

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
NORBERTO CATAO, ET AL., DEFENDANTS. FELIX NACUA,
DEFENDANT AND APPELLANT.**

G.R. No. L-9532. April 29, 1960

Ponente: GUTIERREZ DAVID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d7af49df7d24/>

GUTIERREZ DAVID, J.:

During the elections of November, 1949, two young Nacionalistas, Dioscoro Nacua and his brother, Quirino Nacua, were killed in barrio Napo, Carcar, Cebu.

The Court of First Instance of Cebu found Adolfo Canoy, Norberto Catao and Policarpio Tantano guilty of the murder of Quirino Nacua (Criminal Case No. V-2501); and on appeal, this Court affirmed the judgment imposing the penalty of life imprisonment on each of the accused (People vs. Canoy, et al., G. R. No. L-6037, promulgated September 30, 1954).

For the death of Dioscoro Nacua, the same three aforementioned defendants, with the addition of Felix Nacua, were charged with murder in the Court of First Instance of Cebu. After trial, all the four accused were found guilty of the crime charged and each was sentenced to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased Dioscoro Nacua in the sum of P6,000 and to pay the costs.

From said judgment only Felix Nacua appealed.

As established by the prosecution evidence and found out by the trial court, the circumstances surrounding the death of the Nacua brothers, with more emphasis on the killing of Dioscoro, are: In the evening of November 7, 1949, Norberto Catao and Adolfo Canoy, policemen, and Iluminado Nacua, special policeman of Carcar, Cebu, were invited by appellant to his house in barrio Napo, Carcar, Cebu. In the kitchen of appellant's house, the three ate their supper, after which, appellant called them into the living room where they talked. During their conversation, appellant told them in Visayan, "whoever of you could kill the two Nacua brothers (referring to Quirino and Dioscoro), I will give you money." Catao and Canoy replied that they were willing to undertake the liquidation of the Nacuas, while Iluminado Nacua, who was disgusted by the evil proposal, hastily went down the house and there waited for his two companions. Not long thereafter Catao and Canoy also came down, and the three of them went to the Napo police sub-station located near appellant's house. They were there but a short while when appellant sent for Catao and Canoy, so these two went back to appellant's house. Because Catao and Canoy also sent for him, Iluminado likewise went back to appellant's house.

That same evening, Catao, Canoy, Iluminado Nacua and Dioscoro Caballes, another special policeman, roamed barrio Napo. Headed by Canoy, they went to the place of Atty. Delfin Nacua, prominent Nacionalista leader in Napo, and fired shots at his house. Then they went to the houses of Basilio Alegado, Placido Nacua and Restituto Claraeay, all Nacionalista leaders. The four also fired random shots at their houses. Afterwards they went to the adjoining barrio, Ocaia, in search of Olimpio Tamarra, who had openly campaigned for the Nacionalista Party candidates, but unable to find his house, the four returned to the Napo police sub-station.

Early the next morning, election day, Catao, Canoy and Iluminado Nacua returned to appellant's house where they took their breakfast. After eating, the three went, to electoral precincts Nos. 1 and 2 of barrio Napo, both located in the barrio school building.

