

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. ENRIQUE PARAS Y CHU AND FELICISIMO DE JESUS Y SANTOS, DEFENDANTS AND APPELLANTS.

G.R. NO. L-23111. March 29, 1974

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/dd423f03df49/>

PER CURIAM:

Ernesto Reyes, 18, drove the family's army-type jeep the morning of October 23, 1963 to conduct a younger brother and sister to their respective schools. It was a regular schoolday chore Ernesto was assigned by his parents to perform, he being the eldest child in the family of retired Army Captain and Mrs. Victorino Reyes of 43 Stanford, Quezon City. From that morning trip Ernesto never returned.

Ordinarily Ernesto should be back home in about half an hour, but that morning he was expected to be a little late as he was supposed to pass by a vulcanizing shop on his way back to have a spare tire repaired. When he did not show up as expected the Reyes couple, becoming apprehensive, decided to find out why he was delayed. They went to the vulcanizing shop, only to be informed that Ernesto had not passed the place. They then retraced the possible route Ernesto could have taken, hoping that the jeep had merely developed mechanical trouble somewhere along the way. The search proved to be fruitless, even after they had patiently combed the Kamuning area and its side streets.

It was already noon when the Reyes couple returned home. All they knew so far was that Ernesto, when last seen by his brother Victorino, Jr., did not have any companion in the jeep as it left for home. When he failed to attend his 1:30 p.m. class that day at the Far Eastern University, where he was enrolled as a pre-medical student, his parents, thinking that he might have been involved in a vehicular accident, hied to the Quezon City Police Department, but were there informed that no report of such accident had been received. They then requested the Quezon City Police Department to flash an alarm for the apprehension of the jeep, whoever was driving it. The same request was made to the Manila Police Department. It was already 2:00 p.m. by then.

Returning home again, the Reyes couple decided to call up Atty. Benjamin Oliva, a brother of Mrs. Reyes, to seek his help. Considering the possibility that Ernesto might have been waylaid by carnappers, the couple agreed to widen the search to include the Cavite and Batangas areas while Atty. Oliva and Alfonso Yagui, a member of the Reyes household, would cover the north road along the MacArthur highway. The couple reached as far as Dasmariñas, Cavite, passing through a portion of Batangas province on the way back, but found no trace of the missing boy or of the jeep. They reached home at about 6:00 in the afternoon. Attorney Oliva had arrived earlier, his efforts similarly frustrated.

Without any clear idea as to what to do next, the Reyes couple decided to stay home the rest of the evening of October 23 to wait for any police information that might come. On a hunch that his son might have been kidnapped, Victorino Reyes instructed Alfonso Yagui to keep an eye on the front gate in the event the kidnapers should send word. He could not have been more correct. At about two in the morning of the next day, October 24, Yagui rushed upstairs to inform Mr. Reyes that he had seen a man throw a white envelope through the front gate.

The envelope had "23 Oct. 63" written at the upper right-hand corner and "to: MR. & MRS. REYES ONLY" at the center. Inside was a note written in script, as follows:

"23 October '63

BEWARE

(But don't be foolish)

Mr. & Mrs. Reyes,

Your-son ERNESTO REYES is in good hands now hear this if you want him to be back in your home alive)

Tomorrow at exactly 12:00 (highnoon) in the afternoon 24 October 1963 (Thursday leave the amount of (P25,000) Twenty-Five Thousand Pesos (Place the money in 'supot') at the front door of San Sebastian Church (Plaza del Carmen)

Bring the money with you 'alone' Mr. Reyes and leave it there as stated place above and go and if you follow as order your son will be back at home (no one must know this except you Mr. & Mrs. Reyes. Dont get wise or else your son will not come back anymore.

This is the first and last warning

THE SINDICAT"

The demand for P25,000 posed the immediate problem. It was virtually impossible for the Reyeses to raise such a big amount in the brief period given. After discussing the matter with some close relatives, they went to the then Deputy Director of the NBI, Atty. Arturo Xavier, who advised them to negotiate first with the writer of the ransom note for the reduction of the amount demanded. He told Mr. Reyes to comply with the instructions contained in the ransom note by appearing at the hour and place designated therein, but instead of money, to put inside the "supot" a note requesting a reduction of the amount of ransom. Mr. Reyes did as he was told, and then went home with the assurance that NBI agents would maintain a close surveillance of the "pick-up" spot. Nobody appeared to get the prepared "supot."

