

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
NICANOR JIMENEZ AND TEOFILO HERNANDO, ACCUSED. NICANOR
JIMENEZ, ACCUSED AND APPELLANT.**

G.R. No. L-40677. May 31, 1976

Ponente: ANTONIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/702700a8bb90/>

ANTONIO, J.:

Appeal from the judgment of the Court of First Instance of Misamis Occidental in Criminal Case No. OZ-542, finding appellant Nicanor Jimenez guilty beyond reasonable doubt of the crime of murder, and imposing upon him the penalty of reclusion perpetua, with the accessories of the law, and ordering him to indemnify the heirs of the deceased Fabiano Fuentes in the sum of P12,000.00, without subsidiary imprisonment in case of insolvency.

Due to rampant trawl fishing in the area, Staff Sergeant Albino Panelo of the Constabulary, who was in charge of the Integrated Civilian Home Defense (IC-HDF) in Tangub City, together with Barrio Councilors Gaudioso Dungon, Fabiano Fuentes, Pascual Taylaran and Angel Enriquez of Barrio Bocator, constituted themselves into two or more teams to patrol Pangil Bay, for the purpose of apprehending persons engaged in trawl fishing. At about 11:00 o'clock in the evening of July 17, 1973, they sighted two pumpboats which they suspected to be engaged in trawl fishing. Fabiano Fuentes, Angel Enriquez, Gaudioso Dungon and Sgt. Panelo succeeded in overtaking the two pumpboats and in apprehending their occupants, namely: Engracio Sabandal and Juan Temporada in the first boat, and Camilo Bayonas and Wilfredo Chasol in the other boat. Having succeeded in their initial efforts, Sgt. Panelo and his companions proceeded to a fish corral owned by one Doring to rest. While thus resting, at about 2:00 o'clock in the early dawn, they sighted another pumpboat in the vicinity of Barrio Sumirap. They gave chase and finally overtook this third pumpboat. According to Sgt. Panelo and Barrio Councilor Dungon, this particular pumpboat was manned by appellant Nicanor Jimenez and one Teofilo Hernando. Moments later, another pumpboat passed by, whereupon, Sgt. Panelo instructed Fabiano Fuentes to transfer to the third pumpboat, have it tied to the latter's pumpboat, and to follow them. After giving such instructions to Fabiano Fuentes, Sgt. Panelo and his remaining companions gave chase to the fourth pumpboat. Having apprehended the fourth pumpboat, they noticed that the third pumpboat was not following them. After conducting an intensive search of the area, they found no trace of either the third pumpboat or of Councilor Fuentes. They then returned to Tangub City to report the incident to the Chief of Police and later to the Constabulary Headquarters at Ozamiz City. Two days later, or on July 19, 1973, they found the cadaver of Fabiano Fuentes floating in the vicinity of Lusno, within the Municipality of Tambulig, Zamboanga del Sur. Postmortem examination of the body of said deceased conducted on July 19, 1973 at 2:20 p.m. by Dr. Sinforiana del Castillo, Rural Health Officer of Lorenzo Tan, Tangub City, revealed the following:

"EXTERNAL EXAMINATION: –

Body at the early state of decomposition.

Head — extended upward.

Erosion of both eyes and soft tissue around it leaving eyeball intact. Erosion of forehead most extensive on left side. Lips with small erosion. Ears with mark erosion: Absence of left pinnae. Mouth open with bloody water coming out from the nostril.

Neck — swollen, dark in color with small erosion depressed linear marked across the neck 1 cm. below left ear. Neck extended upward.

Left hand — swollen with rope loosely tied around the waist. No cadaveric spasm.

Right hand — no cadaveric spasm, skin bleached and corrugated.

Forearms slightly flex towards the trunk.

Lower extremities extended. Skin bleached and corrugated. Three dark spots at anterior aspect of right foot.

CAUSE OF DEATH — ASPHYXIA."

Nicanor Jimenez was arrested on August 2, 1973, while Teofilo Hernando was arrested on August 3, 1973. Both arrests were effected at the places of residence of said persons at Taguitic, Kapatagan, Lanao del Norte. On August 6, 1973, the City Fiscal filed the Information for Murder against Jimenez and Hernando before the City Court of Tangub City, supported by the sworn statements of Melquiades Daing, Irineo Badyao, Pedrito de Guzman, Alexander Mondragon, Danny Bayonas, and Eliser Bayonas. On the same date, the City Judge issued the warrant for their arrest, and after said accused waived their rights to present evidence at the preliminary investigation, the case was remanded on August 29, 1973 to the Court of First Instance of Ozamiz City for trial.

