

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELIPE FASTIDIO Y CASIANO, DEFENDANT-APPELLANT.***G.R. No. L-25534. November 22, 1969*

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b5e9389c89a4/>**CONCEPCION, C.J.:**

Defendant Felipe Fastidio seeks the review of a decision of the Court of First Instance of Pampanga, convicting him of the crime of murder, committed upon the person of Mrs. Julita Gallardo Colorado, on March 10, 1961, and sentencing him to life imprisonment, to indemnify the heirs of the deceased in the sums of P6,000, P3,000, and P3,000, as compensatory, moral and exemplary damages, respectively, as well as expressing the opinion that "after serving ten (10) years of good conduct in the penitentiary, the Honorable Secretary of Justice shall recommend to the President of the Republic of the Philippines pardon to said accused . . .," this being his first offense.

Appellant Fastidio was, at the time of the occurrence, a little over 40 years old, married, schoolteacher by profession and a

resident of San Antonio, Zambales. The victim, Mrs. Colorado, was then around thirty (30) years of age, married to Antonio Colorado, and a resident of San Marcelino, Zambales, about 8 kilometers away from said municipality of San Antonio. Having been meeting clandestinely for sometime, seemingly for several years, before March 10, 1961, Fastidio and Mrs. Colorado— whose husband was often away, he being an agent of the Department of National Defense—believed that appellant was the father of one or two of her seven children, particularly one christened Felita Aileen Colorado, although she was commonly known as Aileen Colorado. The record is not clear as to the identity of the other child. The illicit relations were apparently characterized by passionate undertones, underscored by many letters written by appellant, over seventy (70) of which have been introduced in evidence. This is illustrated in the decision appealed from by the following quotations from some of those letters:

"Darling,

. . . The past nights were sleepless for me and I am entirely having no appetite to eat. Until now darling I am quite nervous but I am trying my very best to overcome it as the good future of our love and our children is always in my mind. (Italics supplied)

Love Always,

#"

(Exh. ZD)

"Darling,

Why do you seem to be sorry this A.M. darling?

...

...

...

If it would only be possible I would ask you to come tomorrow as I really feel so eager to be with you now. . . . Please darling don't mixed up your mind of other things but to the happiness of Fel and our forever promised love. Just consider all my words and deeds as a proof of my honesty and sincerity to my love to you. (Italics supplied)

Love Always,

#"

(Exh. ZD-3)

"Darling,

. . . But rest assure my prayers & spirit is always there not only conforming Fel but kissing & embracing you giving you all my helping hand & heart in carrying Fe. To take turn with you in carrying our daughter in our arms. . . .

Love Always,

#"

(Exh. ZD-4)

"Darling,. . . Oh darling, if that is the will of God and my desire to have a boy then please be calm and clear up your mind. It is a proof of our love to each other forever and after this darling it will be enough I promised you. Think of our love and our happiness to have a boy darling and don't mixed up your mind (Italics supplied)

Love Always,

#"

(Exh. ZD-6)

"Darling,

. . .

. . .

. . .

Love till death,

#"

(Exh. ZD-6)

"Darling,

Darling, I really can't understand why I always feel as eager to be you every moment of the day. Especially when I am alone I always crave for that. Don't you feel the same? Oh darling I really feel it again. (Italics supplied)

Love,

#"

(Exh. ZD-9)

"Darling,

. . . Can you not just imagine how I feel now, a feeling of true father to a beloved daughter. I cannot concentrate on my work nor I can sleep and eat. So please darling enlighten me. I really feel so worried. My love to her and you is so much that I cannot be at ease not until I will know how she feel now. . . . (Italics supplied)

Love Always,

#"

(Exh. ZD-11)

"Darling, "

. . . For the last three days and nights I could not make my mind at ease because I could clearly picture our beloved daughter, Fel trying to come to me, seems to ask me to carry her and seeking the love of a father. I am always awake but it seems a dream for me. Darling Ling, this is the very thing that makes me so soft hearted especially when it comes to me that T always shows dislike and different attitude to our daughter.

I could never be inhuman to Fel as the love I have given and poured to you both is the ONLY my real love stored in my heart and which never shared yet by any one before except you darling. I give it honestly sincerely and willingly thoughts open hearted without reservation. That is why I MUST HAVE TO DIE FOR IT.

(Exh. ZD-12)

"P. S.

Darling,

. . . Please tell our darling Fel . . . that for my thanksgiving for her recovery I added an amount again to her book.

Love Always,

#"

(Exh. ZD-13), p.4

"Darling,

... So my darling please do have a clear mind and concentrate fully to our loving each other forever and for the future of Fel. Have that strong will and determination to stand and accept to have one more (a boy) as Fel can have her brother and they can be soon planning their wishes in the future. A pair of loving brother and sister is always happier than to only one. I promise darling that two will be enough. Marked my promise. So please my darling remember me began on my B.D. and that should be your inspiration to give you more and more courage to stand and accept to have another, so honestly and sincerely. . . .