Nothing more was heard from the kidnapers until December 9, 1963, when Mr. Reyes was informed by his brother-in-law, Atty. Oliva, that the latter's maid had received a message over the telephone which the caller wanted relayed to Mr. Reyes. This time Mr. Reyes was directed to place P5,000.00 in a paper bag and to deposit it at exactly 5:00 p.m. the next day, December 10, behind a stone marker at the corner of Gilmore Avenue and Aurora Boulevard, Quezon City. The NBI, informed of the latest instructions, advised Mr. Reyes to comply, again with the assurance that agents would be on constant watch. At the appointed hour Mr. Reyes deposited the paper bag at the designated place, but instead of money pieces of coupon bond paper cut to the size of peso bills were stuffed inside. When Mr. Reyes returned to the same place an hour later, in compliance with his previous understanding with the NBI, he saw that the paper bag was still untouched. The sender of the message obviously failed again to show up. Thereafter the unknown caller successively scheduled two other dates, December 11, and 16, for Mr. Reyes to deliver the ransom money at the same time and place specified in the December 9 message. In both instances the caller did not appear.

On December 20, 1963 Mr. Reyes was contacted anew through a telephone call received by Atty. Oliva's maid. This time the P5,000.00 was to be left behind a broken-down jeep on a vacant lot at Harvard St., Cubao, Quezon City. Once more Mr. Reyes complied, but as before nothing happened. Then a fourth anonymous call, actually the fifth message from the kidnapers, came and proved to be decisive. It was received by Atty. Oliva's maid on December 22. The caller wanted Mr. Reyes to deposit the ransom money at the same hour and place mentioned in the December 20 telephone call. After coordinating his movements with the NBI agents assigned to the case Mr. Reyes deposited the paper bag at the designated place, a vacant lot at Harvard St., Cubao, where a dilapidated jeep

was parked. Following previous instructions, he placed the paper bag under the chalk-marked rear fender of the vehicle and then left for home, assured that NBI agents would be nearby and on constant watch. Later that evening he was to learn from them that Felicísimo de Jesus, a nextdoor neighbor of the Reyeses, had come earlier and picked up the paper bag. At last the investigators had their first solid lead as to the possible identity of the kidnapers.

Although De Jesus could have been immediately apprehended it was thought best, in view of the uncertainty as to Ernesto's fate, to merely place him under close surveillance in the meantime. Since the paper bag he had retrieved did not contain real money but only pieces of coupon bond paper cut to the size of peso bills, it was not unlikely that a new attempt would be made to contact the Reyes couple; and a premature arrest might jeopardize Ernesto's safe return. However, when it became obvious that no word from the kidnapers was forthcoming and that further waiting would serve no useful purpose, the NBI agents assigned to the case invited De Jesus to their headquarters for questioning, and on January 6, 1964, placed him under arrest for a more extensive and formal investigation. His revelations, embodied in a sworn statement executed before the investigating NBI agents, contained the story of Ernesto's disappearance.

At the very start De Jesus said that the missing boy was already dead, and then proceeded to relate the following tale: The plan to kidnap Ernesto for ransom was hatched by Enrique Paras, the co-accused in this case, in a night club in Quezon City some three weeks before October 23, 1963. Paras became interested in the scheme after he was informed by De Jesus that the latter's neighbor, Victorino Reyes, had a thriving business buying and selling cars. De Jesus proposed to Paras that the two of them engage in the same kind of business, but the latter thought of kidnaping one of the Reyes children for ransom instead. Tempted by the prospect of making money easily, De Jesus promptly agreed. They chose Ernesto to be the victim. They observed his movements for about a week, and noted that every morning he accompanied a younger brother and sister to their respective schools, using the family's army-type jeep.

