

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE ORSAL, ET AL., ACCUSED, VICENTE ORSAL,
DEFENDANT-APPELLANT.**

G.R. No. L-47069. March 29, 1982

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/92de6c7ebd26/>

PER CURIAM:

Vicente Orsal is one of four (4) accused in four (4) separate cases filed in the Court of First Instance of Zamboanga City: (1) Criminal Case No. 471 (1183) for Arson; (2) Criminal Case No. 472 (1184) for Arson; (3) Criminal Case No. 473 (1185) for Robbery in Band with Multiple Homicide and (4) Criminal Case No. 432 (1157) for Robbery in Band with Homicide. The three (3) other accused are Ramon Gutierrez, Generoso Abapo and Romeo Flores, but the two (2) last named accused having gone at large, only appellant Vicente Orsal and Ramon Gutierrez stood trial, after which they were sentenced as follows:

"WHEREFORE, the Court hereby finds the accused, Vicente Orsal and Ramon Gutierrez guilty beyond reasonable doubt as principals of the crimes above-mentioned, attended by two (2) aggravating circumstances, namely, that the crimes committed at nighttime and by a band without any mitigating circumstances to offset the same, and pursuant to law, hereby sentences the accused Vicente Orsal the following penalties:

"In Criminal Case No. 432 (1157), for Robbery In Band with Homicide, the Court hereby sentences said accused Vicente Orsal to suffer the supreme penalty of 'DEATH', to indemnify the heirs of the deceased Jesus Limen the amount of P12,000.00, and to pay one fourth (1/4) of the costs in each of these four cases.

"In Criminal Case No. 473 (1185), for Multiple Homicide, the Court hereby sentences the said accused to suffer four separate and distinct imprisonments of Ten (10) years and One (1) day of Prision Mayor as the minimum to Seventeen (17) years and Five (5) months of Reclusion Temporal as the maximum, to indemnify the heirs of the deceased Cristino Bejic, Eduarda Bejic, Roberto Bejic and Atanasia Legazpi the total amount of P48,000.00 and to pay one fourth (1/4) of the costs of this suit in each of these four cases.

"In Criminal Case No. 472 (1184), for Arson, the Court hereby sentences the said accused to suffer the penalty of Four (4) years, Two (2) months and One (1) day of Prision Correccional as the minimum to Ten (10) years and one (1) day of Prision Mayor as the maximum, to indemnify the heirs of Cristino Bejic the sum of P5,000.00, and to pay one fourth (1/4) of the costs of this suit.

"In Criminal Case No. 471 (1183), for Arson, the Court hereby sentences the said accused to suffer the penalty of Ten (10) years and One (1) day of Prision Mayor as the minimum to Seventeen (17) years, Four (4) months and One (1) day of Reclusion Temporal as the maximum, to indemnify Francisco Limen the amount of P8,000.00, and to pay one fourth (1/4) of the costs of this suit.

"The accused being under detention, he is entitled to a full deduction of the preventive period of his imprisonment.

"In the case of the accused Ramon Gutierrez, were if not for the fact that he is a youthful offender, as he is only 18 years old, the Court would have imposed upon him the same penalties which this Court has imposed on the

accused Vicente Orsal in these four cases, but in view of the provision of Article 192, Presidential Decree No. 603, this Court is constrained to order, as it hereby orders, his commitment to the Department of Social Services and Development, Region IX, Zamboanga City, until he reaches the age of majority, or for a shorter period as the Court may deem proper, upon report and recommendation of the said Department."[1]

The sentence of death having been imposed in Criminal Case No. 432 (1157), which was heard jointly with the other three (3) cases, the single decision rendered for all the four (4) cases is now before Us for automatic review.