On September 10, 1973, the City Fiscal filed the Information against the two accused with said court. On January 3, 1974, the Court dismissed the case provisionally due to the repeated non-appearance of prosecution witnesses. It was only on January 17, 1974 when the case was refiled by the City Fiscal and on that occasion only appellant Nicanor Jimenez was arrested, while the other accused, Teofilo Hernando, remained at large. After trial, appellant Nicanor Jimenez was found guilty as charged and sentenced to suffer the afore-mentioned penalty.

The issue determinative of the appeal is the sufficiency of the evidence of the prosecution to establish the identity of appellant as one of the assailants of the deceased.

There being no eyewitnesses to the commission of the crime, the resolution of the question depends upon (a) the credibility of the testimony of Sgt. Albino Panelo and Gaudioso Dungon; and (b) the admissibility of the purported extra-judicial confession of appellant (Exhibit "A") before the City Judge on August 4, 1973.

The identification of a person allegedly seen at the scene of the crime should be reasonably clear and unequivocal.^[1] It must be noted that neither Panelo nor Dungon knew appellant Nicanor Jimenez prior to the said incident. The problem is whether Panelo and Dungon could have under the attendant circumstances, recognized and remembered the identities of the occupants of the third pumpboat on the early dawn of July 18, 1973. Panelo admitted that while there was a moon, it was not so bright. They both claim, however, that Panelo directed the beam of his flashlight at the occupants of the pumpboat. Gaudioso Dungon even went further to claim that Sgt. Panelo not only talked with the occupants of the pumpboat but also wrote down in his diary their names and addresses. This is, however, inferentially contradicted by Sgt. Panelo in his sworn statement of August 9, 1973 (Exhibit "D") when he stated that he did not know the names of the two occupants of the boat but he could recognize their faces. Neither the claim of Panelo nor of Dungon that they recognized appellant as one of the occupants of the afore-mentioned pumpboat and that the next day they reported the incident to the Chief of Police could be believed because if that were true, the Chief of Police of Tangub City, Andres Enguito, would not have testified that not a single constabulary reported to him the incident in question, much less bothered to investigate

the death of Fabiano Fuentes, thus, he was constrained to take over the investigation on August 3, 1973. It was in such investigation that he interrogated one Pedrito de Guzman, who revealed the involvement of appellant Nicanor Jimenez and Teofilo Hernando in the case. There are also circumstances which cast serious doubts on the sincerity of the said declarants. Thus, Sgt. Panelo only executed his sworn statement on August 9, 1973 identifying appellant Nicanor Jimenez and Teofilo Hernando, a week after said persons had purportedly executed their extra-judicial confessions before Pfc. Juanito C. Quico and Police Chief Andres Enguito admitting their complicity in the commission of the crime. Gaudioso Dungan was not even listed as a witness for the prosecution when the City Fiscal filed the complaint and as a matter of fact it was only on January 11, 1974 that Dungan executed a sworn statement on the alleged involvement of appellant. On the various occasions that the case was set for hearing, Sgt. Panelo and Dungan were not presented as witnesses by the prosecution, thus resulting in the dismissal of the case on January 3, 1974, because according to the trial court, the case had been postponed several times due to the non-appearance of prosecution witnesses. The dismissal of the case was predicated on the failure of Melquiades Daing, Wilfredo Alcazaren, Pedrito de Guzman, Ireneo Badyao, Alexander Mondragon and Danny Bayonas to appear and testify for the prosecution on the various dates of hearing, thus compelling the court to issue a warrant for their arrest.