Between ten and eleven o'clock of that same morning Dioscoro Nacua went to Precinct No. 1, barrio Napo, and presented to the inspectors his appointment paper as watcher for the Nacionalista Party, which was duly admitted by the inspectors. On noticing that Canoy was inside the polling place and was peeping at voters preparing their ballots, Dioscoro called the attention of the inspectors thereto. This aroused the ire of Canoy who belligerently asked: "Who can prevent me from going inside?" Dioscoro calmly answered that he was not preventing him from entering the precinct since he was already inside the same. Canoy challenged him: "What do you want?" Dioscoro attempted to pacify him, but Canoy started shouting for a carbine, and when nobody came with one, he ran out of the polling place and grabbed the carbine of Faustino Catao, a special policeman who was nearby. Canoy then rushed back into the polling place. Close on his heels was Norberto Catao armed with a .45 caliber revolver. The two pointed their weapons at Dioscoro. To protect himself, Dioscoro ran behind poll clerk Jose Caballero and held him tightly by the shoulders. Not wishing to be used as a shield, Caballero forcibly released himself from Dioscoro's desperate grasp and ran away. Dioscoro also tried to escape. But while he was leaping down the schoolhouse stairs, Canoy and Catao, who were running after him, opened fire at him. Though hit on the back by Canoy's shot, Dioscoro still ran towards the yard in front of the school building. Catao and Canoy ran after him, firing at him as they ran. At this juncture, Policarpio Tantano, armed "with a Japanese rifle, joined in the chase and also fired at Dioscoro, who still succeeded in running a distance of thirty meters towards a lot adjoining the school grounds. Appellant, who was in the yard near his house, saw him pass behind a mango tree, and probably thinking that he might escape from his assailants, fired at him with his .32 caliber revolver. Dioscoro was hit on the neck and fell face down. The appellant ran to the helpless victim and hit him on the head with a piece of wood he had picked up. Afterwards, appellant, Canoy and Catao repaired to appellant's house. There appellant told them to look for and liquidate Quirino Nacua to prevent any revenge he might attempt to make against them. Catao, still armed with his revolver, immediately left, while Canoy first drank some wine before joining' him in searching for Quirino Nacua. A short time after Canoy and Catao left appellant's house, shots were heard from the direction of the nearby school house. After the firing ceased, Policarpio Tantano arrived in front of appellant's house, shouting "long live the Liberals!" Canoy and Catao were close behind him. The three said that they had already disposed of the Nacua brothers.

Medical examination of Dioscoro Nacua revealed that he suffered (1) one penetrating gunshot wound on the costal region, right side; and (2) one mortal gunshot wound on the cervical region, right side. Death was due to the nature of the wound on the cervical region and the hemorrhage resulting from the wounds (Exhibit G, medical certificate). When the cadaver was exhumed, a fracture on the scalp was found (Exhibit I).

It is appellant's claim that he never plotted against Dioscoro Nacua's life. During the trial, he testified that on the eve of election day, it was true that he was at home but that he neither saw nor talked to Norberto Catao, Adolfo Canoy and Iluminado Nacua; that early in the evening he made an inventory of his copra business; and later in the evening his friend, Atty. Luis Ladonga, and some companions, came to confer with him on the matter of teaching his tenants and supporters to vote properly for their candidates.

Appellant denied any active participation in the killing of Dioscoro Nacua. He declared that in the morning of November 8, 1949, after he had cast his vote at Precinct No. 1, barrio Napo, he returned home and stayed there until 10 o'clock when he went down to supervise the repair of his house located near his residence; that at about 10:30 he heard shots Coming from the direction of the school house; that he then saw Norberto Catao pursuing Dioscoro Nacua; and that impelled by fear, he ran to his house, where he hid behind boxes and trunks until the

firing ceased.

In exculpation, appellant averred that it is Norberto Catao who was solely responsible for the death of Dioscoro Nacua. We think this contention is untenable. There is ample proof of appellant's complicity. His part in the conspiracy was established by the testimony of Iluminado Nacua who was present when appellant made his infamous proposal to Canoy and Catao, and the latter two agreed to execute the criminal plot. And appellant's active participation in the killing was related by two eyewitnesses, Arcadia Alcantara and Dioseoro Caballes.

Appellant claims that Iluminado Nacua, Arcadia Alcantara and Dioscoro Caballes all lied and were moved by ulterior motives in testifying against him. He said that he dismissed Nacua as conductor in his truck because the latter stole the collections. But apparently Iluminado did not resent his dismissal. As admitted by appellant, Iluminado was even smiling when he left appellant's employ. Under the circumstance, Iluminado would have been thankful, instead of resentful, because appellant merely dismissed him instead of having him criminally prosecuted as he could very well have done.

