

ELIAS VALCORZA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. L-28129. October 31, 1969

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/aae283f20ca4/>

DIZON, J.:

Elias Valcorza was charged with homicide in the Court of First Instance of Bukidnon where, after trial, he was found guilty thereof, with the mitigating circumstances of lack of intention to commit so grave a wrong as the one committed and voluntary surrender, and sentenced to suffer an indeterminate sentence of not less than two years, four months and one day of prison correccional, nor more than eight years and one day of prison mayor, to indemnify the heirs of Roberto Pimentel in the amount of P6,000, but without subsidiary imprisonment in case of insolvency, and to pay the costs. He appealed to the Court of Appeals where, on August 16, 1967, judgment was rendered modifying the decision of the trial court, as follows:

"WHEREFORE, the judgment is modified as to the prison term and appellant Elias Valcorza is declared guilty of homicide with the mitigating circumstances of voluntary surrender and passion and obfuscation and, accordingly, he is sentenced to serve an in-determinate penalty of four (4) months and one (1) day of arresto mayor, as minimum, to two (2) years, four (4) months and one (1) day of prison correccional, as maximum, with the accessories of the law; to pay the heirs of the deceased, Roberto Pimentel, in the sum of six thousand pesos (P6,000.00), together with the costs.

"In all other respects, the appealed judgment is affirmed."

From the above decision the present appeal by certiorari was taken, it being petitioner's claim that the Court of Appeals committed the following errors:

"ASSIGNMENT OF ERRORS

I

THAT THE HONORABLE COURT OF APPEALS (MAJORITY DECISION) ERRED IN HOLDING THAT PETITIONER ALTHOUGH IN THE PERFORMANCE OF HIS DUTY AS PEACE OFFICER WAS NOT JUSTIFIED IN SHOOTING THE DECEASED BECAUSE THERE WAS NO DANGER TO HIS LIFE OR LIMB, A RULING WHICH IS BEYOND THE CONTEXT OF ARTICLE 11, PARAGRAPH 5 OF THE REVISED PENAL CODE AND CONTRARY TO THE RULING LAID BY THIS HONORABLE SUPREME COURT IN PEOPLE VERSUS DELIMA, 46 PHIL. 738;

II

THAT THE HONORABLE COURT OF APPEALS (MAJORITY DECISION) ERRED IN LIKING PETITIONER TO A TRIGGER-HAPPY POLICEMAN AND IN HOLDING THAT THE DECEASED HAS NOT SHOWN TO BE A DANGEROUS PERSON, A RULING WHICH IS CONTRARY TO ITS FINDING

OF FACTS;

III

THAT THE HONORABLE COURT OF APPEALS (MAJORITY DECISION) ERRED IN NOT ACQUITTING THE PETITIONER BASED ON THE FACTS IN RELATION TO ARTICLE 11, PARAGRAPH 5 OF THE REVISED PENAL CODE."

The facts found by the Court of Appeals - which must be deemed conclusive for the purpose of this appeal - are as follows:

"The deceased, Roberto Pimentel, was confined on June 4, 1960 in the municipal jail of Maramag, Bukidnon, as a detention prisoner to answer a charge of stealing a chicken. At about 1:00 p.m. when appellant was the police guard on duty, Roberto Pimentel escaped. The following day a police patrol team composed of Police Sgt. Federico Daiton and Patrolman Melquiades Cañas, Pablo Lubido and the appellant himself went to a place called Poultry Area in barrio Cuya, Maramag, Bukidnon, where the accused had been reported to be hiding, for the purpose of bringing him back to jail. Their efforts to locate and apprehend Roberto Pimentel having been fruitless, they decided to pass the night in the house of one Gavino Tirayosa, intending to return to town the following morning.

"At about five o'clock in the morning of the next day, June 6, 1960, Sgt. Daiton went down from the house of Gavino Tirayosa to answer a call of nature. He went to a nearby bridge and squatted thereon to defecate. While he was in that position, he saw a person approaching slowly and he ordered him to halt. The latter, instead of doing so, jumped down into the creek spanned by the bridge. He yelled for his companions, saying that the person who jumped into the creek could be their quarry. Patrolman Cañas, Lubido and the appellant rushed out of the house of Gavino Tirayosa, Cañas and appellant going to the place at the creek where the person had jumped down.