Conviction resulted from the facts established by the prosecution, synthesized in the People's brief as follows:

"On April 13, 1974 at about 4:00 in the afternoon, appellant, together with Generoso Abapo, Ramon Gutierrez and Romeo Flores, passed by the house of Andrea Bejic, located in Latuan Upper Curuan, Zamboanga City and asked for water to drink. Upon the invitation of Andrea, appellant and his companions went up her house. Thereat, Romeo Flores pulled his revolver and offered to sell it for P150.00 but Andrea offered only P50.00. Likewise, appellant pulled out his revolver and offered it to Andrea for P80.00 to which the latter bargained for P50.00. Before appellant and his companions left, they advised Andrea that they will close the deal upon their return from her father's house in Sapa Moro, Upper Curuan, Zamboanga City. Andrea in turn informed appellant that she will prepare supper for them, but appellant advised her not to prepare anything as they will take their supper in her father's house (pp. 10-12, t.s.n., August 11, 1975).

"At about 6:00 in the evening of same day, Jesus Limen and Ramon Jimenez were boiling cassava for their merienda at the kitchen of the house of Jesus' father, Francisco Limen, located in Sapa Moro, Upper Curuan, Zamboanga City. While waiting for the cassava to be cooked, they heard persons talking as the latter approached the house. Peeping through the window, they recognized the persons to be the appellant, who is Ramon Jimenez' cousin, and his afore-named companions. Appellant greeted the occupants of the house and in response, Jesus Limen and Ramon Jimenez invited appellant and his companions to come up the house and offered them boiled cassava. Ramon Jimenez noticed that appellant was armed with a revolver and a knife and his companions were each armed with a knife. After appellant and his companions finished eating they left informing Jesus and Ramon that they are going to the house of Cristino Bejic and requesting them to prepare something to eat as they would come back later that evening (pp. 5-9, t.s.n., August 28, 1975).

"Staying with Cristino Bejic (Andrea's father) at his house (referred to as "big house") located in Sapa Moro were his wife Eduarda and his grandchildren Atanacia Legazpi, Roberto Bejic and Antonio Bejic. Because of the reported feud (p. 5, t.s.n., August 13, 1975) between the Christians and Muslims in Upper Curuan, Cristino Bejic constructed a small hut some 500 meters away from his house where he, his wife and grandchildren sleep at night (pp. 3-4, t.s.n., August 12, 1975).

"At about 8:00 in the evening of April 13, 1974 while Cristino Bejic, his wife and aforementioned grand-children were inside the small hut they heard from the direction of their big house the barking of their dogs (p. 5, supra). In between said barkings Antonio Bejic heard the voice of appellant shouting and calling "Hoy!" He recognized the voice to be that appellant as the latter oftentimes slept in his (Antonio's) grand-father's house (p. 4, t.s.n., August 13, 1975). Cristino Bejic armed with a shotgun and his grandson Roberto Bejic with a bolo, went to the big house to find out who is calling (p. 7, t.s.n., August 12, 1975). Eduarda Bejic, Atanacia Legazpi and Antonio Bejic stayed at the hut and waited for the return of Cristino and Roberto. While waiting, they heard the sound of a pistol shot. At the instance of Antonio, he, his grandmother and his sister Atanacia hid themselves in the bushes.

"Worried because Cristino and Roberto have not yet returned, Eduarda, Antonio and Atanacia came out from their hiding and returned to the hut where they got a bolo and proceeded to the big house to see what happened. On the way, they heard sound of "breaking twigs" caused by footsteps. They stopped and then saw appellant and his companions. Appellant then was hold-ing Roberto Bejic (pp. 7-8, supra). Appellant and Roberto Bejic informed Eduarda that her husband fainted in the big house. Because of this information, Eduarda, Atanacia

and Antonio, followed by appellant and his companions proceeded to the big house. Eduarda with a lighted lamp, together with Antonio and Atanacia, went around the big house looking for Cristino. Roberto who was also looking for his grandfather told his grandmother that his grandfather jumped from the house. While Roberto was demonstrating the position of his grandfather (Cristino) when the latter reached the ground, appellant pulled and stabbed Roberto with a knife. Thereafter Romeo Flores (one of appellant's companions) shot Antonio with a revolver but missed (pp. 9-10, *supra*). Antonio ran and escaped towards the creek followed by Roberto who, while on the way, however, collapsed. Antonio continued running until he reached an elevated portion of the creek's bank and from there he saw at a distance their house in flames. Antonio continued running towards the road until he reached the house of Santos Licaros where he slept that night.