... I shall also be the very thing that will make you think darling not to repeat what you have done last. Please darling never be worried about another as I promise that will be enough. Kindly think that it is our true love to each other we are maintaining. I have forgiven you in taking medicine but please my darling pity me and our precious blood. Let us value it as we value ourselves. . . . (Italics supplied)

Love Always,

#"

(Exh. ZD-16, pp. 1 & 3)

"Darling,

. . . You are so precious to me and I am really meant for you alone forever. Now that I am at home we seem not to be familiar to each other. The real thing now is I am just pretending to be good to her so she will not be too suspicious. But mind you darling she even offered me to sleep on another bed, so we have two beds now in our room. (Italics supplied)

Love forever,

#"

(Exh. ZD-17)

"Darling,

. . . How are you darling? I hope you have a very clear mind now and will have a very honest thoughts and feeling that you will stand for our love forever. That our having another (I hope a boy) will be so precious to you as it began on my B.D. . . .

Always,

#"

"P. S. Remember our regular day."

(Exh. ZD-18)

"Darling,

. . . But darling doctors are good but no specialist can make me well and strong except you. So I am kneeling to you to our human heart please pity me and tell me to cure me fully if you still love me.

It is only you can cure me now. So please darling don't be selfish and be human to just be kind hearted to pity me and tell me please. I will remain on forever if you cast me away. So please just feel what I feel now.

Love always,

#"

(Exh. ZD-19)

"Darling,

Here is my kisses and embraces to both.

Love till death,

#"

(Exh. ZD-20)

"Darling,

How are you darling? I hope and pray your mind is clear and everything is as usual. . . .

Love forever,

#"

(Exh. ZD-21)

"Darling

. . . Do you get tired reading my letters darling? I might be using same words or all words but they all mean one thing. That is emphasizing and planting in mind that I really love you both and I am so meant for you forever.

(Exh. ZD-23, P. 1)

... Do you still doubt me darling when I always write you, go home immediately after my classes. P is always asking me to wait for him but I want to avoid temptation, that is why I ignore his invitation always. I want to show you that I am really very honest to you with our love. I hope you can tell me the same. (Italics supplied)

Love till death,

#"

(Exh. ZD-23, p. 3)

"Darling,

. . . Please my darling in case we will have another (boy) in fact it is my desire I want it to be our purely blood only. Can you assure me darling? Am I too possessive or restrictive and selfish to T that I won't let T use you first until we can be sure it is purely our own blood. (Italics supplied)

Love always,

#"

(Exh. ZD-24)

"Darling,

How are you darling? (Exhs. ZD-16, 21-25, 55) How are you both with our beloved one?"

(Exh. ZD-20)

"Darling,

. . . Here's my kisses darling and embraces to both. My feelings is now different again so I will stop. I am troubling now and tears falling as I am alone in my room. (Italics supplied)

Love till death,

#"

(Exh. ZD-43, back page)

Significantly, appellant did not sign any of his aforementioned communications. Instead, he generally wrote at the foot thereof two (2) slanting lines, joined at the middle by a curved dash. Sometimes, what stood for the signature looked like an "H" or a "th," "tk," "fx," "Hr," "TY," "Pa," or an H and an R or a K superimposed. With few exceptions, the letters were undated. Neither did they mention the name of the addressee, who was therein referred to merely as "Darling" or "Darling Ling." Then, again, Felita—the first name with which Aileen had been christened—was a combination of the first syllable of appellant's Christian name, Felipe, and the last two (2) syllable of that of Mrs. Colorado, Julita. Hence, FELITA. She was referred to in his letters as Fel or Felman.

In the course of time, people began to gossip about the affair. The rumors became such that, early in February

1961, Antonio Colorado asked his wife, point-blank, about it. Mrs. Colorado replied merely with tears in her eyes. Then, she promised not to commit the same mistake again, despite the fact, she said, that appellant had vouched to kill her if she did not do what he wanted. Besides, she turned over to Mr. Colorado the letters, Exhibits ZD and ZD-1 to ZD-73, admittedly written to her by appellant, some of which are quoted above. True to her promise, she, thereafter, refrained from going to the place where they used to meet. This worried appellant, who resorted to sending notes of inquiry to her, apparently without any response, and to passing in front of her house several times a day, in the hope of getting a glimpse of her and knowing what was the matter.

One day, around February 22, 1961, when Mr. Colorado was away, his eldest daughter, Evelyn Colorado, found her mother crying. Being a college student, almost 18 years of age, with an inkling of what had been going on, Evelyn prodded her mother to unburden herself. After a rather long talk, Mrs. Colorado eventually confessed her intimacy with Fastidio and revealed that (Felita) Aileen was his daughter. Then, Mrs. Colorado scribbled, in lead pencil, the following note (Exhibit Z):

"Felita Aileen my dear

In case I'll die and can't see you no more here is the letter and picture of (your) real father. Forgive us baby. We haven't (been able to) hold our feelings.

(Sgd.) Your Mamie"

Attached thereto was a picture of Fastidio. Mrs. Colorado delivered the note, together with appellant's picture, to Evelyn and asked her never to tell anybody about it, until her sister, Felita Aileen, then about three (3) years of age, was old enough to understand everything, and to explain to her, in case she (Mrs. Colorado) died, prior thereto, because Fastidio had threatened to kill her if she left him, and, one day, he even told her that both should drink poison so that they may die together.

On March 10, 1961, between 5:30 and 6:00 p.m., Roberto Canlapan, an employee of the Broadway Hotel in San Fernando, Pampanga, found, in Room No. 10 thereof, the dead body of Mrs. Colorado sprawled on bed, bathed in her own blood. Soon thereafter, Sgt. Dungca of the local police force, to whom the news had been relayed, came to investigate. He took note of the fact that, since the window of the compartment had iron grills and that the door was locked from inside, the killer could not have broken into the room.