On October 23 Paras and De Jesus made their move. Near the squatters' area, a stone's throw from the St. Mary's Academy in Quezon City where Ernesto had dropped his younger brother Victorino, Jr., the waiting Enrique Paras signaled Ernesto to a halt. Gun in hand, Paras then boarded the jeep together with De Jesus, who took over the wheel, with Ernesto sandwiched between them. They drove to the U.P. area, but changed direction and proceeded to the Bonifacio Monument in Caloocan City. At Samson road the jeep came to a stop due to an empty tank, so De Jesus walked to a nearby Caltex service station to buy gas. Afterwards they drove to the Serrano compound in Valenzuela, Bulacan, where Paras was residing. They bodily carried Ernesto from the jeep to a pig pen in the premises, tying him up securely before they went to Paras' house to take their lunch. Meanwhile Paras ordered a male helper to buy a can of blue paint, which he later used to repaint and disguise the jeep.

About 10:30 p.m. that evening De Jesus, feeling bothered, he said, by his conscience, suggested to Paras that they release Ernesto. But Paras demurred, reasoning that Ernesto's release at that time would only pose a danger to De Jesus in particular, because he was personally known to Ernesto. De Jesus did not persist in his suggestion. Paras then went inside the pig pen where they had earlier left Ernesto. A few seconds later De Jesus heard Ernesto's muffled cries of pain. When De Jesus went to see what was happening he saw Paras raining karate blows at Ernesto's Adam's apple. De Jesus, at Paras' orders, held Ernesto's feet while Paras continued to hit the boy until he died. They intended to throw Ernesto's body some distance away, but the jeep would not start and there was no other private means of transportation available. So they decided to hide the body in a cogon grass-covered area only 25 yards from the house.

Early in the morning of the next day, October 24, Paras and De Jesus returned to Stanford St., Q.C., where Paras tossed over the gate of the Reyes residence the ransom note he had written earlier, demanding P25,000.00 for

Ernesto's safe return. When they met a couple of days later, De Jesus learned from Paras that the latter had not been able to pick up the "supot" placed by Mr. Reyes by the front door of the San Sebastian Church. Thereafter they lost contact with each other. De Jesus, doubting the information Paras gave him, took pains to find out the telephone number of Victorino Reyes' brother-in-law, Atty. Oliva, and subsequently made the various calls to the maid, giving her the messages to be relayed to the Reyes family concerning the payment of P5,000.00 as ransom money. He admitted that it was he who showed up on December 22, 1963 to retrieve the paper bag Mr. Reyes had placed in a vacant lot at Harvard St. Cubao, Quezon City, in accordance with his fourth telephone instruction. He expressed his desire that while the case was pending he be confined at the NBI jail for fear that Enrique Paras, whom he had implicated, might harm him. To make sure that De Jesus' statement would not be assailed as not having been given voluntarily, the NBI agents presented him on separate dates[1] before 3 different subscribing officers, before whom he affirmed the truth of what he had stated.

To check De Jesus' story, the NBI agents went to the Paras piggery in Valenzuela, Bulacan. There they found three willing witnesses, namely: Adolfo Paras, Rogelio Elipe and Artemio Abuan, whose respective sworn statements[2] confirmed that of De Jesus in many aspects: that De Jesus and Paras were seen arriving together in the Serrano compound in Valenzuela, Bulacan, in the late morning of October 23, 1963; that with them was another person, who was apparently a captive and whose general description answered that of Ernesto. The NBI agents scoured the area pinpointed by De Jesus as the place where Ernesto's body had been dumped, but they could find no trace of it. They were to learn later that as early as October 29, 1963 a body had been discovered in the area, on which in fact an autopsy was performed by NBI supervising medico-legal officer Nery Y. Ramirez on October 30, 1963, with nobody relating the unidentified body to the disappearance of Ernesto Reyes. Inquiries at the local police department of Valenzuela revealed that the corpse had been found about 15 meters away from the Paras piggery, hidden from view by tall cogon grass. When discovered it was already in an advanced stage of decomposition, was shirtless but had on a pair of dark blue pants, which was later identified by Victorino Reyes as the pants his son was wearing on the day of his disappearance. The body was exhumed, and the exhumation report, dated January 24, 1964 and prepared by Dr. Nery Y. Ramirez, contains the following findings:

"xxx xxx xxx

FINDINGS

xxx xxx xxx

The bones:

None of the bones showed any sign of disease nor antemortem violence. There are appreciable bone growth changes indicative that the deceased had not yet attained the adult age at the time of death. Among these growth changes are: (1) The incomplete fusion of the iliac crest; (2) The non-fusion of the epiphysis with the sternal ends of the clavicle; (3) Presence of faint lines at the epiphyseal region of lower ends of the radius and ulna; and (4) The irregularity and unevenness of the symphyseal surfaces of the pubic bones.

The teeth:

Several teeth of both jaws are lost; those present are loosely attached to their corresponding sockets.

Upper jaw:

Teeth present — nine (9)

Teeth absent — seven (7)

(1) Both central and right lateral incisors; (2) Right 3rd molar; (3) Left canine and 3rd molar; and (4) Right 1st premolar, all the sockets of these missing teeth are intact except that of the right 1st premolar which is already

fully absorbed.

Unrestored dental caries present: none

Dental restorations present: amalgam fillings at the following teeth: right 1st molar, left 2nd premolar and left 1st molar.'

Lower jaw:

Teeth present — seven (7)

Teeth absent — nine (9)

(1) Both central and right lateral incisors; (2) Right canine, 1st and 2nd premolars and 3rd molar; (3) Left 1st premolar and 1st molars. All the sockets of these missing teeth are intact except that of the left 1st molar, which is already fully absorbed.

Unrestored dental caries present: Occlusal surface (big) right 1st molar.

Dental restorations present: Amalgam filling both 2nd molars.

Dental peculiarity: The left lower 2nd premolar and 1st molar are inclined toward the space vacated by the missing 1st molar. The lower jaw is prominently protruding (inferior prognathus) and the edges of the lower left lateral incisor-and canine are overlapping the edge of the upper lateral incisor of the same side."

The examining medico-legal officer concluded: "1. That the deceased is a male. 2. That his stature or height is 164 cms. 3. That his age could be between fifteen and twenty years or at most around seventeen and eighteen years. 4. That there are no appreciable pathological findings at the soft and bone tissues which could explain the cause of death."

With what it had learned thus far, the NBI issued a nationwide alarm for Enrique Paras' apprehension. Days of surveillance paid off in the evening of January 12, 1964. An-NBI agent assigned to the domestic airport spotted a new arrival alighting from a plane from Davao, with features resembling those of the wanted man, whose photograph had been earlier furnished NBI agents. Invited to the NBI headquarters for formal interrogation, the suspect — who turned out to be Enrique Paras himself — resisted at first but finally agreed to come along. The next day he signed a sworn statement, describing his role in the kidnap-slaying of Ernesto Reyes. Although he tried to shift responsibility for the kidnapping and the subsequent killing to Felicisimo de Jesus, Paras substantially gave the same version as that narrated by his companion.

The two were charged with the crime of kidnapping for ransom with murder before the Court of First Instance of Rizal (Quezon City branch), which found both of them guilty in its decision of May 30, 1964, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, the Court finds both the accused EDGARDO PARAS Y CHU whose real name is ENRIQUE CHU Y PARAS) and FELICISIMO DE JESUS Y SANTOS, GUILTY, beyond reasonable doubt, of the complex crime of kidnapping for Ransom with Murder, and pursuant to the provisions of the 1st paragraph of Article 267 of the Revised Penal Code, as amended by Republic Act Nos. 18 and 1084 in relation to Article 48 of the Revised Penal Code, hereby sentences each of them to DEATH, to be executed in accordance with law, to indemnify the heirs of the deceased Ernesto Reyes in the sum of P6,000.00, jointly and severally, without subsidiary imprisonment in case of insolvency in view of the nature of the penalty imposed, and to pay the proportionate costs."

In view of the penalty imposed the case was elevated to this Court for automatic review.