The courts should exercise caution in weighing evidence of identity. As Wharton observed, under conditions that generally surround the commission of a crime, there is sometimes a predisposition to connect an accused with a crime on the basis at times of fancied resemblances, depending upon the prejudgment or bias of the declarant.[2]

But even assuming for the nonce the verity of the testimony of Panelo and Dungan, the aforesaid testimony by itself would still be insufficient to support the judgment of conviction. Hence, the vital question is — whether or not the affidavit of appellant (Exhibit "A") is admissible as evidence in view of the provisions of Section 20, Article IV, of the Constitution. Under the afore-mentioned section, "No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

The history of this constitutional right against compulsory self-incrimination stems from the revulsion of mankind against the abuses committed by the ecclesiastical inquisitions and by the Star Chamber several centuries ago. The privilege against self-incrimination "was aimed at a more far-reaching evil — a recurrence of the Inquisition and the Star Chamber, even if not in their stark brutality." [3] Involuntary confessions had been rejected by all courts not only on the ground of its unreliability but also more important, on humanitarian principles which abhor all forms of torture or unfairness towards the accused in criminal proceedings.[4] Although the constitutional language in which the privilege is cast might be construed to apply only to situations in which the prosecution seeks to call a defendant to testify against himself at the criminal trial, its application has been held to apply to civil proceedings,[5] to congressional investigations,[6] to juvenile proceedings,[7] and other statutory inquiries.[8] In the application of this right, the natural concern is the obvious realization that an inability to protect the right at one state of a proceeding may make its invocation useless at a later stage. Thus, testimony "obtained in civil suits, or before administrative or legislative committees, could also prove so incriminatory that a person compelled to give such testimony might readily be convicted on the basis of those disclosures in a subsequent criminal proceeding." [9]

In 1966, the Supreme Court of the United States, in the precedent-setting case of *Miranda vs. Arizona*, [10] established rules to protect a criminal defendant's privilege against self-incrimination from the pressures arising during custodial investigation by the police. Thus, to provide practical safeguards for the practical reinforcement

for the right against compulsory self-incrimination, the Court held that "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination." It was suggested therein that "Prior to any questioning, the persons must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed." As explained in *Miranda*, "The need for counsel in order to protect the privilege (against self-incrimination) exists for the indigent as well as the affluent * * *. While authorities are not required to relieve the accused of his poverty, they have the obligation not to take advantage of indigence in the administration of justice * * *. In order to fully apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney, but also that if he is indigent a lawyer will be appointed to represent him." [11]

It was, therefore, because of the greater concern of the framers of the new Constitution for the right against self-incrimination that this provision of Section 20, of Article IV was incorporated in the new Constitution. In *Magtoto vs. Manguerra*, [12] We ruled that the proscription against the admissibility of confession obtained from an accused during the period of custodial interrogation, in violation of the afore-mentioned procedural safeguards, applies to confessions obtained after the effectivity of the new charter on January 17, 1973.

In the case at bar, the Chief of Police admitted that prior to the police interrogation of appellant on August 4, 1973, the latter was not warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney — either retained or appointed. It is a matter of record that appellant not only repudiated the alleged extra-judicial confession (Exhibit "A") as one procured thru coercion but also claimed that he was threatened by the police that if he would not affirm his signature in Exhibit "A" before the City Judge, they will further maltreat him. To show the unreliability of Exhibit "A", appellant's counsel de oficio also demonstrated that the purported statements of appellant in said declaration as to the manner in which the deceased was allegedly injured by the accused is inconsistent with the nature and character of the injuries found on the body of the deceased by Dr. del Castillo in her postmortem examination.

As observed in *Miranda*, [13] "without proper safeguards the process of incustody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely. In order to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination, the accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored." For an individual in police custody is swept from familiar surroundings. He is surrounded by antagonistic forces, and subjected to the techniques of persuasion. The presence of counsel, in such a situation, would be the adequate protective device necessary to make the process of police interrogation conform to the dictates of the privilege against self-incrimination. Without the aforesaid warnings, We hold that the purported extra-judicial confession of appellant (Exhibits "A" and "A-1") which was obtained during the custodial interrogation by the police is inadmissible as evidence to prove the guilt of appellant.

WHEREFORE, in accordance with the foregoing, the judgment of the Court of First Instance of Misamis Occidental in Criminal Case No. OZ-542 is reversed, and appellant ACQUITTED of the crime charged, with costs de oficio.

Fernando, J., (Chairman), concurs in a separate opinion.

Barredo, Aquino, and Martin, JJ., concur.

Concepcion, Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

[1] 2 Wharton's Criminal Evidence, p. 1627, Sec. 932.