Chan Fook, the hotel manager, and Ernesto Cortez, a waiter thereof, informed Dungca, and later testified in court, that that morning, between 9:30 and 10 o'clock, a man, whose physical appearance they described, entered the restaurant, in the ground floor of the hotel, and ordered a cup of coffee. After drinking it, he asked for a room and paid the corresponding rental to Chan Fook. Then, Ernesto Cortez brought said man to Room No. 10,

at the second floor. Presently, the man went back to the restaurant and ordered two (2) bottles of beer, which he began to drink. About thirty (30) minutes later, Mrs. Colorado came, whereupon, the man in question joined her and took her to said Room No. 10. Before they entered it, Cortez asked the man to make the corresponding entry in the hotel register, Exhibit E, on which he wrote the words: "Flor Herrera . . . Manila." Cortez noticed that the face of Mrs. Colorado, who stood behind the man, was "a little bit sour." Thereupon, Cortez accompanied them to Room No. 10, bringing with him the glass Exhibit D, and the bottle of drinking water Exhibit C, both of which he placed on a table inside the room.

Dungca, likewise, interrogated Roberto Canlapan, who said that, between 5:30 and 6 o'clock that afternoon, he escorted to Room No. 3 of the hotel another customer thereof. The latter having complained about the heat, Canlapan proceeded to look for an electric fan, by opening the door to Room No. 10, which is near Room No. 3.

He thus made the discovery adverted to above. Forthwith, Canlapan notified a Mr. Lim, the hotel assistant cashier, and the local authorities were, accordingly, advised.

Soon after the arrival of Sgt. Dungca, the municipal health officer, Dr. Primitivo Pineda, came. Upon examination of the body of Mrs. Colorado, he found therein twelve (12) wounds and one (1) abrasion, which are described in his necropsy report, as follows:

"(3) Stab wound about 1 cm. and 13 cms. from the mid-sternal line left at the level of the 3rd rib left—this wound penetrated into left lung then penetrated the left auricle about 1 cm. in length and admitting without difficulty a homostatic forcep 1 cm. inside the auricle.

(4) Stab wound about 1 cm. and 11 cms. from the mid-sternal line below the level of third rib left causing fracture of 4th rib.

(5) Stab wound 2 cms. about 14 cms. from mid-line 13 cms. below left nipple.

(6) Stab wound 1 cm. x 2 cms. from midline right at level from epigastrium penetrating liver right lobe.

(7) Stab wound 1 cm. anterior axillary region about 1-1/2 cms. from right mid-axillary line medial.

(8) Stab wound 1 cm. axillary region about 3 cms. from right axillary line at medial aspect of the arm.

(9) Stab wound about 1 cm. about 7 cms. from the axillary line at the anteromedial aspect arm right.

(10) Abrasions 1 cm. at right elbow.

(11) Stab wound 1 cm. x 2 cms. below the junction of the right thumb and forefinger in the dorsal aspect of the hand right.

(12) Stab wound 1 cm. in length and 1/2 cm. below junction of the right thumb and right forefinger on the palmar surface—superficial.

(13) incised wound on the palmar surface of the right hand 1-1/2 cms. in length."

Dr. Pineda opined that the death of Mrs. Colorado was due to "shock traumatic," caused by her wounds in the "lung, heart (auricle) and liver," as well as by "hemorrhage."

Pictures were taken inside Room No. 10, particularly of the body of Mrs. Colorado (Exhibits F-2, F-3 and F-4); of her dress on a chair, beside the aforementioned table (Exhibit F-5), on which her handbag (Exhibit G), the drinking glass Exhibit D, and the bottle Exhibit C, as well as an ash tray, a bandana and a pair of eyeglasses, were; and of a wash stand, at the foot of the bed, with a wash basin containing water red with blood and blood-stained double-bladed knife or dagger (Exhibits F-6 and L). Below said wash basin was a pitcher, the handle and the bottom of which were also blood-stained.

Meanwhile, members of the Constabulary, headed by Captain Levi Basilia, had, likewise, arrived and joined in the investigation. Herman Gallardo, a fingerprint technician of the Constabulary, lifted some fingerprints (Exhibits Q and Q-2) from the glass Exhibit D. The victim's handbag (Exhibit G) appeared to contain, inter alia, the letter Exhibit J, and its envelope Exhibit J-I, addressed to: "Mrs. Julita Colorado, San Marcelino, Zambales." The letter Exhibit J was of the following tenor:

"My Darling Ling,

Hello, I am reminding you of our agreement that we will meet San Fernando at the Broadway Restaurant (Hotel) on March 10, 1961, at 10:30 in the morning. Bring the measurement of our dear Rose Marie's dress and her shoes and we will buy everything for her. Even she is in the care of someone 1 the father will give what she

needs. Let us forget our non-settling and but show our love to our dear Rose Marie and our love together. I am sending this through someone.