Appellant brands as incredible Iluminado Nacua's testimony respecting the plot to kill the Nacua brothers. There could not have been such a conspiracy, appellant maintains, first, because appellant did not know that the Nacua brothers would be coming to barrio Napo on November 8, 1949; second; it was Dioscoro Nacua himself who had provoked Adolfo Canoy into attacking him; and third, Policarpio Tantano, who also chased and fired at Dioscoro Nacua, was not present in appellant's house when the criminal plot was hatched. Politics was the motive behind appellant's wish to have Dioscoro Nacua liquidated. When he broached the subject to Catao and Canoy, he did not have in mind any definite method for the consummation of his design. He simply wanted Dioscoro killed at any opportunity that presented itself. The three, appellant, Catao and Canoy, agreed as to the victim and the crime that would commit. And while they had no definite foreknowledge that Dioscoro Nacua would be in Napo the next day, they could guess, with a great degree of certainty, that Dioscoro would be coming to Napo on election day because he was interested in elections there.

When he did come, appellant and his co-conspirators were ready for him. Contrary to appellant's claim, it was Adolfo Canoy, not Dioscoro Nacua, who provided the provocation. Canoy, fully knowing that he should not do so, deliberately stationed himself inside the polling place and kept peeping at the voters as the latter were writing on their ballots. Dioscoro, who was a Nacionalista watcher, was perfectly within his rights when he called the attention of the inspectors to the unwarranted presence of Canoy inside the polling place. This action of Dioscoro provided Canoy with the chance he needed to execute their criminal plan. So he attacked Dioscoro, and in this, his co-conspirators helped him. If there were really no conspiracy then Catao, Tantano and appellant would not have joined in the attack because they had no quarrel with Dioscoro.

From Tantano's absence at appellant's house on the eve of the elections, we cannot reasonably conclude that there was no conspiracy. Tantano's actuations during the execution of the criminal plot adequately show that he was in on the conspiracy. To prove conspiracy, the prosecution need not establish that all the parties thereto agreed to every detail in the execution of the crime or that they were actually together at all stages of the conspiracy. It is enough that from the individual acts of each accused, it may be reasonably deduced that they had a common plan to commit the felony. Besides, it appears that it was appellant who masterminded the criminal plot. Hence, Tantano's absence at the time appellant offered to reward Catao and Canoy if they would undertake to kill Dioscoro did not prevent the three from agreeing to the commission of the crime.

It is true, as appellant, claims, that Iluminado made a retraction (Exhibit 1) to the effect that contrary to what he stated during the trial of *People vs. Canoy* (which was tried ahead of this case), appellant had nothing to do with the death of Dioscoro Nacua. However, Iluminado Nacua explained to our satisfaction that he signed said

affidavit under threats of death made by appellant's son, Benjamin Nacua. Consequently this retraction (Exhibit 1) has no probative value.

The record discloses that appellant knew that Iluminado Nacua had knowledge of the role he played in the criminal plot, so he coerced Iluminado into hiding at the house of his relative, Emilio Ernalsado, in Davao City. Thus he prevented the authorities from further investigating Iluminado. Appellant admitted that he sent someone to Davao City, but insisted that this was a certain Joan Decoreon not Iluminado. But from the tenor of his letter to Ernalsado (Exhibit C) it is clear that the person referred to therein was Iluminado. Appellant instructed Ernalsado to burn the letter after reading it—a precaution he would not have troubled to take with respect to Decoreon, but a precaution made necessary by his desire to conceal Iluminado's whereabouts.

Arcadia Alcantara testified against appellant, as the latter so claims, because the former belongs to a different political party and her son was appellant's business competitor. These alleged reasons, even if true, are too flimsy and inadequate to impel an old and simple barrio woman like Arcadia to perjure herself. Appellant also alleges that Dioscoro Caballes bore him a grudge because it was he who secured witnesses for the government in a robbery case wherein Caballes was one of the suspects. Granting that this were true, it does not appear that even with appellant's efforts the case against Caballes prospered in any way. So Caballes had no reason for harboring ill feelings against him.

