

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAYMUNDO PASCUAL Y CARLOS, RUSTICO MORELOS Y DE LA
CRUZ, MARIO SALVADOR Y REYES, AND VIRGILIO GUTIERREZ Y DE
LA CRUZ, DEFENDAN...**

G.R. No. L-42769. December 05, 1991

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7a7b17a8fc5e/>

CRUZ, J.:

This case is especially disturbing because officers of the law are the accused rather than the accusers and there are suspicious overtones of extortion and official cover-up. The victim was a humble law-abiding citizen. His death could have been hushed up and lightly treated were it not for his widow's determination to bring the criminals to justice.

When Olympio Galgo was shot to death in Kalookan City, at about 2 o'clock in the morning of March 27, 1971, several investigations were conducted, resulting in diverse findings and recommendations.

Two hours after the incident, Pat. Virgilio Gutierrez declared in a sworn statement that Galgo was killed when he grabbed the former's gun which went off when they were grappling for it. On the basis of this statement, the Kalookan City Police investigator recommended the filing of an information against Gutierrez, for homicide through simple negligence.[1]

In response to a complaint lodged by Paula Salceda Galgo, the victim's widow, the NBI conducted its own investigation and came to a different conclusion. It recommended the filing of murder and robbery charges against the four herein accused-appellants, viz., Major Raymundo Pascual, Pat. Mario Salvador, Pat. Rustico Morelos, and Pat. Gutierrez, all of the Kalookan City Police Department.[2]

Acting Fiscal Rogelio de Leon of Kalookan City, after considering these recommendations, made his own investigation. On October 26, 1971, he filed in the Circuit Criminal Court of Pasig, Rizal, an information for homicide, and against Gutierrez only.[3]

Dissatisfied, the widow appealed to the Department of Justice, which, after making its own evaluation of the evidence, directed the filing of an amended information charging Pascual, Gutierrez, Salvador and Morelos with the crime of murder.[4]

This was done on December 10, 1971. Pascual, Morelos and Salvador voluntarily surrendered and pleaded not guilty at their arraignment. Gutierrez failed to appear despite notice, causing the forfeiture of the bond he had earlier filed. He was to re-surface later and plead his own erratic defense.

The prosecution relied heavily on two alleged eyewitnesses, namely, Wenceslao Rivas,[5] an errand boy at the Blue Sky Restaurant owned by the victim, and Eulalia Villa,[6] one of its waitresses.

Both testified that at about 2 o'clock in the morning of March 27, 1971, Morelos came to the restaurant and asked

to talk to the owner. Galgo identified himself. He thereafter agreed to go with Morelos when told that Major Pascual was waiting for them at the Caltex gas station across the street.

On the way, Galgo was flanked by Morelos and Salvador, who had joined them, each of them holding Galgo by the shoulder. Gutierrez arrived when the three were at the back of the station. Gutierrez kicked Galgo twice. Morelos and Salvador pushed Galgo down. Major Pascual was at that time already with them. As Galgo tried to rise, he was shot point-blank by Pascual.

Rivas and Villa immediately reported the shooting to Mrs. Galgo and the three of them went to the Kalookan City Police Headquarters. They were told that Galgo was in the Kalookan City General Hospital. There they learned that the victim had been transferred to the Jose Reyes Memorial Hospital, where they found Galgo already dead.

Villa added that three or four days earlier, Pascual and Salvador had demanded protection money from Galgo. Galgo had begged to be excused on the ground that his restaurant had been in operation for less than a month.

Paula Salceda Galgo corroborated Villa regarding the attempted extortion and also testified to the damages she sustained as a result of her husband's death.[7]

Two year afterwards, when the prosecution was ready to offer its exhibits, Gutierrez appeared and entered a plea of not guilty. He then moved to dismiss the charge against him, pointing out that the testimony of Rivas and Villa showed that it was Pascual who had shot Galgo.

Meanwhile, the other defendants presented their own witnesses, among them Rodolfo Marante,[8] a dish washer at the Society Restaurant; Gregorio Manansala,[9] an alleged eyewitness; Emily Gliponeo,[10] cashier at the Blue Sky Restaurant; and Ernesto Baltao.[11] Baltao was the boy Galgo had allegedly slapped, for which act Galgo was being taken to police headquarters that early morning.

The defense version of the killing was a reiteration of the sworn statement executed by Gutierrez, with Pascual adding that he was at the Society Restaurant across the Caltex gas station when he heard the shot that killed Galgo. This testimony was corroborated by Marante, who said he saw Pascual talking with somebody at that precise moment when the shot was fired. Manansala testified that it was as Galgo fell from the gunshot that Pascual came rushing out of the Society Restaurant. Emily Gliponeo retracted the statements she executed at the NBI on March 28, 1971, in which she corroborated Rivas and Villa. She said now that she did not see the shooting because she never left the Blue Sky Restaurant when she heard the shot.