Your dearest darling,

Dungca delivered these Exhibits J and J-1 to the Constabulary. About two hours later—when, after the autopsy performed upon the body of the deceased, it became necessary to dress her up—Dungca found, inside the pocket of Mrs. Colorado's aforementioned dress, a letter (Exhibit K and K-1 to K-3), reading:

"Darling,

I have dropped a letter this A.M. and yesterday but I do not know if you got them. Now to be sure you can get this letter I am going send it through same. If still I can not be sure you get it then I will do the going there and see you all and I do not care who can see me I will really and surely do that darling as I am worried now as you do not show up or send me a word. Why darling what is wrong? Please do inform also as I am worried cause I do not know if you or some one is not well. Darling you already know how I look and feel if I am worried about because there is no showing up or even a word. I always dropped a letter although I can not see you with hope you can see it. I hope you got them all. Yesterday P.M. I passed by but I did not see you and yet T was in the plaza. Darling why? Are you so well? May I know also so that I will know what to do?

Now I am sending this letter through someone, to know as I had been and will tell you again that it is very important and very urgent for us to meet this week. I have received a letter from the bank the other day for an important transaction about M and U, me and our children are the once concerned. So I can not do it alone, so you are very badly needed and concerned. Now, Darling, this for our children designated by their loving Papa and your presence is needed, so we can agree and arrange things. This is for next week, so we need to meet these days before Monday, as we talk it over. There is part in the transaction in which you are needed, no other, so please, Darling, make it a point that we meet Friday or Saturday as you have designated. I know we will meet Saturday as you designated, but if we can do it earlier the better, so I can prepare other things needed. So please let me know now even a note only so I will know, I will be at Cast tomorrow (Thursday) whole as it is our meeting. Please Darling, clear your mind and be calm as this is not a joke for its now M in the bank many needed to accomplish some papers and you are needed and concerned. I cannot do it alone. For the good future of our beloved children, let us clear our minds and think of their future, so we will not and I will not fail them. This is very honestly and sincerely with the most clear mind and heart of mine that I have given them for them and nobody can protest. So please let us disregard other things and concentrate to this thing first, Darling. It is really very necessary, so please try your best to make it a point that we meet Friday or Saturday. Well, Saturday you have designated and I am always ready but I am to be sure, darling. So please even a note only, tell me the sure day and time, ha. Please and please my darling. In case, I hope not, one of our children is not so well, please come just the same as it will not take us too long. It will be purely business and very important one.

How is Fel Now with the medicine I sent. Our Mi.... her got the same medicine and now she has so many worms. I hope you have given it right. As to Boy I am trying to find that Apro your Ma is looking for. I will send it there darling. But please darling ko, if there is a need for a doctor and you do not like our doctor here, please consult the doctor immediately and I will give all you need for our beloved children. Be honest to them and give them all the most the best care and I'll do my part. Do not hesitate to tell things to your Ma as we will always do things for you and for us. If she scolds, just tell her it is needed and she will understand and do it. She promised me that darling, as I have explained to her everything just because our two children and our love to each other. I showed her the book of Felita Felman now in the amount of P171.00. I will show you also Darling so you will not say I am not honest and sincere in everything.

I repeat darling please make it a point that we meet Friday or Saturday as this is very important. Tell me

through a short note only the date and time I will be at CAST tomorrow (Thursday) whole day and you can send me a note. Please also show up darling, when I pass by, Can you imagine I feel now and how longing to see you all and be with you darling. After this meeting with my brother & all will be finished, there will be no disturbance to us.

Here's my so many kisses and embraces to all. Extend to our beloved children.

Love till death,

.."[1]

This letter was, similarly, turned over by Dungca to the Constabulary.

The next morning, March 11, 1961, Mayor Juanito Colorado, of San Marcelino, Zambales, brother-in-law of the deceased, accompanied by several other persons, inquired from Sgt. Dungca about Mrs. Colorado. After they had identified her body in the morgue, Dungca sought details of Mrs. Colorado's background. Mayor Colorado informed him of the rumors about her affair with Felipe Fastidio, whose description by the Mayor tallied with that given by Chan Fook and Ernesto Cortez. Accordingly, early that afternoon, Dungca and several members of the police force of San Fernando, Pampanga, accompanied by Ernesto Cortez, Chan Fook and a member of the police force of San Antonio, Zambales, proceeded to the house of Fastidio therein, where they found him, together with Mrs. Fastidio, and his counsel, Atty. Jose Sahagun. Fastidio was then seated on a chair, which he rocked continuously. He was wearing a pair of colored glasses and had a bandaged left hand. Mrs. Fastidio appeared to have been crying, for her eyes were red.

Dungca asked Fastidio where he was on March 10, 1961. As appellant replied that he was then in San Juan, Rizal, Dungca inquired whether he knew Mrs. Colorado, to which Fastidio answered in the negative, adding, however, that she was a friend of the family. The letter Exhibits K and K-1 to K-3—which Dungca had borrowed from the Constabulary before leaving for Zambales—was then produced. After examining it, Fastidio admitted that the letter was his, according to Dungca, although appellant denied, during the trial, having made such admission. He, moreover, denied having been at the Broadway Hotel, on March 10, 1961, or having had any participation in the killing of Mrs. Colorado.

