

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SEGUNDINO UTRELA, ACCUSED-APPELLANT.

G.R. No. L-38172. July 15, 1981

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In the afternoon of March 28, 1971, Feliciano Areola and her 9-year old son, Conrado, were harvesting bananas at their plantation in Nanabuan, Ballesteros, Cagayan. While thus engaged, Feliciano's right thigh was hit by a pellet from a home-made shotgun which was fired by Segundino Utrela. Upon being hit, Feliciano ran to the house of Zitanga Barrio Captain Luciano Tumbaga, leaving Conrado behind. Tumbaga brought Feliciano to the clinic of Dr. Estrella Fernandez where she was treated.

After Tumbaga had brought Feliciano to the clinic, he went to the Police Department to report the incident. There he saw Segundino Utrela being investigated for he had earlier surrendered to Mayor Juan Alonzo of Ballesteros. The following day the dead body of Conrado was found at the banana plantation. According to Dr. Gregorio Farin, the Municipal Health Officer, he had "1. Multiple cut wound at the back of the neck and left and right shoulder, almost cutting and separating the head from the body; 2. Cut wound of the chin."

On April 19, 1971, a complaint for murder with frustrated murder was lodged in the Municipal Court of Ballesteros, Cagayan against Segundino Utrela by the Chief of Police. At the second stage of the preliminary investigation on June 23, 1971, the accused failed to appear and the omission was construed as a waiver of that stage. Accordingly, the case was elevated to the Court of First Instance of Cagayan at Sanchez Mira where an information was filed on January 11, 1972, as follows:

"The undersigned, Asst. Provincial Fiscal, accuses Segundino N. Utrela of the crime of Murder with Frustrated Murder, defined and penalized under Article 248 in connection with Article 6, of the Revised Penal Code, committed as follows:

"That on or about March 28, 1971, in the municipality of Ballesteros, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Segundino N. Utrela, armed with a gun and a bolo, with intent to kill, with treachery and with evident premeditation, did then and there wilfully, unlawfully and feloniously assault, attack, shoot and hack one Feliciano Manlong Areola and Conrado Areola, inflicting upon Conrado Areola wounds on his body which caused his death and inflicting a wound on the body of Feliciano Manlong Areola.

"That the accused had performed all the acts of execution, which would have produced the crime of Murder, as a consequence on the person of Feliciano Manlong Areola but which nevertheless, did not produce it by reason of causes independent of his own will.

"That the crime was committed with the aggravating circumstances of disregard of the age of the deceased Conrado Areola and the sex of the other victim Feliciano Manlong Areola."

After trial wherein Utrela entered a not guilty plea, the court rendered judgment as follows:

"WHEREFORE, the Court finds the accused SEGUNDINO UTRELA guilty beyond reasonable doubt of the crime of MURDER for the killing of Conrado Areola, a nine (9) year old, committed with the aggravating circumstance of disregard of age and concealing the effects of the crime, one of which has been offset by the mitigating circumstance of voluntary surrender, leaving still one aggravating circumstance to mandatorily require the imposition of the maximum penalty provided for under the law; the Court hereby sentences the accused SEGUNDINO UTRELA to the maximum penalty of DEATH.

"For shooting Feliciano Areola, the Court finds the accused SEGUNDINO UTRELA guilty beyond reason-able doubt of the crime of Frustrated Murder, committed with the aggravating circumstance of disregard of sex on the offended party, which was offset by the mitigating circumstance of voluntary surrender; and applying the Indeterminate Sentence Law, the Court hereby imposes upon said accused SEGUNDINO UTRELA, to undergo a prison term ranging from eight (8) years and One (1) day of prison mayor as minimum to fourteen (14) years and eight (8) months, of reclusion temporal as maximum; to indemnify the heirs of Conrado Areola the sum of P12,000.00 for his death; P20,000.00 for moral damages and P500.00 for funeral expenses; to indemnify farther Feliciano Areola the sum of P400.00 for medical expenses and P2,000.00 for moral damages, without subsidiary imprisonment in case of insolvency owing to the nature of the principal penalty imposed, and to pay the costs."

In convicting Utrera, the trial court rejected his claim that the shooting of Feliciano was accidental and that he did not kill Conrado.