"The following morning, April 14, 1974, Antonio went to the house of his mother, Andrea Bejic, and reported to her that appellant and his companions killed his grand-father and grandmother, as well as Atanacia Legazpi and Roberto Bejic, and burned his grandfather's house (pp. 11--12, *supra*).

"Andrea Bejic, together with two of her laborers, proceeded to Sapa Moro to verify the report of her son. Arriving thereat, she saw her father's house already in ashes. She went around and saw only the dead bodies of her father and mother. She continued scanning the area and called for Roberto and Atanacia. Receiving no answer, she went home to Latuan and requested her husband to re-port the matter to the Curuan Police Precinct (p. 13, t.s.n., August 11, 1975).

"Acting on the report made by Bonifacio Yap, common-law husband of Andrea Bejic, Pat. Cesar Lago of the Zamboanga City Police Force, then assigned at the Curuan Police Precinct, together with two other policemen proceeded to Sapa Moro. Upon arrival thereat they saw the house of Cristino Bejic in ashes. Pat. Lago and his companions also found the dead bodies of Cristino, Eduarda, Atanacia and Roberto (pp. 5-7, t.s.n., September 15, 1975).

"At about 10:00 in the evening of April 13, 1974 Jesus Limen and Ramon Jimenez were awakened from their sleep by appellant who shouted "Ramon." Jesus Limen with the lighted lamp went towards the kitchen where appellant was calling. On seeing appellant and his companions, Jesus Limen invited them to come up the house. Appellant together with Generoso Abapo and Ramon Gutierrez went up the house, while Romeo Flores stayed downstairs where he called for and ordered Ramon Jimenez to go down. The moment Ramon came down he was held on the left wrist by Romeo Flores who pointed a gun at him and said "don't shout and don't run if you don't want to die." (pp. 9-11, t.s.n., August 26, 1975). While Romeo Flores was holding Ramon the latter heard Jesus Limen who was up in the house, groaning in pain. Immediately thereafter Ramon Flores brought Ramon Jimenez up the house and ordered the latter to show where the belongings of Jesus Limen were placed.

"Appellant and his companions ransacked the house and found Jesus Limen's shoes and clothings, one paltik revolver, two paltik shotguns and a hand grenade all of which they placed inside a sack. Thereafter upon being ordered by appellant, Ramon Jimenez showed the place where they kept the kerosene. Appellant poured the kerosene on the walls of the house while Generoso Abapo lit the same (pp. 11-12, *supra*). Appellant and his companions then looked for Jesus Limen downstairs to verify whether he is dead (p. 16, t.s.n., June 11, 1975). When the house was in flame, appellant and his companions left bringing along with them the sack containing the aforementioned articles. They also took along with them Ramon Jimenez (p. 12, t.s.n., August 26, 1975).

"That same evening, appellant, his companions and Ramon Jimenez proceeded to appellant's house located in Basagan, Zamboanga City where they opened the sack (p. 13, *supra*). The following day the group proceeded to the house of their companion, Generoso Abapo, in Daboi, Zamboanga City, where they repaired the two shotguns. While thereat, appellant and his companions took turns in watching Ramon Jimenez for fear that he (Ramon Jimenez) might escape (pp. 13-14, *supra*).

"On April 15, 1974 appellant brought Ramon Jimenez to Surabaya, Zamboanga City and stayed in the house of appellant's uncle. A day after their arrival in Surabaya, appellant and Ramon Jimenez were arrested by

policemen of Ipil, Zamboanga del Sur. After eight (8) days of confinement at the Ipil Police Station, appellant and Ramon Jimenez were taken by policemen of Zamboanga City and brought to the Zamboanga City Police Station for investigation (pp. 14-16, *supra*).