Then, Dungca brought Cortez—who had, meanwhile, been left outside, together with Chan Fook—into the house and asked him whether the man who had been with Mrs. Colorado in the hotel on March 10, 1961, was around. Looking at the people gathered in appellant's house, Cortez said "that's him," pointing a finger at Fastidio, who was still rocking his chair. After bidding Cortez to step out, Chan Fook was brought in. Asked the same question propounded to Cortez, Chan Fook looked at the persons then present and, upon seeing Fastidio, said that he looked like the man who had been in the hotel, adding, however, that the latter had no eyeglasses. Chan Fook was then taken out and Cortez came in again. Ordered to look around for a second time and identify the man in question "if he was really sure about it," Cortez pointed once more at appellant herein. After Cortez had been ushered out again, Chan Fook was told to come back and make a similar identification. As Fastidio removed his eyeglasses, upon Dungca's request, Chan Fook said "that's him," referring to Fastidio. Thereupon, Dungca asked Fastidio to come with him to the municipal building and make, at least, a statement, since, after all, his counsel was present; but, appellant did not accede thereto. The next day, March 12, 1961, Dungca came back, with agents of the Constabulary, as well as with members of the police forces of San Fernando, Pampanga, and San Marcelino and San Antonio, Zambales. This time, Fastidio accepted their invitation and went with them, together with his

counsel, Atty. Sahagun, and the Chief of Police of San Antonio, to the office of Captain Basilia, at Camp Olivas, Pampanga. Lined up with several other persons in that place, Fastidio was again identified, by Chan Fook and Ernesto Cortez, as the man who had been with Mrs. Colorado on March 10, 1961, in Room No. 10 of Broadway Hotel.[2] Then, Captain Basilia showed Exhibits K and K-1 to K-3 to Fastidio, who admitted that the same is his letter.

Fastidio denied the charges against him and said that, on March 10, 1961, he was in the house of Mrs. Barreto, in San Juan, Rizal, where his left hand was injured as he tried to fix the car of Mrs. Barreto. However, Captain Ramon Pascual, medico-legal officer of the Constabulary, examined appellant and affirmed that his injuries could not have been sustained in the manner testified to by him, and could have been caused by the knife or dagger Exhibit L, with which Mrs. Colorado had been stabbed.

Specimens of appellant's fingerprints (Exhibits S and LC-1) and of his handwriting (Exhibits U, V, W and W-1) were, moreover, taken. Said fingerprints tallied with those on the drinking glass Exhibit D found in the hotel[3], according to the prosecution. Furthermore, a comparison of the aforementioned specimens of appellant's handwriting (Exhibits U, V, W, W-1, X and X-1) and his letter Exhibits K and K-1 to K-3, with the handwriting on the letter Exhibit J, and its envelope Exhibit J-1, as well as the entry in the Hotel Register Exhibit E, reading "Flor Herrera . . . Manila," disclosed that this entry and said Exhibits J, J-1, K and K-1 to K-3 had been written by the same hand.

As above indicated, appellant had set up an alibi. He testified that, on March 10, 1961, he was in the house of his sister-in-law, Mrs. Amparo Barreto, at San Juan, Rizal; that, at about 9:00 a.m., he left said house and proceeded to that of a niece in Sampaloc, Manila, to inquire about a house and lot for sale; that, about an hour and a half later, he went downtown, where he met Pablo Evalle, who lunched with him in the Eastern Restaurant, near the corner of Quezon Boulevard and Claro M. Recto Avenue; that he, thereafter, spent about two (2) hours shopping in Quiapo; that he returned to the house of Mrs. Barreto at about 3:00 p.m.; that, after taking coffee, he proceeded to the offices of the Philippine Veteran's Board, but, was not allowed to enter the same, having arrived thereat a few minutes before 5:00 p.m.; that he, therefore, returned to Mrs. Barreto's house, which he reached between 6:30 and 7:00 p.m.; that, after taking his dinner, he tried to fix the slightly damaged car of Mrs. Barreto, the right front wheel of which could hardly be turned because the right front fender and bumper were touching it; that, while trying to remove a knot on the bumper, he fell down on his back and his left hand, with which he held the torn fender, was thus accidentally wounded; that Mrs. Barreto applied some medicine to and bandaged his injuries; that, the next morning, March 11, Mrs. Barreto and he went home to San Antonio, Zambales, where they arrived at past noon; that, after taking his meal and then a bath, he sent for Dr. George Lyno, who treated his injuries; that, between 4:00 and 5:00 p.m., a group of persons, headed by the Chief of Police of San Antonio, arrived; that among those who came was Sgt. Dungca, who asked the Chinese manager of the Broadway Hotel and a waiter thereof whether they knew him; that both shook their heads and said nothing; that, thereupon, Sgt. Dungca brought said Chinese and the waiter outside the house, to come back with them about five (5) minutes later; that then Sgt. Dungca asked him (Fastidio) to remove his eyeglasses and inquired successively from the Chinese and the waiter whether or not they recognized him (Fastidio); that said Chinese and the waiter answered that he looked like the person in question, but, they were not sure; that he denied having had anything to do with the killing of Mrs. Colorado; that, the next day (March 12, 1961) he was brought to Camp Olivas, where he was given drinking water in the glass Exhibit D; and that he is innocent of the crime charged.

Mrs. Barreto and Pablo Evalle tried to corroborate appellant's alibi. Moreover, Enrique Alcala, Chief of Police of San Antonio, Zambales, and Atty. Jose Sahagun similarly testified in corroboration of appellant's story to the effect that, when Chan Fook and Ernesto Cortez saw him in his house, on March 11, 1961, they merely said he

looked like the man in question, but were not positive about it; and that his fingerprints were impressed on the drinking glass, Exhibit D, in the office of Captain Basilia, at Camp Olivas, as he was given water to drink there, not in the Broadway Hotel. Lastly, Colonel Jolly Bugarin stated, as witness for the defense, that no positive conclusion could be made as to whether Exhibits J and J-1 and the entry in the Hotel Register, Exhibit E, reading "Flor Herrera . . . Manila," had been written by the same hand that prepared the Exhibits K, K-1 to K-3, X, X-1, U and V, which, admittedly, had been written by appellant.