Surprisingly, Gutierrez adopted the defense of his co-accused and reaffirmed his claim that Galgo was shot when the gun he was trying to wrest from him went off and hit the victim in the stomach.[12] Later, however, he again raised the arguments in his motion to dismiss and pointed to Pascual as Galgo's killer.[13]

In his decision dated November 17, 1975, Judge Alberto Q. Ubay found against all the accused and disposed as follows:

WHEREFORE, in view of all the foregoing, the Court finds that the guilt of all the above-named accused has been proved beyond reasonable doubt and declares each of them guilty of the crime of murder - the accused Raymundo Pascual as principal and the three other accused, namely, Rustico Morelos, Mario Salvador, and Virgilio Gutierrez, as accomplices.

Accused Raymundo Pascual is hereby sentenced to suffer a penalty of reclusion perpetua, with the accessory penalties prescribed by law; to indemnify the heirs of the deceased, Olympio Galgo, the amount of one-half of the sum of P12,000.00, or P6,000.00. Accused Rustico Morelos and Mario Salvador are hereby each sentenced to an indeterminate penalty of eight (8) years and twenty (20) days of prison mayor, as minimum, to fourteen (14) years, ten (10) months, and twenty (20) days of reclusion temporal, as maximum, with the accessory

penalties provided by law. Accused Virgilio Gutierrez is hereby sentenced to an indeterminate penalty of ten (10) years of prison mayor as minimum, to seventeen (17) years and four (4) months, of reclusion temporal, as maximum, with the accessory penalties provided by law. The said three accused, namely, Rustico Morelos, Mario Salvador, and Virgilio Gutierrez, as accomplices, are hereby ordered to indemnify the heirs of the deceased, Olympio Galgo, jointly and severally, the sum of P6,000.00.[14]

In addition, the decision awarded the sums of P10,000.00 as moral damages, P72,000.00 as compensatory damages for loss of earnings for four years, P3,000.00 as exemplary damages, and P550.00 as actual damages.

All the defendants appealed. Gutierrez contended that he should not have been considered an accomplice because he had no prior knowledge of Pascual's intention to kill Galgo. For their part, Pascual, Morelos and Salvador faulted the trial court for giving credence to the prosecution witnesses and not to Gutierrez's testimony that Galgo was shot during their struggle for the gun.

We have said often enough - and we will say it again here - that much leeway is given to the trial court in assessing the credibility of the person testifying before him. Its conclusions on this matter are accorded great weight on appeal in the absence of a showing that they were reached arbitrarily.

The trial court has the opportunity to observe the demeanor of the witness on the stand and is able to ascertain therefrom whether he is telling the truth or lying in his teeth. The indicia of veraciousness or perjury - like the flush of face or the tone of voice or the dart of eyes or the fearful pause - are not discernible from the sterile record before the appellate court. The trial judge can see all these tell-tale signs. The line between fact and fabrication is writ large and bold for him. Informed by his own observations, he can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to disbelieve.

We agree with the trial court that the prosecution's version of the killing of Olympio Galgo is more credible. Rivas and Villa could not simply have concocted their narration of how the victim was shot down in cold blood by Pascual after being manhandled by the other accused-appellants. Neither of these witnesses had any motive for testifying falsely against any of the defendants. On the contrary, they would have been naturally reluctant to do so, considering that the accused were all policemen who could easily retaliate against them.

Pascual asserted that Paula Salceda Galgo sought to implicate him because she was the partner of a woman who had vowed revenge against him when her massage parlor was raided by the police. This is preposterous. By his own admission, Pascual was not even among those who conducted the raid. Moreover, it is not believable that the widow would have sought to accuse an innocent man of the serious offense of murder just to gratify her partner's threat of vengeance.

The defense wonders why if they really saw Galgo in danger, Rivas and Villa did nothing at all to help him. Such inaction, it is averred, renders their testimony suspect. Let us not be naive. Rivas was merely an errand boy and Villa a waitress. It is understandable why they could not face up to the four armed policemen who were maltreating Galgo. How could these simple folk have dared to intervene when their own employer was helpless in his captors' hands?

There is too much nitpicking with the testimony of these witnesses, but the inconsistencies cited by the defense are not substantial enough to impair their credibility. Rivas was unable to specify the murder weapon because he was not familiar with firearms and did not know the difference between a pistol and a revolver. Regarding his delay in speaking up, he was in fact willing to give his sworn statement earlier but it was the NBI that decided to take it only 42 days later. As for Villa, the discrepancy in the dates of her sworn statement was explained by NBI agent Godofredo Ayetano as an honest typographical error. Her inability to remember the details of the incident, owing to the tension she felt at the time and the speed of the commission of the crime, did not detract from the

essential veracity of her testimony.

By contrast, the evidence of the defense is a study in inventiveness.