"At about 6:00 in the morning of April 22, 1974 Alfredo Limen informed his uncle Francisco Limen that the latter's house in Sapa Moro was burned (p. 4, t.s.n., December 18, 1975). Francisco Limen, together with Pats. Romillano and Abdani of the Zamboanga City Police Force went to Sapa Moro to verify the report of Alfredo Limen. Arriving thereat, Francisco Limen found his house in ashes. He went around the vicinity of his house looking for his son Jesus Limen. He found the already decomposing dead body of his son near a creek some forty meters away from the site of his burned house (p. 5, t.s.n., October 13, 1975).

"In the investigation conducted on April 25, 1974 inside Lt. Pedro Francisco's office, Antonio Bejic pointed to appellant as one of the four persons who killed Cristino Bejic, Eduarda Bejic and Atanacia Legazpi and burned the house of Cristino Bejic at Sapa Moro, Upper Curuan, Zam-boanga City on the evening of April 13, 1975 (p. 13, t.s.n., September 13, 1975; p. 6, t.s.n., October 6, 1975).

"Dr. Rogelio Silapan, Medico Legal of Zamboanga City Health Office conducted a post-mortem examination on the cadavers of Cristino Bejic, Eduarda Bejic, Atanacia Legazpi and Roberto Bejic. The findings thereon are re-flected in his necropsy report (Exhs. "M" and "M-11") as follows:

"Postmortem Findings: Roberto Bejic, Exh. "M--3")

"1. Wound, stabbed, forearm, proximal third, thru and thru 2" x 3" 1 1/2 with stabbed wounds entrance, lateral aspect toward the medial aspect forearm, right.

"2. Wound, stabbed, abdomen, anterior aspect, lumbar, right, transverse in position, 2" x 3" in diameter.

"3. Wound, incised, superficial one inch in length, perpendicular in position, scalp, forehead, right.

"4. Wound, stabbed, axillary region 2" x 3" in diameter, axillary fossa, perpendicular to the axillary fold at the level of the second and third rib, lateral aspect, chest, left."

"According to Dr. Silapan the injuries sustained by Roberto Bejic could have been caused by a sharp pointed bladed weapon; that the cause of the death of Roberto was shock, hemothorax, secondary to stab wound, axillary left (p. 26, t.s.n., October 1, 1975); that he issued Death Certificate (Exh. "Q") for the said Roberto Bejic.

"Postmortem Findings: (Cristino Bejic, Exh. "M-4")

"1. Wound, stabbed, axillary region, right, lateral aspect, anterior axillary line, chest 2" x 3 1/2" in diameter perpendicular in position at the level of the third and fourth rib."

"According to Dr. Silapan the injury sustained by Cristino Bejic could have been caused by a sharp pointed bladed weapon; that the cause of the death of Cristino was shock, hemothorax, chest, due to stab wound (p. 26, *supra*); that he issued Death Certificate, Exhibit "N", for Cristino Bejic.

"Postmortem Findings: (Eduardo Bejic, Exh. "M-5")

"Wound, stabbed, hypochondiac region, left 2 1/2" x 4" in diameter just beneath the 10th rib, transverse in position with protrusion of the omentum, portion of the stomach and pancreas."

"According to Dr. Silapan the injuries sustained by Eduarda Bejic could have been caused by a sharp pointed bladed weapon; that the cause of the death of Eduarda Bejic is shock, internal hemorrhage secondary to stabbed wound, hypogastric, left (p. 27, *supra*); that he issued Death Certificate, Exhibit "P", for Eduarda Bejic.

"Postmortem Findings: (Atanacia Legazpi, Exh. "M-6")

"1. Wound, stabbed, anterior aspect, abdomen, 1/2" below the umbilicus, transverse in position, 1/2" latero-inferior aspect, umbilicus measuring 2 inches by 4 inches in diameter.

"2. Wound, stabbed, left, perpendicular in position, 2" x 4" in diameter with protrusion of the large intestine, descending portion, along the anterior axillary line, lumbar, left.