Upon a review of the record, We are fully satisfied that appellant's guilt has been established beyond reasonable doubt. Indeed:

(1) His alibi cannot prevail over his identification by Chan Fook and Ernesto Cortez. The former is based upon appellant's own testimony and that of his sister-in-law, Mrs. Barreto, and the testimony of his friend, Pablo Evalle, none of whom is an impartial witness. Besides, San Juan, Rizal, is not so far from San Fernando, Pampanga, that appellant could not have left Mrs. Barreto's house in San Juan, at 9:00 a.m., and reached San Fernando between 10:00 and 10:30 a.m., as well as returned shortly thereafter, on time for luncheon with Evalle in Manila.

Upon the other hand, Chan Fook and Ernesto Cortez had no possible motive to falsely implicate appellant herein. Moreover, having seen him at close range and talked to him several times in the hotel, on March 10, 1961, it is not likely that they would have mistaken him for another the very next day. Then, again, His Honor, the Trial Judge did not believe said witnesses for the defense and found Chan Fook and Ernesto Cortez worthy of credence, and the record before Us shows nothing that would warrant interference with such finding.

(2) It is conceded that the fingerprints on the drinking glass Exhibit D are those of appellant herein. The glass was in Room No. 10 of the hotel where Mrs. Colorado was found dead. So did Ernesto Cortez testify, and he was corroborated by Sgt. Dungca and by the picture Exhibit F-5, taken in said room shortly after her body had been found therein. The defense maintains that said glass was the one from which Fastidio had drunk water, in the office of Captain Basilia, at Camp Olivas, on March 12, 1961. Considering, however, that appellant's counsel, Atty. Sahagun, and the very chief of police of his own hometown of San Antonio, Zambales, were then present in said office, it is highly improbable that Captain Basilia and Sgt. Dungca would have committed the irregularity that appellant impliedly imputes to them. Furthermore, Captain Basilia said that Fastidio had neither drunk water nor used a glass in his office, and that he (Fastidio) had asked for a "True Orange," but was given, instead, a "Coca-cola," which he took by sipping it with a straw, inasmuch as there were no glasses in said office. Besides, why should the aforementioned public officers—whose performance in connection with the case at bar suggests nothing but devotion to duty—try to perjure against appellant herein? The defense has not intimated any possible motive therefor.

(3) It has been established by the testimony of Major Jose G. Fernandez, Chief of the Questioned Documents, Ballistics and Chemistry Branch of the Constabulary, that the entry in the hotel register made by the male companion of Mrs. Colorado, on March 10, 1961, reading "Flor Herrera . . . Manila," and the letter Exhibit J and its envelope Exhibit J-1, as well as the letter Exhibits K and K-1 to K-3, had been written by the same hand that made the specimens of appellant's handwriting adverted to above, namely, appellant herein. The defense has not succeeded in offsetting the testimony of Major Fernandez, a review of which merely reveals the thorough study and analysis made by him and the soundness of his conclusions, with which We are in full agreement.

Colonel Bugarin, who testified for the defense, admitted that he could not say that said conclusions are wrong, although he expressed the opinion that he could not draw a positive conclusions as regards the identity of the writer of said entry and of Exhibits J and J-1. His main reasons therefor were: (1) that these Exhibits J and J-1 had evidently been "drawn," its author having purposely departed from his usual form of writing or penmanship; and

(2) that "form alone is not a scientific basis for any conclusion" because it is "only superficial," It is true that the entry, "Flor Herrera . . . Manila," in the hotel register and Exhibits J and J-1 seem, at first glance, to have been written with a penmanship different from the specimens Exhibits U, V, W, W-1, X and X-1 and the letters Exhibits K and K-1 to K-3, ZD and ZD-1-ZD-73. Upon a careful examination of the writings in question and of the evidence thereon, We agree with Major Fernandez that said entry in the hotel register, and Exhibits J and J-1 (the letter and envelope found inside Mrs. Colorado's handbag in the hotel) have been written by the same hand.

It should be noted, also, that, according to appellant's own witness, Col. Bugarin, Exhibits J and J-1 had been "drawn." In other words, its writer had disguised his penmanship. In fact, the handwriting expert of the Constabulary was, in the beginning, unable to identify the writer of said entry and Exhibits J and J-1. This was due, however, to insufficiency of the specimens of handwriting then in the possession of Major Fernandez. When he got more specimens, and Exhibits X and X-1 were added to Exhibits K and K-1 to K-3, U, V, W and W-1, he found in all of them, through microscopic examination and comparison, fundamental similarities in the handwriting movements, line qualities, features and individual handwriting characteristics, establishing that the aforementioned entry and Exhibits J and J-1 were written by appellant, who made the specimens used as standards for comparison. Apart from the foregoing, the form of the letter and its style, as well as the contents thereof and even certain expressions therein, dovetail with those in Exhibits K, K-1 and K-3, X and ZD and ZD-1 to ZD-73. Thus, for instance:

(a) The salutation in Exhibit J is "My Darling Ling." The salutation in the other exhibits is "Darling," a favorite term of appellant, who used it sixteen (16) times in the letter Exhibits K and K-1 to K-3. In Exhibit ZD-12, he addressed Mrs. Colorado as "Darling Ling."

