reaching the Aristocrat Restaurant. Back in Plaza Sta. Cruz, Tony handed him a letter, Exhibit C, to take to La Fortuna, 360 Sto. Cristo Street, and he did as he was told. After handing the letter to somebody at the address indicated he was told to come in and "they loaded a cardboard box in the automobile." Forthwith he returned to Plaza Sta. Cruz where Tony stepped into the car and told him to drive on to Zurbaran Street. In Zurbaran, Tony got off with the box, paid him P15, and dismissed him. That was about six o'clock p.m. already. The next morning, at 4 o'clock, he met Tony in a restaurant at the corner of Azcarraga and a street whose name he did not remember, eating, and he asked Tony where he came from. He learned the name of this, accused about three days before the trial because Detective Morales revealed it to him.

Enrique B. Morales, detective sergeant, testified that he questioned all the ten accused in his office and took their statements, which were introduced in evidence as Exhibits M to V. He said that he arrested Tan Si Kee at barrio Caruhatan on January 6 at the house where Joseph Dee and Ceferino Quiambao were detained. In the house, he found an assortment of weapons including a grease gun, 50 loose rounds of ammunition, 7 hand grenades, one .38 caliber revolver. He also found one roll of unused adhesive, about three or four pieces of used adhesive, one chain, and two padlocks. He went on to say that Tan Si Kee was in charge of these objects and told him that Exhibit J, a Thompson gun, belonged to Go King. Morales also mentioned the places where the accused were arrested. Referring to the money paid the kidnappers, he said that he recovered P3,850.00 of it from Chua Huy, P10,000 from Hao Eng Hui, Go King's cousin, at No. 23 Escolta, and P52 from Yu King alias Jimmy. He said Chua Huy admitted to him that the P3,850 was part of P6,000 which he had received from Go King out of the ransom, as his share, and that he had spent part and lost part of the rest. Morales also said that Jaime Young alias Jimmy admitted to him that the P52 seized from him was part of P1,000 which he had received from Go King. Referring to the recovery of P100,000 from Hao Eng Hui, Morales said that Go King told him that he (Go King) had given his cousin P15,000 for safekeeping out of the P50,000 ransom money. However, according to Morales, Hao Eng Hui assured him that he had received only P10,000 from Go King. Morales also testified that Go King revealed to him that he had entrusted P15,000 to a relative named Tek at 708 Tabora Street, also for safekeeping, but, Morales said, none of this amount was found in Tek's possession.

Alleged confessions of the accused introduced in evidence were Chua Huy's (Exhibit N), Hao William's (Exhibit O), Ang Uh's (Exhibit P), Young Kiat's (Exhibit Q), Lorenzo Uy's (Exhibit R), Chua Tong's (Exhibit S), Go King's (Exhibit T), Yu Ping Eng's (Exhibit U) and Tan Si Kee's (Exhibit V). All the accused repudiated their respective statements alleging, among other things, that they had been wrung from them through violence and intimidation.

They called Dr. David S. Cabrera, medical examiner of the Manila Police Department, who testified that as such medical examiner he had examined Chua Huy, William Hao, Young Kiat and Ang Uh and issued on January 15, 1947, medical certificates upon their request. According to these certificates, Chua Huy had "reddish brown contusion, 6 cm. x 1 cm., in the anterior chest; yellowish red contusion, semi-circular in shape, measuring 5 cm. x 3 cm., in the lower chest 5 spotty brownish, contusion in the left anterior chest, and brownish scar, 1 cm. x 0.6 cm., in the lateral surface of the right ankle." On William Hao, the doctor found "diffuse yellowish discoloration of the skin, one measuring 6 cm. x 3 cm., in the chest and another measuring 1 cm. x 1.5 cm., one inch above the left nipple and healing brownish scabs on both knees." On Young Kiat was found "diffuse yellowish discoloration of the skin, measuring 5 cm. x 4 cm., over the midsternal region of the anterior chest which would heal in two days spontaneously." And Ang Uh had "multiple yellowish diffuse discoloration of the skin in the left infraorbital region in the right anterior chest, in the left anterior upper arm and in the right anterior upper arm." All these injuries, in Dr. Cabrera's opinion, could have been inflicted by blows with blunt objects and should have

healed in from two to three days from the date of the examination, :

Jose Cayabyab, a university student, testified that he and Go King were cellmates in the old Bilibid Prison on Azcarraga street in the early part of January and that once, when Go King was returned to the cell after he had been taken out by a policeman, King complained of pains and of having been maltreated. In answer to a leading question, the witness said that Go King was bleeding, and in answer to the next question he said that "those physical injuries were (caused by) the policeman. who got him."