"3. Wound, stabbed, lateral aspect, thorax, along the anterior axillary line, 2" x 3" in diameter, left.

"4. Wound, stabbed, lateral aspect, 1 inch below the axillary region, left, 3 inches lateral to the nipple, measuring 2" x 4" in diameter perpendicular in position.

"5. Wound, incised, anterior aspect mammary gland, 1 1/2 inch above the nipple, right, 2 1/2 inches in length in oblique position and wound incised, antero-supero-medial aspect, oblique in position, mammary gland right with 1 1/2 inches in length."

"According to Dr. Silapan the injuries sustained by Atanacia Legazpi could have been caused by a sharp bladed instrument; that the cause of the death of Atanacia Legazpi was shock, hemorrhage profuse, intestinal protrusion, secondary to stabbed wound, multiple (p. 29, supra); and that he issued Death Certificate, Exhibit "O", for Atanacia Legazpi.

"Said Dr. Rogelio Silapan also conducted a post-mortem examination on the cadaver of Jesus Limen and his findings were reflected in his necropsy report (Exh. "A-4") as follows:

"PERTINENT FINDINGS

"After complete lay off of the detached skull and other bones in their respective anatomical position in the human body, there is a well delineated stabbed wound in between the fifth and sixth rib, one (1) inch below the nipple, chest, left, mid-clavicular line measuring two (2) inches in length by one (1) inch in width."

"According to Dr. Silapan the injuries sustained by Jesus Limen could have been caused by a sharp pointed instrument; that the cause of the death of Jesus Limen was hemorrhage, profuse, secondary to stab wound (p. 5, June 11, 1975); and that he issued Death Certificate, Exhibit "B", for Jesus Limen." [2]

Appellant first contends that he has been denied his constitutional right of speedy trial because the information was filed only about nine (9) months after his arrest and investigation.

There was no such denial. As correctly set forth by the Solicitor General, the test of violation of the right to speedy trial has always been to begin counting the delay from the time the information is filed, not before the filing.[3] The delay in the filing of the information, which in the instant case has not been without reasonable cause, is, therefore, not to be reckoned with in determining whether there has been a denial of the right to speedy trial.

In the main, appellant's contention in this appeal is that the evidence of the prosecution is weak and insufficient to establish his guilt beyond reasonable doubt, particularly in the manner he was identified as one of the alleged perpetrators of the four (4) crimes herein charged. He would then argue that such weakness of the state evidence would commensurately strengthen his defense of alibi which, as he claims, the trial court erroneously rejected.

The weakness of the evidence of the prosecution is, among others, alleged to reveal itself in the lack of motive on the part of appellant to commit so heinous and dastardly a crime as those charged, considering his being a Christian and a missionary. The senselessness of the burning and the killing with manifest cruelty should therefore, according to appellant, exclude him as the author or one of the authors, thereof. He suggests as strong the possibility of a Muslim group being the culprits who are known to be in deep-seated feud with Christians in the region, both engaged in mercilessly killing each other and committing vast destruction of properties over

wide areas.

There would have been some plausibility in the foregoing speculation had not appellant been positively identified as one of the offenders.[4] But here again, appellant contends that his identification by the state witnesses was not that positive, reliable or spontaneous that would necessarily make his alibi devoid of credence. What is indubitably clear is that the state witnesses who pointed to appellant as among the culprits are the ones with no motive sufficient to urge them to testify falsely against appellant who would be punished with no less than death in consequence of their perjured testimony.

First to identify appellant was Antonio Bejic, the lone survivor in the carnage against the Bejic family and household. He categorically stated that he recognized the voice that shouted: "Hoy", to be that of appellant whom he had known very well because appellant used to sleep in Antonio's grandfather with whom he was residing.[5] The distance from where appellant shouted must have been such that he knew he could be heard for otherwise, he would not have shouted at all to attract attention of the inmates and make them go to the house as was his evident purpose; and so, he shouted "Hoy", more than once, the better to achieve his evident purpose of drawing the Bejic household members to the big house.