At the outset it should be stated that Feliciano and Utrera are "magbilas" because Utrera is married to a sister of Feliciano's husband and that prior to the incident the relations between Feliciano and Utrera had been normal for there was no enmity or unpleasant relations between them. The trial court even stated that, "By reason of this close relation, Feliciano knew of no reason why the accused shot at her and killed her son." Nonetheless the trial court was quick to convict not only the accused but also to send his lone witness to jail.

After Wenceslao Naval, a 57-year old farmer had been cross-examined by the fiscal, the trial court took over and this is what transpired:

"COURT:

q - You said you only arrive last night?

a - Yes, sir.

q - You have not talked to Atty. Ruiz [defense counsel] before this morning as you took the witness stand?

a - It was only there, sir. (witness referring outside of the Courtroom).

q - You approached him, or Atty. Ruiz approached you?

a - I talked to him, sir.

q - You talked to him before you took the witness stand?

a - Yes, sir.

q - And you talked with him regarding this case?

a - No, sir.

q - You mean to say that you talked on some other cases?

a - Yes, sir.

q - He has never asked questions to you regarding this case?

a - Not yet, sir.

q - And so, Atty. Ruiz did not know what he is going to ask of you?

a - No, sir.

q - And Atty. Ruiz did not know what he is going to ask upon?

a - Perhaps he knows it, sir.

q - How will Atty. Ruiz know if you did not talk with him?

a - Segundino Utrela might have conversed to him, sir.

q - You did not also know what Atty. Ruiz will ask you?

a - Perhaps he knows, sir.

q - What the Court is asking you, is, if you know what Atty. Ruiz is going to ask from you?

a - Perhaps he knows, sir.

q - Notwithstanding the fact that he does not know what fact you are going to tell the Court?

I am warning you Mr. Witness, that if you continue telling a lie, you will go to jail ahead than the accused. Do you realize that telling a lie to the Court is contemptuous and punishable by law?

a - Yes, sir.

q - And you still insist that you never conferred with Atty. Ruiz?

a - It was only when we conferred outside, sir.

q - And in that conference, he asked questions to you?

a - Yes, sir.

q - And you told him the fact what you are supposed to tell the Court now?

a - Yes, sir.

q - And Atty. Ruiz asked questions from you?

a - He asked if I saw Segundino Utrela had a bolo, sir.

q - So, it is now clear that Atty. Ruiz investigated you before you were presented on the witness stand?

a - Yes, sir.

q - Why is it that when you were asked if you had a talk with Atty. Ruiz, you said that you did not have when you were asked by the Fiscal?

a - Only this morning, sir.

q - And when the Court was asking you, if you had a talk with Atty. Ruiz before you took the witness stand, you said "Yes", do you realize that? I respect you Mr. Naval since you are older than me, but you should also respect my position, and this Court will never allow any person to be telling falsehood before it.

COURT:

Any other question?

FISCAL C. CONSIGNA:

None, Your Honor.

COURT:

O r d e r

Witness Wenceslao Naval having found to have been telling falsehood before the Court and the Prosecuting Fiscal, after he has made con-trary statements to what he previously stated, he is hereby sentenced to suffer an imprisonment of 10 days." (TSN, Naval, Jan. 28, 1974, pp. 26-30.)

The impetuosity of the trial court is further manifested by the following proceeding which took place after the fiscal had recommended the maximum penalty for both cases:

"ATTY. C. RUIZ:

Without prejudice, your Honor, may we reserve our right to file a written memorandum until tomorrow?

COURT:

Alright, promulgation of decision at 9:00 o'clock tomorrow morning." (TSN, Jan. 28, 1974, p. 30.)

The decision dated January 30, 1974, was in fact promulgated on that day.

The shooting of Feliciano by Utrela is admitted by the latter albeit he claims it was accidental. Nobody witnessed the shooting except for Feliciano, Utrela and possibly the deceased Conrado.

Feliciano testified that while she and Conrado were harvesting bananas they saw a person hiding behind the stump of a tree at a distance of about 5 meters; that she recognized the man as Segundino Utrela and told her son accordingly; that as she uttered Utrela's name, the latter came out and shot her; that she was hit in her two thighs; that after she was hit she ran to the house of Barrio Captain Tumbaga who took her to Dr. Estrella Fernandez for treatment.

Dr. Estrella Fernandez, a private physician, identified the medical certificate (Exh. A) which she issued and which reads:

"April 12, 1971

To whom this may concern:

This is to certify that Mrs. Feliciano Manlong Areola 28 years old from Nanabuan is presently under my medical care for a wound at the anterior portion of the right thigh surrounded at the opening by a blackish discoloration. Said wound is one cm. in diameter and 4 inches in depth.