[2] "Under normal conditions, the difference between persons is so marked by the laws of nature that no one individual, of whatever race or nation, can be wholly, and permanently mistaken for another. But under conditions that generally surround crime, where concealment is often attempted, and effacement is frequent, and where testimony is often destroyed or simulated, identification is not only difficult, but sometimes impossible. Again, a pre-disposition to connect an accused with a crime often leads to fancied resemblances, and witnesses give color to their testimony according to the force and such prejudgment. The clearest impressions of the senses are often deluding and deceptive to a degree that renders them worthless when tested by the actual facts. Often, grievous and irreparable wrongs are inflicted by reliance upon impressions that are frequently so valueless as to demand their complete rejection as a basis of scientific accuracy." (2 Wharton's Criminal Evidence, p. 1637, citing *Glover vs. State*, 114 G. 828, 40 S.E. 998.)

[3] *Ulmann vs. U.S.*, 350, U.S. 422, 426, 100 L. ed. 511, 53 A.L.R. 2d. 1008.

[4] *People vs. Bagasala*, 39 SCRA 236 (1971).

[5] *McCarthy vs. Arndstein*, 266 U.S. 34, 69 L. ed. 158.

[6] *Watkins vs. United States*, 354 U.S. 178, 1 L. ed. 2d. 1273.

[7] *In re Gault*, 387 U.S. 1, 18 L. ed. 2d. 527.

[8] *Malloy vs. Hogan*, 378 U.S. 1, 12 L. ed. 2d. 653.

[9] *Michigan vs. Tucker*, 41 L. ed. 2d. 182, 190 (1974).

[10] 384 U.S., at 444 16 L. ed. 2d. 694, 10 A.L.R. 3d. 974.

[11] "Miranda, which was perhaps the most controversial of the criminal procedure decisions of the 1960's, held that unless the procedures suggested by the Court or 'other fully effective means' were utilized by the police, 'the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation. * *'" Five years later, the Court began moving away from this position by holding in *Harris vs. New York* (401 U.S. 222 [1971]) that statements taken without compliance with the Miranda rules or equivalent safeguards could nevertheless be used to impeach the defendant's trial testimony. Last Term, in *Michigan vs. Tucker* (94 S. Ct. 2357 [1974]), the Court appeared to continue its retreat from Miranda by ruling that evidence obtained as a result of a pre-Miranda interrogation conducted without the Miranda safeguards could be used by the prosecution in a post-Miranda trial.

"Following his arrest for rape and assault, Thomas Tucker received from police all but one of the warnings which Miranda subsequently required: he was not informed that he would be furnished counsel free of charge if he could not afford his own attorney. During the ensuing interrogation, Tucker stated that he had been with a friend named Henderson when the rape was committed, but Henderson failed to corroborate the alibi and instead provided the police with information harmful to the defendant. At trial, Tucker's own statements to the police were excluded from evidence in accordance with Miranda, but Henderson's testimony was admitted despite counsel's motion to exclude. After his conviction was upheld by the Michigan courts, Tucker applied for and received habeas corpus relief from federal district court. The Court of Appeals for the Sixth Circuit affirmed the district court's grant of the writ.

"In an 8-1 decision, the Supreme Court reversed. Justice Rehnquist, writing for the Court divided the inquiry

into two parts. He considered first whether the police conduct violated defendant's fifth amendment rights and second whether Henderson's testimony should be excluded. In concluding that Tucker had not been deprived of his fifth amendment privilege against self-incrimination the Court distinguished the Miranda warnings from the privilege, finding the former merely prophylactic standards designed to safeguard the latter and not constitutional rights in themselves. Since failure to notify Tucker of his right to appointed counsel did not constitute an independent constitutional violation and since the statement was not involuntary, as pre-Miranda cases used that term, Tucker's fifth amendment privilege was not violated. Based on this holding, Justice Rehnquist found in opposite the principle of *Wong Sun vs. United States* (371 U.S. 471 [1963] [illegal search]) which held that 'fruits' obtained in violation of a defendant's fourth amendment rights must be suppressed. Thus freed from precedent, Justice Rehnquist believed the Court could approach the admissibility of fruits of a pre-Miranda violation of Miranda's prophylactic rules as a 'question of principle.'