"Sgt. Daiton stationed himself near the bridge and Patrolman Lubido went to the other side of the creek. Appellant and Cañas followed the course of the creek and after covering a distance of 100 meters they came across footprints which they examined separately. While they were doing so, Roberto Pimentel emerged suddenly from the bushes and lunged at the appellant, hitting him with a stone at the right cheek and causing him to fall to the ground. When appellant Valcorza was on the ground, Roberto Pimentel again struck him with a stone on the right arm. Fearing that Pimentel might grab his service revolver, appellant Valcorza summoned Patrolman Cañas who dashed towards the place but Pimentel ran away. Appellant Valcorza regained his composure and immediately chased the deceased, firing a shot into the air and ordering him to stop. As the deceased did not heed his order, appellant fired four times into the air, at the same time pursuing the prisoner for a distance of about 100 meters. At that point, fearing that the patrol team might fall in apprehending the deceased, appellant Valcorza fired a fifth shot at Pimentel as the latter was in an act of again jumping down into another part of the creek and when the distance between the two was only three meters. Patrolman Cañas could not be of much help in the chase because his revolver got entangled with some vines and he dropped it. After recovering his revolver he joined Valcorza but Pimentel had already jumped down into the water of the creek.

"The members of the patrol team went down into the water to locate Pimentel and they saw him floating, with a wound on his back. As Pimentel was still alive, he was placed in the police jeep and taken to the poblacion of Maramag for treatment, but he died a few minutes after arrival in the municipal building.

"The physician who examined the cadaver of the victim gave the opinion that the missile from the gun fired against the victim entered at the right side of the back but the slug was lodged inside the body. The gray discoloration at the edge or rim of the wound of entry showed the presence of powder burns which, in the opinion of the physician, indicates that the gun was fired at close range.

"Elias Valcorza surrendered himself and his firearm to the Chief of Police upon arrival in the municipal building of Mara-mag.

"Appellant seeks to justify his firing the shot against the deceased by stating that he tried to hit him only at the leg, after he had disregarded his several warning shots and orders to stop running away. He claims that he did so at the spur of the moment probably because he feared that his patrol team might not succeed in apprehending the deceased and bringing him back to jail. Furthermore, he also claims that he only fired at the deceased when the latter was in the act of jumping down into the creek which had water of 8 feet deep, and if the deceased succeeding in crossing the creek the patrol team might not be able to apprehend him. In brief the appel-lant conveys idea that he had to fire at the deceased in order that he may not continue es-caping.

"The above version of the appellant was given in open court when he testified on Octo-ber 4, 1962 (t.s.n. -- pp. 9, 76). However his claim that he aimed only at the leg of the deceased is not consistent with what he said in his sworn statement, Exhibit A. 'Question and Answer No. 7' (p. 1, Criminal Case Record), given to the Constabulary soldiers on the after-noon of the day of the incident, or at 3:15 p.m. of June 6, 1960. In narrating how the deceased was shot, appellant Valcorza stated in part as follows:

'But said Roberto Pimentel tried his very best to make another escape then he ran away 'cause I was fell down on the ground during the time I wrestled him, Roberto Pimentel. Then I still follow him and fire my revolver four (4) times up in the sky to stop him but still he continue running, so what I did I fired him one direct hit shot on his back then he tried dive escape into the water, and because he could not do anything 'cause he was already suffering from a gunshot wound we pick him up and bring him to our headquarters in the Office of the Chief of Police of Maramag, Bukidnon, for the necessary treatment of the gunshot wound on his right side back....'