Barring unforeseen circumstances said lesion will heal within two months duration.

(Sgd) E.S. Fernandez M.D."

(Expediente, p. 3.)

It is to be noted that according to the medical certificate Feliciano sustained only one wound in one of her thighs - contrary to her claim that she was wounded in both thighs.

Upon the other hand, Utrela testified that in the afternoon of March 28, 1971, he pastured his carabao; that

afterwards he went hunting for wild pigs in a place that was thick with banana plants; that he had a home-made shotgun (escopeta); that upon hearing something within the banana plantation he fired immediately; that the sound came from a distance of about 15 meters; that after he had fired he heard a scream and he ran away, going home at first and later reporting the incident to the mayor.

Wenceslao Naval testified that in the afternoon of March 28, 1971, he met the accused who was holding a gun.

Utrela claims that the shooting of Feliciano was accidental and offered testimony to that effect, namely: The incident happened while he was hunting wild pigs. He had no reason to believe that the thing he heard in the banana plantation where he had been hunting wild pigs, was a human being. The plantation was thick with bananas and he could not readily verify what was moving within the banana plantation. It was his practice to shoot whenever he noticed something moving in the grass while hunting in that area.

"Q: And these pigs that you have shot prior to March 28, 1971, you have always seen to it that you have that target of a pig?

A: Sometimes, whenever we notice the movements of the grass we readily shot, sir." (TSN, Utrela, p. 11.)

He was not engaged in an unlawful act. If at all, what was unlawful only was the fact that he was carrying an unlicensed firearm.

When the accused, under a plea of accidental killing, offers testimony tending to prove the substance of his plea, the burden is upon the State to show beyond a reasonable doubt that the killing was intentional. (U.S. vs. Tañedo, 15 Phil. 196 [1910].)

The prosecution has not shown that Utrela intended to kill or harm Feliciano. Indeed, if he had a criminal intent he would not have fled after the shooting; he would have made sure that what he intended to do was truly accomplished. At this juncture it is important to note that despite the opinion of Dr. Fernandez that Feliciano's "lesion will heal within two months duration," her wound appeared to be slight only for she was able to run for a distance of about one and a half kilometers from Nanabuan to the house of Barrio Captain Luciano Tumbaga in Zitanga. And Feliciano must have been more than 5 meters away from Utrela when she was hit by a single pellet for if she was only 5 meters from him she would have been hit by several pellets. At a short distance there would be a cluster of shotgun wounds, and the shots may pass out thru the body individually opposite the site of entrance or in groups of two or more. (See Anzuers, Medical Jurisprudence, Rev. Ed., p. 113.)

And then there was lack of motive. To be sure, evidence of motive is not always indispensable. This is so where proof of the commission of a crime is clear and convincing. But it is not so in this case. The only adverse testimony is that of Feliciano who could not explain why her "bilas" would want to kill her for their relations were normal and friendly.

In one case this Court said:

"The records of criminal cases submitted to this court so frequently disclose a lack of all effort to develop the motive for the commission of the crime charged, that we take advantage of this opportunity to direct the attention of all prosecuting officers, and especially of pro-vincial fiscals, to the importance of definitely ascertain-ing and proving when possible the motives which actuated the commission of a crime under judicial investigation. It is true that it is not indispensable to conviction for murder that the particular motive for taking the life of a human being shall be established at the trial, and that in general when the commission of a crime is clearly proven conviction may and should follow even where the reason for its commission is unknown (151 U.S., 396); but in many criminal cases one of the most important aids in completing the proof of the commission of the crime by the accused is the introduction of evidence dis-closing the motive which tempted the mind to indulge the criminal act; and in nearly every case wherein the law places the penalty to be imposed

in the discretion of the courts within certain limits, it will be found that a knowledge of the motive which actuated the guilty person is the greatest service in the exercise of this discretion." (U.S. vs. Carlos, 15 Phil. 47, 51, [1910].)

In the light of the foregoing, we hold that the State has not shown beyond reasonable doubt that the shooting of Feliciano by Utrela was intentional.