"Since the police in Tucker had acted in good faith in giving all the warnings then required, Justice Rehnquist contended that the deterrence rationale of Miranda had little force here; Tucker did not involve wrongful or negligent police conduct which needed to be prevented by judicial sanction. The Court also found that the interest in assuring the reliability of evidence did not justify excluding the testimony, since Henderson was unaffected by the failure to advise Tucker of his rights. Finally, the Court rejected the claim that the government may never build its case by resorting to the defendant for evidence and found the prosecution's use of Tucker's statement consistent with the principles of the adversary system. Thus, the Court found that the unpersuasive arguments defendant advanced for excluding evidence did not outweigh 'the strong interest under any system of justice of making available to the trier of fact all concededly relevant and trustworthy evidence * * *.' (88 Harv. L. Rev. No. 1, pp. 197-199.)

[12] 63 SCRA 4.

[13] *Miranda vs. Arizona*, 384 U.S. 467, 16 L. ed. 2d. 719.

CONCURRING OPINION

FERNANDO, J.:

The opinion of Justice Antonio is to be commended both for its scholarship and its fealty to the constitutional command that the guarantee against self-incrimination be afforded the most hospitable scope as evidenced by the adoption of the Miranda doctrine.[1] Therefore, concurrence cannot be withheld. I give it. The reference in the opinion, however, to a recent American Supreme Court decision, *Michigan vs. Tucker*, [2] in a rather extensive footnote [3] has persuaded me to add a few words. It may only be *ex abundanti cautela*, but nonetheless, I entertain a slight misgiving that as to persons not as well-posted in what Professor Thomas Reed Powell called the vagaries of constitutional interpretation or not as sensitive to nuances in judicial opinions as the ponente, there could arise the erroneous impression that the adoption of Miranda in the present Constitution [4] may still be affected by later American cases that do not adhere to its strict norm. Hence this brief concurrence.

1. It does not admit of doubt that the right against self-incrimination arose from the belief that thereby the recurrence of the evils associated with the Star Chamber and the Inquisition could be avoided. It can be said that as originally phrased, what is sought to be prevented is compulsion. Confessions voluntarily entered into are by no means excluded.[5] The moment, however, there is, in the language of *People vs. Bagasala*, [6] "any form of coercion, whether physical, mental or emotional," it becomes inadmissible.[7] The opinion continues: "What is essential for its validity is that it proceeds from the free will of the person confessing." [8] *Miranda*, to my way of thinking, further vitalized the constitutional guarantee. The element of compulsion need not be shown in cases of custodial interrogation. For a confession to be inadmissible, it suffices if at that stage, the person under

investigation is not informed of his right to remain silent and to counsel. As admitted in the able opinion of Justice Antonio, there is the assumption that the circumstances of a police interrogation are so inherently coercive that unless the atmosphere be neutralized in some manner, no individual's decision to speak could be considered as falling within the exception to the privilege against self-incrimination once its voluntariness is shown. That is as it should be. I do not think that the opinion of the Court rightfully viewed is susceptible to any contrary interpretation.

2. It is true of course that the approach of the Burger Court differs from that of the Warren Court as far as civil liberties cases are concerned. It was the late Chief Justice Warren who penned the epochal Miranda opinion. That was in 1966. On May 14, 1969, shortly before he became Chief Justice, the then Circuit Court of Appeals Judge Warren Burger, in *Frazier vs. United States*,^[9] made clear that he was not sympathetic to the broad scope given the privilege of self-incrimination. As he pointed out in his concurring and dissenting opinion: "Of more concern is the majority's expansion of Miranda into a per se exclusionary rule, thereby transcending the Fifth Amendment requirement that only those statements elicited through compulsion be excluded from evidence. Indeed, Miranda itself cannot be read as going beyond the language of the Fifth Amendment. Any lingering doubts on this score were resolved by a recent exposition on the subject by the Supreme Court."^[10] Nonetheless, it is only fair to add that two prominent commentators on the Warren Court, the late Professor Harry Kalven and Professor Gerald Gunther, are on record as denying any radical departure from the libertarian doctrines of the Warren Court. Thus, in his foreword to the 1970 Term of the Supreme Court, the late Professor Kalven noted: "Perhaps because I had taken the political advertisements of change too seriously, I had expected dislocations in the work of the Court. But as I read through the work of the Term I was relieved to find, with uncertain exceptions of criminal procedure and reapportionment, less change than I had anticipated. I found, too, that measuring change of this sort, given the complexities of the work of the Court, was an exceedingly difficult task. In any event, the continuities impressed me more than the discontinuities."^[11] The next year, in discussing the 1971 Term, Professor Gunther in effect echoed the same sentiment: "When Harry Kalven examined the Court's work in these pages a year ago, he was surprised to find that the 1970 Term had produced less change than expected, that continuities were more impressive than discontinuities. The 1971 Term leaves me with a similar impression. That assessment may be more surprising this year than last; a sharper break was expected by many and has already been proclaimed by some. To me portrayals of a dramatic turnabout do not ring true. Rather, I see a Court divided, uncertain and adrift. The Burger Court continues more confident about stopping further extensions of the Warren Court paths than about charting roads of its own. The changes were marginal, not cataclysmic."^[12]