Moreover, Antonio also testified having seen appellant stab his cousin, Roberto Bejic. He was however candid enough to admit that he did not see who actually killed the rest of his relatives, nor who actually burned the house. This fact would tend to negate appellant's claim that the testimony of the state witnesses were scripted and merely rehearsed.

Andrea Bejic testified that appellant and his companion dropped at her house at about 4:00 o'clock in the afternoon of April 13, 1974 and told her that they were going to her father's house; and when Andrea offered to prepare supper for them on their return, appellant told her not to bother because they would take supper in her father's house. From this testimony, there could hardly be any doubt that those who liquidated almost the entire household of Cristino Bejic and burned down his house on the night of April 13, 1974 are appellant and his co-accused, not other persons.

Later in the same evening, Jesus Limen was slain and his house also burned. The same pattern of killing and burning strikingly characterized the commission of these later offenses that followed closely the killing of the Bejic kins and burning of their house. This would leave no room for doubt that both sets of crimes were the handiwork of the same group of malefactors who are none other than appellant and his three (3) companions.

That the appellant and his companions were the perpetrators of the killing of Jesus Limen and also the burning of his house was positively established by the testimony of Ramon Jimenez. Ramon was with Jesus Limen when the latter was killed and his house burned. That he was taken along by appellant apparently as a hostage to prevent him from reporting to the authorities, and so he was arrested with appellant together is, undeniably, one circumstance strongly lending credence to all that Ramon Jimenez testified to, particularly on appellant's complicity in the commission of the four (4) crimes.

But appellant would impugn Ramon's credibility by ascribing to the latter the motive of wanting to pass on to him (appellant) the guilt for what happened in the house of Jesus Limen because Ramon could be a primary suspect having been admittedly with Jesus Limen in the latter's house. This theory is farfetched and utterly finds no basis. There is not a scintilla of evidence why Ramon should kill a person who appears, as the evidence would show, to be very close and intimate to him. He and Jesus Limen even slept together that night. Earlier, at about 6:00 p.m. they were together boiling cassava for merienda at Limen's house.[6] If Ramon had committed the crime, appellant would have known so, as Ramon could not have gone to appellant and stay with him until their arrest, as is appellant's version of how he and Ramon got to be together, without the latter having known, as he must

have endeavored to know, the reason for what would appear to be a flight of Ramon for having committed a crime. The appellant would have then reported the matter to the authorities instead of harboring a criminal. If he did harbor Ramon with protective intent, Ramon could not have been that ingrate as to have passed on to his protector his own guilt. What is conspicuously absent is a credible explanation of why and how Ramon got to be with appellant from the time of the commission of the crimes until they were arrested together, to dispute Ramon's testimony particularly on how said testimony provided positive identification of appellant as one of the malefactors.

The testimony of Ramon Jimenez of course did not escape the very keenly scrutinizing examination to which appellant's counsel subjected the testimonies of all the other state witnesses, in an zealous effort to show their want of credibility with the inconsistencies, improbabilities and contradictions they supposedly contained. Suffice it to say that the alleged contradictions and inconsistencies were on minor and inconsequential details that would not in any way affect Ramon's credibility. Thus, if he gave different dates of his arrest - and by this appellant would brand this witness as unreliable - no reason was intimated why this witness would give changing dates of his arrest with appellant other than that he merely committed an honest, innocent mistake, certainly not to lie on a fact which was a matter of official record. This holds true in his not being able to remember the exact date of his birth and also in giving different names of the bus he and appellant rode in going to Surabay. These are matters that do not impress themselves deeply in one's memory, nor do they draw keen attention as to be literally seared in the mind, as the commission of violent crimes does.