We consider it unnecessary to ascertain whether Utrela has satisfied the elements of the exempting circumstance of accident, namely: (1) performance of a lawful act; (2) with due care; (3) producing an injury by mere accident; and (4) without any fault or intention of causing it. (Art. 12, par. 4, Rev. Penal Code.) For if Utrela can be faulted, and we do not say that he can be, the most that can be said is that he did not exercise due care when he fired at something before he saw what it was. But then his liability would only be for reckless imprudence resulting in physical injury which carries a penalty much less than the preventive imprisonment he has undergone.

There is no direct evidence to show that the appellant killed Conrado Areola. The only material witnesses to the murder were Luciano Tumbaga and Sgt. Macario Uberita of the Ballesteros Police Department.

Tumbaga testified that when he reported the shooting incident to the police he saw Sgt. Uberita and another policeman, Cosme Fernandez, investigating the accused, Segundino Utrela; that during the investigation, Utrela admitted to Uberita and Fernandez that he killed Conrado and covered his body with grasses under a fallen tree; that in the evening of that day he went with Sgt. Uberita to the plantation; that they first passed by his house (at Bo. Zitanga) to get a Coleman lamp; that they searched the plantation until midnight, and found no corpse; that at sunrise the next morning they continued their search, accompanied by Segundino Utrela himself who was fetched by Sgt. Uberita from Ballesteros; that Utrela pointed at the place where they found the corpse of the victim (whose name this witness could not remember), covered with grasses; that the corpse was almost beheaded and they brought it to the house of Isabelo Areola.

Sgt. Uberita's testimony is to the effect that when he was at the municipal hall in the afternoon of March 28, 1971, Cosme Fernandez (another policeman) reported to him that Segundino Utrela had surrendered to Mayor Juan Alonzo; that Cosme Fernandez related to him the shooting and told him that Segundino Utrela surrendered to the mayor a 2 foot-long bolo in a scabbard (Exhibit B), which he (Utrela) used in killing Conrado Areola; that because of the information given by Cosme, he went to the mayor's house; that the mayor told him to go and see the person who had been killed by Utrela; that they asked Utrela where he killed the victim, and in response Utrela gave him a sketch of the place and of the body; that in the same evening, he went to the banana plantation with a certain Ric Alvarez Enriquez; that they first passed by the house of Bo. Captain Luciano Tumbaga at Zitanga and got a Coleman lamp; that they brought Tumbaga along with them to the plantation; that they searched the thick banana plantation until midnight for the corpse but could not find it; that they returned to Ballesteros, and early the next morning they went back to the plantation, bringing with them Utrela himself; that Utrela led them to the exact place where he killed the child; that they found the corpse of Conrado with the head almost severed from the body; that they took the corpse to the house of Isabelo Areola, and brought back Utrela to the police headquarters at Ballesteros; and that Cosme Fernandez wanted to take an affidavit from Segundino Utrela but the latter said that he would give his statement in court.

Upon the other hand, Utrela materially contradicted the testimony of Tumbaga and Sgt. Uberita. Utrela vehemently denied that he killed Conrado; he denied having told Mayor Juan Alonzo that he killed Conrado when he surrendered on account of the shooting of Feliciano; he denied owning and surrendering the bolo (Exh. B) to the mayor; he denied having met Sgt. Uberita in the afternoon of March 28, 1971; he said it was Chief of Police Timoteo Bayani who went to the mayor's house and took him in custody; he denied having made a sketch of the place where he supposedly killed Conrado; he admitted that in the morning of March 29, 1971, he was asked by

Sgt. Uberita to go to the banana plantation where the shooting took place but he did not point the place where the cadaver was found because on the way to Nanabuan they met Isabelo Areola, Nonito Areola, Guadalupe Mariano and others carrying the cadaver and so he was returned to the municipal jail.

Two witnesses who could have clinched the case for the prosecution were not presented, namely Mayor Juan Alonzo and police-man Cosme Fernandez. For this reason the testimony of Uberita that appellant had confessed to the mayor that he killed Conrado and surrendered the bolo (Exh. B) must be discarded for being hearsay for he did not witness the alleged confession and surrender. The testimony of Tumbaga that Utrela admitted to Uberita and Fernandez that he killed Conrado must likewise be discarded because it is materially at odds with Uberita's story.

That Sgt. Uberita and Tumbaga went to the banana plantation in the night of March 28, 1971, to look for the body of Conrado can be taken as a fact but Utrela denied having made a sketch which he gave to Uberita. He also denied going to the site of the cadaver the following morning. In view of his scrupulousness and alacrity in reporting the shooting to Mayor Alonzo, we prefer to believe Utrela. He appears to us more credible than Sgt. Uberita whose evidence was by and large hearsay.