"What the appellant said on June 6, 1960 in his statement, Exhibit A, which he subscribed and sworn to before the Justice of the Peace of Maramag, Bukidnon, on June 7, 1960, is an un-adulterated narration of what happened on the day of the incident more than two years before he took the witness stand. This first narration is more reliable because it was made when there was yet no time for reflection so as to make his story fit into the facts of the incident. After the lapse of two years during which he could de-liberate and analyse the occurrence and prepare his defense, his testimony in court no longer jibed with what he said shortly after the event. This inconsistency affects his credibility and wrecks his theory that he had no intention to kill the deceased but only meant to disable him from further escaping. It also seriously impairs his defense as it shows that there was no reasonable necessity for appellant to shoot the deceased at the time when he was running away with no weapon in his hands which he could use for aggression against the appellant in case he desired to turn back and face the latter." (pp. 3-7, Annex "A", Petitioners brief.).

There is no question, therefore, that: on June 4, 1960, the deceased Roberto Pimentel was a detention pri-soner confined in the municipal jail of Maramag, Bukidnon, from which he escaped at about one o'clock p.m. that day when petitioner was on guard duty; the following day four members of the police force of the municipality, petitioner included, went after him to a place called Poultry Area in barrio Cuya, their first efforts to locate him there being unsuccessful; early the following morning, while Sgt. Daiton, who led the patrol, was squatting on a bridge to answer a call of nature, he saw a man approaching slowly and he ordered him to stop; the latter, who happened to be the escaped de-tainee, instead of doing so, jumped into the creek spanned by the bridge, whereupon Sgt. Daiton summoned his three companions who all rushed out of the house where they had spent the night, and went after the escaping prisoner; petitioner and policeman Cañas, while following the course of the creek and examining certain footprints they had found, saw their quarry suddenly emerging from nearby bushes; the latter lunged at petitioner hitting him with a stone on the right cheek, as a consequence of which he fell down, and while in that position on the ground he was struck again with a stone by the escaping detainee; thereafter the latter ran away pursued by petitioner and his companion; in the course of the pursuit the former fired a warning shot into the air, and as the escaping detainee paid no heed to this, petitioner fired into the air four times more and

kept on pursuing him; as the latter was apparently widening the distance between them, and fearing that he might finally be able to elude arrest, petitioner fired directly at him while he was in the act of jumping again into another part of the creek, the shot having hit him on the back; as a result of the wound thus inflicted upon him, Pimentel died a few minutes after arrival at the municipal building to which he was taken.

While We have not lost sight of the fact that the deceased Pimentel was charged with a relatively minor offense, namely, stealing a chicken; and while We do not in any way wish to encourage law enforcing officers to be trigger-happy nor to employ force and violence upon persons under their custody, We can not, in the consideration of this case, disregard the following facts: the said deceased, in violation of the law, had escaped from detention; when ordered to stop by Sgt. Daiton - whom he must have recognized as a peace officer in his pursuit - he ran away and then threw himself into a creek to elude his pursuer; after sometime he suddenly emerged from bushes near which petitioner and a fellow policeman were and as-saulted the former twice with a stone and then ran away again pursued by petitioner and his companion; that petitioner does not appear to be a trigger-happy policeman as shown by the fact that he had fired five cautionary shots into the air and decided to aim directly at the escaping detainee only when he had already reasons to fear that the latter would be able to elude him and his companions. These facts and circumstances constrain Us to hold that the act thus performed by petitioner - and which unfortunately resulted in the death of the escaping detainee - was committed in the performance of his official duty and was more or less necessary to prevent the escaping prisoner from successfully eluding the officers of the law. To hold him guilty of homicide may have the effect of demoralizing police officers discharging official functions identical or similar to those in the performance of which petitioner was engaged at the time he fired at the deceased Pimentel, with the result that thereafter We would have half-hearted and dispirited efforts on their part to comply with such official duty. This, of course, would be to the great detriment of public interest.

CONSEQUENTLY, in the spirit of our decision in *People vs. Delima*, 46 Phil. 738, the decision appealed from is hereby reversed and, as a consequence, petitioner is acquitted, with costs de oficio.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, and Teehankee, JJ., concur.
Sanchez and Barredo, JJ., did not take part.

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.