(b) Exhibit J ends with the words "Your dearest darling." Appellant is prone to closing his letters with superlative expressions of endearment, such as "Love always" (Exhibits ZD, ZD-4, ZD-5, ZD-6, ZD-11, ZD-13, ZD-14, ZD-19, ZD-24), "Love till death," (Exhibits ZD-8, ZD-20, ZD-23, ZD-43, ZD-48, ZD-54), "Always," (Exhibits ZD-16, ZD-18), "Love forever" (Exhibits ZD-17, ZD-21, ZD-56), "Always love till death" (Exhibit ZD-52), "Love and love till death" (Exhibit ZD-73).

(c) Like Exhibits ZD and ZD-1 to ZD-73, Exhibit J bears no signature, in lieu of which there appears at the foot thereof, the following "..."

(d) Exhibit J ends with the statement "I am sending this through someone," in much the same way that appellant began the second paragraph of Exhibit K thus: "Now I am sending this letter through someone . . ."

(e) The writer of Exhibit J says therein: "Hello, I am reminding you of our agreement that we will meet San Fernando at the Broadway Restaurant (Hotel) on March 10, 1961, at 10:30 in the morning . . ." In Exhibits K and K-1 to K-3, appellant pleads: "... Darling, make it a point that we meet Friday or Saturday," and "I repeat darling please make it a point that we meet Friday or Saturday as this is very important." March 10, 1961, was a Friday.

(f) Appellant makes in Exhibits K and K-1 to K-3 repeated protestations of love for his children with the addressee: "Now, Darling, this for our children designated by their loving Papa For the good future of our beloved children, let us clear our minds and think of their future . . ." Just as much concern for one of them is sought to be conveyed in Exhibit J, which urges Mrs. Colorado: "Bring the measurement of our dear Rose Marie's dress and her shoes and we will buy everything for her. Even she is in the care of someone I the father will give what she needs. Let us forget our non-settling and but show our love to our dear Rose Marie and our love together."

In short, only the writer of Exhibits K and K-1 to K-3, namely, appellant herein, could have made Exhibit J and,

hence, Exhibit J-J and the aforementioned entry in the hotel register.

In support of the theory that Exhibit J had not been written by appellant, the defense alleges that the child therein mentioned, as the daughter of its writer and Mrs. Colorado, is Rose Marie, whereas appellant's children with the deceased were Felita (Aileen) and one Felman (?); that appellant met Mrs. Colorado in February 1959 only, when Rose Marie was already four years of age; and that the address of the writer of Exhibit J was 396 Morning Breeze, Caloocan, Rizal, where appellant has never resided. This process of reasoning overlooks, however, the fact—testified to by no less than defendant's own witness, Col. Bugarin—that Exhibit J had been "drawn" by its writer, in the sense that he had disguised his handwriting to mislead those who did not know him as intimately as Mrs. Colorado did, regarding the identity of its author. This being his intent, it is clear that the address given in Exhibit J cannot be, as it was not, his true address. Otherwise, he would have defeated his purpose in "drawing" said letter and disguising his handwriting therein. The reference in said letter (Exhibit J) to Rose Marie, instead of to Felita (Aileen), mentioned in Exhibits K and K-1 to K-3—written without said purpose— was, therefore, part of the aforementioned plan to mislead or confuse those who were not in the know. Indeed, appellant was used to resorting to concealment or deception, as illustrated by his letters without any addressee or signature and the use of initials or similar devices to refer to specific individuals. In fact, none of the children of Mrs. Colorado bears the name of Felman, mentioned in Exhibits K and K-1 to K-3.

(4) Upon examination in the office of Captain Basilia, at Camp Olivas, on March 12, 1961, Dr. Pascual found, in appellant herein, the following injuries:

- Incised clean cut wound measuring about 1.3 cm. x 0.50 cm. at the lower third of the left arm, about 19 cm. from the left shoulder joint, with trace of stitch and a newly removed suture.
- Lacerated wound measuring about 2.3 cm. x 0.2 cm. at the dorsal aspect of the left hand about the region of metacarpal between the base of the thumb and index finger, with traces of newly removed sutures 3 in number about 6.5 cms. from left wrist joint.
- Lacerated wounds measuring about 1.3 cm. x 0.4 cm. at the dorsal aspect of the index finger; 1.5 cm. x 0.1, 0.5 cm. x 0.25 cm.; index finger left hand.
- Lacerated wound and abrasion measuring about 1.02 x .02 cm. at the anterior aspect of the left ring finger.
- Incised wound measuring about 1.03 cm. x 0.2 cm. at the palmar aspect of the left hand measuring about 7 cm. from the left wrist joint with traces of newly removed suture.
- Abrasions at the right index, middle, and ring finger at the dorsal aspect measuring as follows:
 - Index finger — 0.7 cm x .02 cm
 - Middle finger — .05 cm x .025 cm
 - Ring finger — .02 x .02 cm

Dr. Pascual testified that the first five (5) injuries could not have been sustained as appellant's left hand was caught between the bumper and the fender of Mrs. Barreto's car, when he slipped on his back, while allegedly fixing it, because, in such event, the wounds would not have been clean cut, as they were when he saw them on March 12, 1961, and, instead, the damage to the tissue would have been ragged, with irregular surface. Then,

again, it is difficult to conceive how a single slip could have produced so many injuries of the nature described above.