In convicting the appellant for the death of Conrado, the trial court said:

"There is no direct evidence to show that accused hacked the victim Conrado Areola. There are circumstantial evidence however, closely linked with each other, that proved the accused as the author thereof. First, when Feliciano Areola ran away after she was shot by the accused, she left her son Conrado in their banana plantation with no other person than the accused himself. Second, the surrender of the accused to the Municipal Mayor, Juan Alonzo, of Ballesteros, Cagayan, before whom he claimed having shot Feliciano Areola and hacked to death Conrado Areola. Third, the revelation made by him on how he disposed the body of his victim when he stated that he placed him under a fallen tree and covered the body with grasses. Fourth, the failure of the authorities to locate the victim and were able to find him only when the accused went with them to pin-point the place where he hid his victim. Fifth, the surrender of a bolo (Exh. "B") which he used in killing the victim coinciding with the conclusion and findings of the doctor that said weapon could have caused the injuries found on the body of the victim." (Decision, pp. 11-12.)

To be sure, "Circumstantial evidence is sufficient for conviction if: (a) There is more than one circumstance; (b) The facts from which the inferences are derived are proven; and (c) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt." (Rule 133, Sec. 5, Rules of Court.)

But a close scrutiny of the circumstances mentioned by the trial court will show that they are at best speculations and do not meet the requirements of the Rules of Court.

The trial court said that when Feliciano ran away after she was shot she left Conrado with no other person than the accused himself. But the appellant said that after he fired his gun and heard a scream he ran away from the scene. This must be so because prosecution witness Tumbaga said he saw the appellant with policemen Uberita and Fernandez soon after the incident. True, Feliciano said she did not see any other person at the scene of the incident. But from this statement we cannot draw the conclusion that the appellant remained there with Conrado.

The second and fifth circumstances are both based on hearsay evidence and have, moreover, been contradicted by the appellant.

The third and fourth circumstances have been categorically denied by the appellant.

How did Conrado die? Counsel de oficio offers the following scenario which is believable because the truth can be more bizarre than fiction:

"The fatal wound suffered by Conrado should have been no mystery if the authorities of Ballesteros only performed their jobs properly and looked into the following probabilities:

"1. Feliciano testified that Conrado was standing beside her when she was shot (t.s.n. Areola, hearing of November 21, 1973, p. 8). She was holding a bolo (probably Exhibit "B" which could have been found beside the body of the boy).

'I was then holding the bolo when Utrela fired at me, and when I was hit, sir, it was suddenly thrown away.' (t.s.n. Areola, hearing of November 21, 1973, p. 19.)

"She at first said that she did not know how far the bolo was suddenly thrown away. Probably recalling the force with which she swung it away she said later it was just about the place where Utrela was about five meters away (t.s.n. Areola, hearing of November 21, 1973, p. 19). Considering her poor sense of distance when she estimated the 15-meter distance of Utrela at the time he fired the shotgun as only five meters, she must really have thrown the bolo away with a very strong force.

"It therefore appears that Feliciano was so startled by the thunderous report of the shotgun and by reflex action hurled the bolo she was holding with such force that when it hit the boy standing beside her at the back of the neck it almost severed his head. It was the sight of her son whom she had accidentally hacked to death that made her scream and scream. It was not her being hit by a shotgun pellet which according to medical science she could not have felt immediately.

'The sensation felt at the moment of being wounded is usually compared to the sting of an insect; the numbness of the part hit being of such a degree that the wounded only becomes aware of the existence of the wound by the sight of blood.' (Legal Medicine by Angeles, p. 259.)

It was Feliciano's frightening screams which the accused heard and caused him to run away (t.s.n. Utrela, hearing of Jan. 28, 1974, pp. 13, 15). She said she did not call at her son, who was still standing in the same place, when she ran away (t.s.n. Areola, hearing of November 21, 1973, p. 16). It would be unnatural for a mother to leave a young son in time of danger and it would similarly be unnatural for a 9-year old boy to just stand and not instinctively go after his fleeing mother.

"Feliciano ran away and left her son because she knew he was dead and must have had a terrible feeling of guilt which she expressed in this manner:

'Q : What did you feel also when you found that your son was dead?

'A : I cannot describe, sir, but if it was possible I wanted to die.