3. More specifically, as far as the Miranda doctrine is concerned, there is only one other case, the earlier decision of *Harris vs. New York*,^[13] that may be considered as not adhering to Miranda. Chief Justice Burger stated: "Some comments in the Miranda opinion can indeed be read as indicating a bar to use of an uncounseled statement for any purpose, but discussion of that issue was not at all necessary to the Court's holding and cannot be regarded as controlling. Miranda barred the prosecution from making its case with statements of an accused made while in custody prior to having or effectively waiving counsel. It does not follow from Miranda that evidence inadmissible against an accused in the prosecution's case in chief is barred for all purposes, provided of course that the trustworthiness of the evidence satisfies legal standards."^[14] Thus, a defendant's statement procured without following the Miranda procedure, while inadmissible as a confession, is admissible to impeach his testimony at the trial. Chief Justice Burger used rather strong language in explaining why it should be thus: "The shield provided by Miranda cannot be perverted into a license to use perjury by way of a defense, free from the risk of confrontation with prior inconsistent utterances. We hold, therefore, that petitioner's credibility was appropriately impeached by use of his earlier conflicting statements."^[15] Even the cited case of *Michigan vs. Tucker*, as pointed out in the editorial note relied upon in the opinion of Justice Antonio, "may be read to hold

narrowly that under the circumstances of the case, retroactive application of Miranda's full scope would have been inappropriate. In view of this uncertainty, police forces would seem better advised to continue treating Miranda as the controlling statement of the rules governing interrogations rather than to risk exclusion of potentially valuable evidence by failing to comply with Miranda. Out of respect for the Supreme Court, lower courts also should treat Tucker as a case whose impact is primarily restricted to its facts; had the Court meant to overrule Miranda, it would have been candid enough to say so."^[16]

4. It may be said, and correctly too, that any discussion of American Supreme Court decisions is, for the Philippines, merely of academic interest. Nonetheless, nothing would be lost if it be made clear beyond peradventure that as far as this jurisdiction is concerned, in view of the language found in Article IV, Section 20, the Miranda doctrine may be characterized as having been frozen. It would follow then, from this basic assumption, that any subsequent American case, which in any wise deviates from or does not comply with the strict and rigid test therein set forth, is for us devoid of any persuasive force. It is, in legal contemplation, as inoperative as though it had never been.

Hence, to repeat, this brief concurrence.

[1] 384 US 436 (1966).

[2] 94 S. Ct. 2357 (1974).

[3] FN 11.

[4] Article IV, Section 20 of the present Constitution provides: "No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

[5] Cf. *People vs. Carillo*, 77 Phil 572 (1946).

[6] L-26182, May 31, 1971, 39 SCRA 236.

[7] *Ibid*, 242.

[8] *Ibid*.

[9] 419 F. 2d 1161.

[10] *Ibid*, 1171-1172.

[11] Kalven, *The Supreme Court 1970 Term: Foreword*, 85 Harv. Law Rev. 3 (1971).

[12] Gunther, *Foreword: The Supreme Court 1971 Term*, 86 Harv. Law Rev. 1 (1972).

[13] 401 US 222 (1971).

[14] *Ibid*, 224.

[15] *Ibid*, 226.

[16] 88 Harv. Law Rev. 201-202 (1974).

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.