The main thrust of both appellants' brief is that they had been denied due process, and that their constitutional

right against self-incrimination had been violated. No real attempt is made to establish their innocence. Their plea rests largely on alleged procedural shortcomings attending their trial and on lack of admissible evidence to sustain conviction. Felicísimo de Jesus in particular contends that the hearing of the case proceeded without the benefit of any preliminary investigation. And he assails the lower court's conclusion that the evidence sufficiently established the identity of the dead body which was discovered as that of the kidnap victim. Enrique Paras, on his part, puts in issue the admissibility of his and De Jesus' sworn extrajudicial statements acknowledging participation in the kidnap-slaying. He joins De Jesus in pointing out that the case below was filed and/or proceeded to trial without preliminary investigation, and without his having been afforded the right to counsel during his interrogation by the NBI agents.

In connection with the claim that there was no preliminary investigation, it should be pointed out that the investigating fiscal certified that he did conduct one where "the accused were given a chance to be heard; and that there is reasonable ground to believe that the offense charged has been committed and that the accused- are probably guilty thereof." There is the presumption that official duty has been performed (section 5(m), Rule 131); but in any event the jurisprudence on the matter does not justify a reversal of the judgment on the basis of this particular argument of the appellants:

"x x x it is worthy of notice that the Constitution does not require the holding of preliminary investigations. The right thereto exists only if and when created by statute. When so created, the absence of a preliminary investigation — if it is not waived — may amount to a denial of due process.

In this connection, Section 38 of the Revised Charter of Quezon City reads:

'Every person arrested shall, without unnecessary delay, be brought before the City Attorney, the municipal court, or the Court of First Instance for preliminary hearing, release on bail, or trial. . . . In case triable only in the Court of First Instance the defendant shall not be entitled as of right to preliminary examination in any case where the Fiscal of the city, after a due investigation of the facts, shall have presented an information against him in proper form. But the Court of First Instance may make such summary investigation into the case as it may deem necessary to enable it to fix the bail or to determine whether the offense is bailable.'

Thus, the defendant in a case 'triable only in the Court of First Instance' of Quezon City, 'shall not be entitled as of right to preliminary investigation x x x where the Fiscal of the City, after due investigation of the facts, shall have presented an information against him in proper form: In the case at bar, such investigation had been conducted and said 'information in proper form' was filed by the 'Fiscal of the City.'" (San Diego vs. Hernandez, 24 SCRA, 110, 114)

The right to preliminary investigation must be asserted or invoked before the plea, otherwise it is deemed waived.[3] While there may have been pronouncements[4] by this Court to the effect that absence of preliminary investigation is a grave irregularity which may nullify the proceedings for denial of due process, the instant case does not call for their application. Here, far from objecting to the lack of preliminary investigation immediately upon the filing of the information, the accused raised the question long after they entered their plea of not guilty to the offense.

The original information was filed on January 14, 1964, and was subsequently amended on January 20. Both accused were arraigned on January 22. It was not until January 31, or just three (3) days before the scheduled first day of trial, that Felicísimo de Jesus formally prayed for a reinvestigation. Insofar as Enrique Paras was concerned there is nothing in the record which would suggest that he ever raised the issue below.

It is not explained, and no reason has been given, why the accused failed to avail themselves of section 15, Rule 112[5] of the Rules of Court if they really felt that they had been denied the right to preliminary investigation. Since their respective dates of detention by the NBI[6] up to the filing of the amended information on January 20,

1964, both accused saw fit to voluntarily remain in NBI custody. In fact, Enrique Paras even executed a separate sworn waiver wherein he expressly acknowledged having requested the NBI to have him in protective custody until after the investigation was terminated.

Enrique Paras asks that his extrajudicial statement be ruled out as evidence on the ground that he signed it after he was subjected to an intensive grilling for thirteen hours, and that as recorded his declaration was not in the language originally given by him but in the language of the NBI investigators. Upon the record We are satisfied that Paras' extrajudicial statement was voluntarily given and that the recitals therein were his own. It contains details which only he was in a position to know, and matters which the investigators would hardly have included because they were exculpatory in character. For while admitting participation in the kidnap-slaying of Ernesto Reyes, Paras tries to picture himself as an unwilling pawn and points to co-accused Felicisimo de Jesus as the one primarily responsible. Under the circumstances We find no reason to dismiss as unworthy of credence the testimony of the NBI investigators who took down Paras' statement that he had not been intimidated or coerced, and that everything that appears in his statement is his own.