Upon the other hand, this is another factor that points to appellant as the killer of Mrs. Colorado. Indeed, the knife or dagger Exhibit L, with which she was killed, could have caused, according to Dr. Pascual, appellant's aforementioned injuries. Moreover, the location thereof, namely, the left arm, the dorsal aspect of the left hand, its palmar aspect, and the left ring finger, apart from the abrasions on the right hand, indicate that they must have been caused when Mrs. Colorado fought back. The defense says that there is no evidence she did so. The circumstantial evidence on record amply shows, however, that she did.

In this connection, it should be noted, that she was found on bed, sprawled almost entirely on the stomach, with her right elbow somewhat supporting the right side of the body, which was, accordingly, slightly raised. Her right thigh was spread to the right, and bent on the knee, so that her right leg was resting on the lower posterior part of her left thigh. She had on a slip or chemise, the right strap of which was way down the right axilla, close to the waist, so that a big portion of her right back, as well as of her right side and that of her right breast, were exposed. The front lower part of her slip or chemise was raised up to her stomach, thus indicating that there had been an attempt to have carnal knowledge of her. The attempt, however, failed, as attested by the absence of spermatozoa in her vagina. Just as significant is the fact that pubic hair were found clutched in her right hand. Obviously, that hair could not be hers. Then, too, her stab wounds in the right chin and the anteromedial aspect of the right arm, her abrasion on the right elbow, and her stab wounds below the junction of the right thumb and forefinger and on the palmar surface on the right hand, taken together with other circumstances obtaining in the case at bar, leave no room for doubt that she did not accede to the wishes of her assailant and did everything to prevent it, as well as succeeded in her endeavor, so that, exasperated thereby, he stabbed her again and again with such fury that he inflicted upon her, inter alia, wounds 14 cms., 13 cms., and 11 cms. deep; that, after perforating her left lung, the third stab wound penetrated into the left auricle of the heart, causing an opening that admitted therein, without difficulty, a homostatic forcep, 1 cm.; and that the fourth stab wound pierced the mid-sternal line, below the level of the third rib, fracturing the fourth rib. Thus, Mrs. Colorado had kept the word she had pledged to her husband.

(5) The presence of Atty. Sahagun in appellant's house, when peace officers went thereto, in the afternoon of March 11, 1961, strongly suggests that appellant knew beforehand he would need the services of counsel. Atty. Sahagun would have us believe that he merely happened to be there on said occasion, it being customary for him to play mahjong on weekends. His testimony does not carry, however, much weight. It suffers from fatal contradictions and is inherently unbelievable, aside from the fact that he is a relative of the accused.

(6) When Sgt. Dungca asked appellant, in the afternoon of March 11, 1961, whether or not he knew Mrs. Colorado, his answer was "No," adding, however, that she is a friend of the family. The lie thus committed by him manifestly betrayed a guilty conscience, inconsistent with his alleged innocence.

(7) On that occasion, the eyes of Mrs. Fastidio were red due to crying. That morning, the newspapers carried the news item about the death of Mrs. Colorado. Mrs. Fastidio had an inkling, if not sufficient knowledge, of the affair between her husband and the deceased. In fact, in his letters to her, Fastidio mentioned his efforts to allay the suspicion of his wife and that they (Mr. and Mrs. Fastidio) slept in separate beds, upon the suggestion of Mrs. Fastidio. Hence, she should have received the news about the demise of Mrs. Colorado with a sense of relief, if not with a sentiment akin to satisfaction, were it not for appellant's part in the tragic end of the "other woman."

The identity of appellant as the killer of Mrs. Colorado has thus been established beyond any scintilla of doubt. Considering that he even assured himself that she would go to the Broadway Hotel, on Friday, instead of Saturday, so that he could prepare himself therefor; that he had resorted to craft and succeeded in offsetting her

reluctance to meet and see him and in persuading her to be in said hotel, by pretending that her personal intervention was necessary in connection with a bank deposit he had allegedly made for the benefit of Felita Aileen and Felman (?) Colorado, that the meeting would be "purely business" and not "too long," and that, after said meeting, "all will be finished" and "there will be (no) disturbance to us," it is clear that the crime committed is that of murder, qualified by evident premeditation, with the generic aggravating circumstances of craft, abuse of confidence, obvious ungratefulness and advantage taken of superior strength, all of which require the imposition of the maximum penalty prescribed for said offense, which is death, were it not for the absence of the number of votes necessary therefor.

His Honor, the trial Judge stated, in the decision appealed from, that this being the "first offense" of said accused "the Honorable Secretary of Justice shall recommend to the President of the Republic of the Philippines pardon to said accused" after serving "ten (10) years of good conduct in the penitentiary." The Solicitor General prays that this part of the decision be eliminated, and, We think correctly, not only because the commission of an offense for the first time is not per se a sufficient ground for pardon, but, also, because the attendant circumstances do not warrant such act of grace, apart from the fact that courts may not impose upon the Secretary of Justice the duty to recommend anybody for pardon.

Thus modified, with the elimination of said portion of the decision appealed from, the same should be, as it is hereby affirmed in all other respects, with costs against appellant, Felipe Fastidio y Casiano.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando and Teehankee, JJ., concur.

Barredo, J., did not take part.

[1] Italics supplied.

[2] See Exhibits F-9 and F-10.

[3] See Exhibit Q.

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.