'Q : But if that extreme of your sorrows is to be measured in terms of money, how much would you value those sufferings of yours?

'A : As if it was already my life that was taken, sir.' (t.s.n. Areola, November 21, 1973, p. 11.)

"2. The other wounds of Conrado in the arms and chin could probably have been caused by pellets from the same shotgun fire that hit Feliciano or they could have been caused by wild boars while he was left in the forest overnight.

'... the boar uses the protruding teeth of the upper jaw as weapons. With its teeth and tusks, it could slash men or dogs if they ventured within reach. Boars live in the forest and wander about at night to feed on roots, herbs and grains.' (Compton's Encyclopedia, Vol. 2, pp. 226-227.)

"It also appears possible that the wild boar slashed the boy's neck." (Appellant's Brief, pp. 22-24.)

WHEREFORE, the guilt of the appellant not having been proved beyond reasonable doubt, the judgment of the

lower court is reversed and the appellant is acquitted. No costs.

SO ORDERED.

Fernando, C.J., Teehankee, Concepcion, Jr., Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

Barredo, J., did not take part.

Makasiar, J., joins J. Aquino in his dissenting opinion.

De Castro, J., in the result.

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DISSENTING OPINION

AQUINO, J.:

I dissent. I vote for the affirmance of the lower court's judgment with the modification that the accused-appellant should be sentenced to reclusion perpetua.

According to the prosecution's evidence, at about three o'clock in the afternoon, Feliciano Areola and her nine-year-old son Conrado were gathering bananas in their plantation at Barrio Nanabuan, Ballesteros, Cagayan. They brought their carabao and banca sled.

Mother and son cut two bunches of bananas which they placed in the sled. They moved to another place to cut a third bunch. When they were returning to the sled, Feliciano saw hiding behind the stump of a tree about five meters away Segundino Utrela, her relative by affinity, he being married to her husband's sister.

As soon as Feliciano uttered Utrela's name, the latter emerged from his hiding place and, without any preliminaries, fired at Feliciano, hitting her thighs.

Feliciano ran to the house of the barrio captain, leaving behind her son Conrado. The barrio captain brought her to a medical clinic. The doctor found that the wound in the right thigh was serious and could have caused Feliciano's death due to infection if it had not been properly treated.

The barrio captain reported the shooting to the police station where Utrela was already being investigated by the police. Utrela had surrendered to the mayor a bolo, two feet long, which he said he had used in killing the child Conrado.

Utrela orally confessed to Sergeant Macario Uberita and Patrolman Cosme Fernandez, the police investigator, that he had killed Conrado, placed his body under a fallen tree and covered it with grasses. Utrela drew a sketch of the place where he had concealed Conrado's body.

Guided by that sketch, Sergeant Uberita, accompanied by the barrio captain and some policemen, proceeded to the banana plantation. In view of the darkness, they were not able to locate Conrado's cadaver. As it was already midnight, they decided to continue the search in the morning.

On the following day, Utrela accompanied Sergeant Uberita and his companions to the plantation. Utrela pointed to the place where he had hidden the boy's body. He had a serious wound in the nape which almost decapitated him.

The doctor, who conducted an autopsy, found that Conrado sustained a multiple cut wound in the neck and shoulders which nearly severed his head and a cut wound on the chin. The doctor concluded that the injuries were caused by a bolo and that the assailant was behind the victim when the wounds were inflicted.

Utrela's guilt was proven by Uberita's testimony on his (Utrela's) oral confession, by his conduct in assisting the police-men to locate the victim's body and by the following circum-stances:

- (1) When Feliciano ran away after she was shot by Utrela, she left her son Conrado in their banana plantation with Utrela.
- (2) When Utrela surrendered to the mayor, he admitted having shot Feliciano and hacked to death Conrado Areola (22, 28, t.s.n., November 21, 1973).
- (3) The revelation made by Utrela to Uberita on how he disposed of the body of Conrado Areola by placing it under a fallen tree and covering it with grasses.
- (4) The failure of the police authorities to locate the victim and their being able to find him only when Utrela went with them to pinpoint the place where he hid the body.
- (5) The surrender by Utrela of a bolo which he admit-tedly used in killing Conrado.

Utrela's defense that he shot Feliciano accidentally while hunting for wild pigs is a fabrication. His ruthless liquidation of the boy was not accidental.

His guilt was proven beyond reasonable doubt. There is no justification for his acquittal.

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