With reference to their alleged complicity in the crime, the accused alone took the stand on their behalf. Their testimony is relatively brief and is limited mostly to protestations that they had nothing to do with Dee's and Quiambao's kidnapping and detention.

That the defendants' statements to the police were extorted by physical force and therefore involuntary, there can be very little doubt. The defendants' injuries, certified by a physician in the employ of the police department to be still fresh when he saw them, were telltale corroboration of the charge of severe torture. They were of such nature and seriousness as to preclude possibility of being self-inflicted. For this reason, we are of the opinion that the court below erred in admitting those statements and taking them into consideration in its findings.

Nevertheless, without the alleged confessions there is still more than enough evidence to sustain the appellants' conviction, although the legal qualification of the participation of some of them will have to be modified. The prosecution witnesses, with the possible exception of Luna Guanzon, had no personal interest to advance or to protect, nor had they any grudge to satisfy beyond Joseph Dee's and Ceferino Quiambao's natural desire to see their kidnappers get their dessert. And mistaken identity, as suggested by counsel for some of the defendants, was unlikely. Having known the accused intimately before, and seen them frequently in the course of, Dee's and Quiambao's confinement, the said witnesses could not possibly have mistaken others for the appellants.

Putting the scattered evidence together by way of a summary, the record pictures these roles of two of the three leading defendants and appellants.

Go King rented the house in Polo with Chua Tong and Fely. He sat on one side of Dee in the back seat of Dee's car and threatened Dee with a pistol. He was one of the four men who blindfolded and gagged Dee and Quiambao in said car and took the victims to Vision street where Dee and Quiambao were kept awaiting icing's return. When King reappeared he told Dee and Quiambao to be ready, and he carried Dee to the waiting automobile, which apparently had been brought by himself. In that automobile King handed Dee a pair of dark glasses, had Dee put them on for disguise, and he came along to Bulacan. He explained to Dee the reason for his abduction and had Dee write the various letters sent to Dee's father and the father of Dee's fiancée. He hired Guanzon to get the promised ransom from Dee's father and received the money afterward from his messenger. It was upon his indication that a large part of this money was recovered from his cousin.

Truly, Go King was the "chief", the moving and directing spirit of the enterprise.

Chua Tong was one of the two men who flanked Quiambao in the front seat, and rode on Dee's car from Sta. Mesa to Vision street. He tied Quiambao's hands and put adhesive on Quiambao's eyes and mouth to keep this offended party from seeing and screaming. Chua Tong brought to Dee In polo one of the paper is to be copied for Dee's father. As he lived on Vision street, very probably his was the dwelling where Dee and Quiambao were detained before their removal to Polo. And Chua Tong with Go King and Fely, Chua Tong's wife or mistress who was in hiding at the time of the trial, rented the house in that town.

Upon the above evidence, Go King and Chua Tong properly have been found guilty by the court a quo as coprincipals.

The defendants' statements to the police discarded, the participation of the other appellants in the crime consisted in guarding the detained men to keep them from escaping. This participation was simultaneous, with the commission of the crime if not with its commencement nor previous thereto. As detention is an essential element of the crime charged, as its name, definition and gradation of the penalty therefor imply, the crime was still in being when Lorenzo Uy, Tan Si Kee, Ang Uh Ang, William Hao and Young Kiat took a hand in it. However, we are not satisfied from the circumstances of the case that the help given by these accused was indispensable to the end proposed. Our opinion is that these defendants are responsible as accomplices only.

The crime committed is kidnapping with serious illegal detention penalized in Article 267 of the Revised Penal Code, as amended by Republic Act No. 18, with reclusion perpetua to death, the crime having been committed for ransom. It was attended by the aggravating circumstances of night time and use of motor vehicle without any mitigating circumstance to upset them.

Upon all the foregoing considerations, Go King and Chua Long, as principals, are sentenced to death, and Lorenzo Uy, Tan Si Kee, Ang Uh Ang, William Hao and Young Kiat, as accomplices, will suffer an indeterminate imprisonment of from twelve years, prison mayor, to seventeen years and four months, reclusion temporal. For the rest, the appealed decision is affirmed, with costs against the appellants in proportionate shares.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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