Appellant maintains that if Arcadia Alcantara and Dioscoro Caballes really eyewitnessed his active participation in the crime then they would not have, as they did, waited three years before volunteering such information. Delay of a witness in revealing to the authorities what he knows about a crime does not render his testimony false, for the delay may be explained by the natural reticence of most people and their abhorrence to get involved in a criminal case. But more than this, there is always the inherent fear of reprisal (*People vs. Santos Umali, et al.*, G. R. Nos. L-8866-8870, promulgated January 23, 1957), which is quite understandable especially when, as in the present cases the accused is a man of power and influence in the community. These considerations prevented Arcadia Alcantara and Dioscoro Caballes from disclosing their knowledge to Carcar Chief of Police Anastacio Alcordo, when the latter was gathering evidence in this case. Iluminado Nacua, too, did not mention in his affidavit (Exhibit 10) appellant's part in the criminal conspiracy. In answer to appellant's contention that this silence on the part of the prosecution witnesses is an indication of falsity, we repeat what this Court stated in disposing of a similar contention in the case of *People vs. Canoy* (*supra*) for the murder of Quirino Nacua: "This silence has been satisfactorily explained, for appellants were members of the police force of Carcar, and two of them, namely, Norberto Catao and Adolfo Canoy, were present at the time of the taking of said affidavits. So after the tragic end of the Nacua brothers, said witnesses could hardly be expected to risk meeting the same fate, until at least after the appellants were suspended from office which took place several months later or on February 9, 1950."

Appellant argues that if, as stated by Arcadia Alcantara, her purpose in going to Barrio Napo was to bring food to her son who was an election inspector there, then why did she also declare that she went to Napo without bringing the food Arcadia really intended to bring the food to her son, but when she learned that election inspectors were provided with food, she went there just the same without bringing any food with her. Anyway her own barrio was near Napo, and it was easy for her to walk to the latter barrio in order to see her son.

Arcadia Alcantara never went to barrio Napo on the day in question, but she was in her store in the market place of barrio Ocaña, appellant alleges. To support this contention, the defense presented Anatalia Navares who allegedly occupied a store near that of Arcadia. Navares testified that Arcadia was in her store in Ocaña from 10 a.m. to 3 p.m. November 8, 1949. There are strong reasons for not granting credence to Navares. Foremost among them is that the lower court, whose finding on credibility is entitled to great weight, found her behavior and

manner of testifying not impressive of veracity. To test her credibility, the trial court propounded questions to her, but her answers according to the court "were not convincing".

It is further argued by appellant that even if Arcadia was in barrio Napo on the day in question, she was in the house of Basilio Alegado, a place from where she could not have seen the shooting because of the lush of vegetation in that vicinity. Arcadia did not stay long in Alegado's house. From there she proceeded to the precinct. While she was on her way, she saw the attack on Dioscoro Nacua. She saw Dioscoro attempting to escape from Catao, Canoy and Tantano. And then appellant joined the attack.

According to appellant, Arcadia incurred contradictions in her statements. He pointed out that while she testified that she saw Dioscoro Nacua veer towards the left when he saw appellant, she also declared that the first time she saw appellant was when he was pointing his gun at Dioscoro. These statements do not contradict each other, and may easily be reconciled. Events happened fast on that fatal election day. At practically the same time that Arcadia saw Dioscoro running away and then veer towards the left upon seeing appellant, she also saw appellant firing at Dioscoro.