Other supposed improbabilities in the version of the prosecution are sought to be shown with the following questions posed by counsel in appellant's brief:

"1. Why did they not use Cristino Bejic's shotgun which he brought to the big house in shooting Antonio Bejic, instead of a pistol (p. 35, Appellant's Brief)

"2. Why is it that not one of the members of Cristino Bejic's household suffered any gunshot wound notwithstanding prosecution's evidence that appellant and his companions were armed? (p. 36, Appellant's Brief)

"3. Why is it that no one bothered to run after the fleeing Antonio Bejic who was supposed to be the sole survivor of the massacre? (p. 35, Appellant's Brief)

"4. Why is it that Cristino Bejic who was then armed with a shotgun while at the big house, did not use his shotgun to shoot back at his killer considering that as per the necropsy report, Cristino Bejic died of stab wounds only? (pp. 35-36, Appellant's Brief)

"5. Why is it that appellant and his companions had to accompany Eduarda Bejic, Atanacia Legazpi and Roberto Bejic from the small hut to the big house and there kill them when appellant and his companions could have easily killed the victims in the small hut? (p. 38, Appellant's Brief)

"6. Why is it that in the report to the Police Department made by Andrea Bejic's common-law-husband, Bonifacio Yap, appellant's name was never mentioned as suspect in said killings, if indeed Antonio Bejic informed his mother Andrea that appellant killed his (Antonio) relatives? (p. 40, Appellant's Brief)"[7]

To the above questions, the Solicitor General gives the following answers which We find sufficient to dispel whatever doubt counsel would like to create in his bid to gain acquittal for appellant:

"RE: Contention No. 1

Considering that Antonio Bejic was shot by Romeo Flores immediately after appellant stabbed Roberto Bejic, the use of the pistol which as testified to by Antonio Bejic, was in Flores' hip (p. 9, t.s.n., August 12, 1975) was

handier. To use a shotgun at that moment, which requires some degree of manipulation before it is fired, would have afforded Antonio Bejic an opportunity to escape.

"RE: Contention No. 2

Considering that the killing was committed at nighttime, the sound of successive and repeated gunshots would have alerted the neighbors and exposed the presence of appellant and his companions, hence, the preference for knives or bladed weapons in killing the victims.

"RE: Contention No. 3

When Antonio Bejic ran towards the creek, followed by his cousin Roberto, who, however, along the way, fell to the ground, Romeo Flores did not give chase consoled by the mistaken thought that Antonio Bejic, whom he earlier shot but missed, was wounded and that sooner or later he will die just the same.

"RE: Contention No. 4

Antonio Bejic testified that while he, his grand-mother and Atanacia Legazpi were waiting for the return of Cristino Bejic from the big house to the small hut, they heard a sound of a pistol shot. Undoubtedly, the shot could not have been fired by Cristino Bejic as his weapon then was a shotgun. As the necropsy report clearly states that Cristino Bejic did not suffer any gunshot wound, it could be reasonably inferred that his killer's pistol shot missed him. Accordingly, it is logical to assume that he was over-powered and stabbed to death by appellant and the latter's companions.

"RE: Contention No. 5

Appellant's contention is misleading for it erroneously assumes that he and his companions were able to reach the small hut where the rest of the Bejic household were waiting for the return of Cristino Bejic.

Antonio Bejic testified that after he, Andrea Bejic and Atanacia Legazpi heard a pistol shot from the big house they hid in the bushes near the small hut. Worried because Cristino Bejic has not yet returned to the hut, they decided to proceed to the big house. On the way, they heard footsteps and saw appellant holding Roberto Bejic. Appellant informed Eduarda Bejic that her husband fainted in the big house (p. 9, t.s.n., August 13, 1975). The information given by appellant was merely a ruse for the other members of the Bejic household to proceed to the big house and look for Cristino Bejic. Killing the victims in a place near the hut would have readily revealed that the perpetrators thereof knew intimately the Bejic family as the small hut was supposed to be a hiding place, the location of which could have been known only to the intimates of the Bejic family. As appellant was known to the Bejic household (p. 4, t.s.n., August 13, 1975) and in order not to be linked with the crime intended to be committed, the rest of the Bejic household had to be killed in the big house to make it appear that persons, like the members of the feuding muslim - Ilaga group, as appellant would want them to appear, committed the killings and the burning.