To begin with, it is a curious coincidence that all four of the accused-appellants were together at 2 o'clock in the morning near the restaurant of the victim when the shooting occurred. Was there a special operation they were undertaking at that witching hour? They never said so nor have they satisfactorily explained why the victim was with them then in the gas station. The Court is asked to believe that Galgo had been arrested for hitting Baltao in the neck, but one may well wonder why such drastic action was being taken for such a minor offense, and at 2 o'clock in the morning. Four police officers no less, including a major who was the Chief of the Administrative Bureau of the Kalookan City Police Department, effected the arrest of the lone and unarmed Galgo. It is also incredible that Galgo would have tried to wrest the gun from Gutierrez after they had left his restaurant when, assuming he was disposed to resist, he could have done this while he was inside his own property and with his own relatives and employees to support him. The happenstance that Morante saw Pascual talking to someone in the Blue Sky Restaurant when they heard the fatal shot and Morelos saw Pascual leave the restaurant immediately after that shot is also too pat to be acceptable.

It would appear that Pascual's co-accused were only too eager to exculpate their superior even if their loyalty to him meant lying on the stand. As a major and the head of their special operations team, Pascual obviously exerted a great deal of official and also personal influence upon them.

And these henchmen included Gutierrez himself, although he was rather ambivalent in his declarations. His flip-flopping betrays his unreliability as a witness, not to say a possible fear of Major Pascual that made him draw suspicion from his chief at the risk of his own conviction. But, for all his vacillations, he did not remain intimidated in the end. Revealingly, his final stance was to reject the role of the scapegoat and to insist that it was not he but Pascual who fired the shot that killed Galgo.

We affirm the finding of the trial court that the killer of Galgo was Pascual, who shot him while he was trying to get up after being pushed to the ground by Morelos and Salvador. Galgo was not in a position to defend himself at the time the bullet was fired that ultimately killed him. The crime committed by Pascual was murder, qualified by treachery as defined in the Revised Penal Code.[15]

The other aggravating circumstances alleged by the prosecution, to wit, taking advantage of public position, abuse of superior strength, and nocturnity, are deemed absorbed in treachery and cannot be separately considered.[16]

The trial court held that there was insufficient evidence to prove conspiracy, but we do not agree. The facts as we read them show quite clearly that all the accused-appellants came to an agreement concerning the commission of a felony and decided to commit it.[17] There was a common plan among them to kill Galgo for his refusal to submit to their extortion. Every one had his role in the execution of that plan when they met at that unseemly hour in the morning of March 27, 1972. Morelos was the one who fetched Galgo from the restaurant. Salvador waited outside and joined Morelos in restraining their quarry. Gutierrez soon appeared and administered the two kicks that began the punishment of Galgo. Morelos and Salvador pushed Galgo forward before the waiting Pascual, who shot him down in cold blood as the victim attempted to rise. Pascual was indeed the one who pulled the trigger, but the other three accused-appellants acted in concert with him in pursuance of their common design to murder the helpless Galgo. Every one must therefore suffer the same penalty, for in a conspiracy the act of one is the act of all.[18]

This is yet another one of those disturbingly growing number of cases where policemen, who are supposed to be the protectors of the people, have instead become their predators. The suggestion that the victim was killed

because of his refusal to pay protection money to the accused makes their offense all the more execrable. It is conduct like this that has dissipated public confidence in the police, who are now often not looked upon with gratitude and confidence but looked down with suspicion and disdain. The policeman must exert earnest efforts to improve his image as a law-enforcement officer and prove to a long disenchanted public that the badge he wears is a badge of honor.

WHEREFORE, the decision of the trial court is partially AFFIRMED, with the modification that all the accused-appellants, namely, Raymundo Pascual, Rustico Morelos, Mario Salvador, and Virgilio Gutierrez, as conspirators, are hereby declared equally guilty of the murder of Olympio Galgo. All of them are sentenced to the penalty of reclusion perpetua and shall be solidarily liable for the payment to the heirs of Olympio Galgo civil indemnity in the amount of P50,000.00 plus all the other monetary awards specified in the said decision.

SO ORDERED.

Narvasa, Acting Chief Justice, (Chairman), Feliciano, Griño-Aquino, and Medialdea, JJ., concur.

[1] Exhibit 16.

[2] Exhibit I.

[3] Rollo, p. 2.

[4] Rollo, pp. 3-4.

[5] TSN, December 27, 1971, pp. 353-373.

[6] TSN, December 28, 1971, pp. 3-27.

[7] TSN, September 25, 1973, pp. 582-589.

[8] TSN, February 13, 1974, pp. 602-605.

[9] Ibid., pp. 611-620.

[10] TSN, March 4, 1974, pp. 894-902.

[11] TSN, March 4, 1974, pp. 912-919.

[12] TSN, May 27, 1975, pp. 758-764.

[13] Original Records, Vol. III, pp. 609-622.

[14] Rollo, pp. 138-139.

[15] Article 248(1); Article 14(16).

[16] *People v. Mori*, 55 SCRA 382; *People v. Sespeñe*, 102 Phil. 199; *People v. Garciola*, 90 Phil. 285.

[17] Revised Penal Code, Article 8.

[18] *People v. Veronas*, 179 SCRA 423; *People v. De Guzman*, 162 SCRA 145; *People v. Diño*, 160 SCRA 197.

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.