According to appellant, the statements of Arcadia Alcantara and Dioscoro Caballes that appellant hit Dioscoro Nacua en the head cannot be true because Dr. Ildefonso Ybud, who performed the medical examination, failed to find any laceration, bruise, or abrasion on the head of the victim. However, the testimony of Arcadia Alcantara and Dioscoro Caballes is supported by the finding of Dr. Jose Rubi who examined the corpse after it was exhumed. He found "on the crown of the head there was a loss of continuity, which is an elongated shape about 1 ½ inches long and ¾ inches wide where the two parietal bones meet and near the frontal suture." This fracture, according to Dr. Rubi and confirmed by NBI medical expert Dr. Rizalino Reyes was not the result of exhumation, but was an injury suffered before the corpse was buried.

There is an explanation for Dr. Ybud's failure to find the head injury. Knowing that Dioscoro Nacua died from gunshot wounds, he did not take the trouble of making a very thorough examination of the victim's head. It is possible, according to Drs. Rubi and Reyes, that there was no outward sign of the head injury. The blow might not have produced an open wound because the instrument used was a blunt, not a sharp one and the thick hair of the victim probably cushioned the blow. Besides, even if there were outward manifestations of the head injury, they were probably covered by the thick hair so that they entirely escaped Dr. Ybud's attention.

Appellant impugns the veracity of Dioscoro Caballes. To discredit him, the defense relied on Alfonso Torres who testified that in the morning-of November 8, 1949, he was in Maximina Nacua's store near the Napo barrio school, when he suddenly heard a shot so, he ran to a nearby river; and that he saw Caballes also running towards the same river. If this were true, then Caballes could not have seen appellant take part in the commission of the crime. However, Torres' statement as to the time he heard the shots struck the false note in his testimony. The shooting took place at a little past 11 a.m., November 8, 1949, but Torres declared that he heard the shots about fifteen minutes after he arrived at nine o'clock at the store. And this is not all. There is sufficient proof that Torres was not in Napo on that day. Records of Precinct No. 1, barrio Mangyan, Sibonga, Cebu (Exhibits W and W-1) reveal that on election day, Torres was present in said precinct, discharging his duties as chairman of the board of inspectors thereof. These records were corroborated by the testimony of poll clerk Irene Nacua and substitute poll clerk Diosdado Barsinas, of the same precinct, that from early morning of November 8, 1949 to early dawn of November 9, 1949, Torres was continuously present in said precinct. Hence, the defense failed in its attempt to establish that Caballes was not an eyewitness to the occurrence.

In assailing Caballes's testimony, appellant avers that he could not have been, as alleged by him, a special policeman on that occasion because he was illiterate and not known to the chief of the police, so that latter could

riot have appointed him as such. Whether or not Caballes was a special policeman during the incident is of no moment. The fact remains that he was present during the attack on Dioscoro Nacua. And his testimony was corroborated by Arcadia Alcantara as well as other evidence of record.

The lower court granted credence to the three prosecution witnesses, Iluminado Nacua, Arcadia Alcantara and Dioscoro Caballes. It found Iluminado Nacua a "quiet, fairly intelligent young man". By his conduct and behavior, the court, in its own words, "was strongly convinced that he was telling the truth". Arcadia Alcantara and Dioscoro Caballes likewise impressed the court with the clear and natural manner of testifying. Knowing the importance of their testimony, the court took special pains to observe them closely while they were testifying. Its finding as to their credibility expresses strongly its conviction that they were telling the truth. Said the court: "Their answers to the clarification questions of the Court and their answers to the cross-examination of the defense counsel convince the Court that they have been actually at the scene of the crime and have actually seen the participation of Felix Nacua". Considering that the trial court was in a better position to determine the question of credibility, and inasmuch as the record fails to disclose any imperative ground for reversing the finding of the lower court, we, therefore, adopt its conclusion that said three witnesses merit credence.

We find appellant guilty beyond reasonable doubt of the killing of Dioscoro Nacua.

Wherefore, the appealed decision is hereby affirmed with costs against appellant.

Paras, C. J. Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.
Padilla, J., took no 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.