"Re: Contention No. 6

Pat. Cesar Lago of the Zainboanga City Police Force testified that he interviewed Bonifacio Yap on his complaint of an alleged killing in Sapa Moro. After getting the names of the victims, Pat. Lago also asked Bonifacio Yap who were the assailants (p. 4, t.s.n., September 15, 1975).

Granting arguendo, that appellant was not initially named as a suspect, such omission is understandable. Andrea Bejic, shocked as she was upon seeing the lifeless bodies of her parents then concentrated her waning efforts and disturbed mind in locating her daughter Atanacia and nephew Roberto. In such an emotional state, Andrea Bejic may have failed to relate to her husband the information given by her son Antonio, that appellant participated in

the killing of the Bejic family and the burning of Cristino's house. At any rate such omission was cured when Pat. Lago immediately investigated Antonio Bejic, the lone survivor of the Bejic massacre (p. 8, t.s.n., September 13, 1975), who accordingly named appellant as one of the persons who committed the foregoing crimes." [8]

As earlier stated, no sufficient motive was shown why the two (2) eyewitnesses, Antonio Bejic and Ramon Jimenez, would perjure themselves in pointing to appellant as one of the perpetrators of very grave and heinous crimes. That appellant's mother may have accused Ramon Jimenez of theft would, therefore, not serve as motive to induce the two (2) aforementioned witnesses to give the testimony that named and pointed to not only appellant but three (3) other persons including Ramon Gutierrez who stood trial with appellant, as the malefactors. Even as to Ramon Jimenez alone, the alleged motive is assuredly not enough for him to charge falsely appellant, who is his cousin, with such grievous offenses as the killing of four (4) persons, burning down of two (2) houses and stealing of valuable personal belongings.

From how appellant's identity as one of the perpetrators of the four (4) crimes just mentioned has been established, his defense of alibi is futile. The barrio captain of New Sagay, where appellant claimed to be when the crimes were being committed, Jesus Agabon, was presented to corroborate appellant's alibi by testifying that in accordance with the regulation in his place, he registered appellant's name in a notebook as a transient therein. His testimony became worthless when despite sufficient opportunity given him to produce the notebook in Court, by post-poning the hearing not just once but twice, the defense witness never again appeared in Court. If his salvation hanged on the credibility of this witness, appellant should have done everything and resorted to even the coercive process of the Court to make said witness go to Court and present the desired document, or explain his inability to do so.

With a display of not only zealous and diligent study but also of a keen intellect and imagination in the preparation of his well-written brief, it is to be regretted that appellant's counsel cannot be rewarded with an acquittal as he had won for a client in a previous case he handled on appeal also as counsel de oficio, as he mentioned in his brief. [9] However, for his patient and earnest efforts and resourcefulness in discharging his duties not very often seen in de oficio counsels, he deserves as he is hereby given, commendation by the Court.

WHEREFORE, finding no reversible error in the decision under review, We affirm it in toto, with costs.

SO ORDERED.

Barredo, Makasiar, Concepcion, Jr., Fernandez, Guerrero, De Castro, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur. Fernando, C.J., and Teehankee, J., took no part. Aquino, J., in the result. Abad Santos, J., on official leave.

[1] pp. 2-4, Appellee's Brief.

[2] pp. 4-16, Appellee's Brief.

[3] Kalaw vs. Apostol, 64 Phil. 852.

[4] People vs. Trawon, 103 SCRA 170; People vs. Tirol, 102 SCRA 558; People vs. Tabion, 93 SCRA 566; People vs. Angeles, 92 SCRA 433.

[5] p. 4, t.s.n., August 13, 1975.

[6] p. 5, t.s.n., August 26, 1975.

[7] pp. 28-30, Appellee's Brief.

[8] pp. 30-33, Appellee's Brief.

[9] p. 58, Appellant's Brief, citing *People vs. Villacorte*, 55 SCRA 640.

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.