But Paras questions the admissibility of his extrajudicial statement for another reason: that he was not assisted by counsel during the custodial interrogation. He invokes the decisions of the U.S. Supreme Court in *Escobedo vs. Illinois* (378 U.S. 478) and *Miranda vs. Arizona* (384 U.S. 436). The arguments raised in this regard are not of first impression. Discussing at length the inapplicability in this jurisdiction of the cited American cases, this Court observed in the case of *People vs. Jose, et al.* (1971), 37 SCRA 450, 472-473:

"The provision of the Constitution of the Philippines in point is Article III (Bill of Rights, Section 1, - par. 17) of which provides: 'In all criminal prosecutions the accused shall x x x enjoy the right to be heard by himself and counsel x x x '[7] While the said provision is identical to that in the Constitution of the United States, in this jurisdiction the term criminal prosecutions was interpreted by this Court, in *U.S. vs. Beecham*, 23 Phil. 258 (1912), in connection with a similar provision in the Philippine Bill of Rights (Section 5 of Act of Congress of July 1, 1902) to mean proceedings before the trial court from arraignment to rendition of the judgment. Implementing the said constitutional provision, We have provided in Section 1, Rule 115 of the Rules of Court that 'In all criminal prosecutions the defendant shall be entitled x x x (b) to be present and defend in person and by attorney at every stage of the proceedings, that is, from the arraignment to the promulgation of the judgment.' The only instances where an accused is entitled to counsel before the arraignment, if he so requests, are during the second stage of the preliminary investigation (Rule 112, Section 11) and after the arrest (Rule 113, Section 18). The rule in the United States need not be unquestioningly adhered to in this jurisdiction, not only because it has no binding effect here, but also because in interpreting a provision of the Constitution the meaning attached thereto at the time of the adoption thereof should be considered. And even there the said rule is not yet quite settled, as can be deduced from the absence of unanimity in the voting by the members of the United States Supreme Court in all the (three) above-cited cases."

From the mass of evidence on record, there appears to be no doubt that the two accused did conspire to kidnap the victim Ernesto Reyes for the original purpose of extorting ransom from his parents. There is likewise their admission that the kidnap victim was killed with karate blows^[8] less than 24 hours after the kidnapping, when both accused became apprehensive that their continuous detention of the victim or his eventual release posed a danger to them. The appellants try to inject an element of doubt as to the identity of the person whose dead body was discovered on October 29, 1963, but the related facts make it fairly certain that it was the body of the kidnap victim. In any event it is not denied — indeed the appellants themselves confessed — that Ernesto Reyes was mortally felled with karate blows and his lifeless body dumped at the very place where a corpse answering his general description was later found. Under this factual environment, "it would be impossible not to believe the statement of the killer if he should subsequently deny it. What could not be believed is such denial."^[9]

The trial court convicted the accused as charged: for kidnapping for ransom with murder. By the accused's own admissions, they planned and actually carried out the kidnapping, wrote a note and sent telephone messages demanding ransom. The commission of the offense of kidnapping for ransom punishable with death under the last paragraph of article 267 of the Revised Penal Code — has been clearly established. The fact that the kidnap victim was subsequently killed, whether or not it alters the conceptual nature of the offense, assuming that the kidnapping was not the means resorted to in order to commit the killing, is immaterial insofar as the imposable penalty is concerned.

IN VIEW OF THE FOREGOING, the decision appealed from is affirmed insofar as it imposes the death penalty upon the accused and modified with respect to the civil liability of the appellants, which is hereby increased to P12,000.00, with costs.

Makalintal, C. J., Zaldivar, Fernando, Teehankee, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Ruiz.Castro, J., concurs in the result.

Barredo, J., took no part.

[1] On January 7, 1964 de Jesus appeared before the then acting Deputy Director of the NBI Arturo Xavier; on January 11 before the then vice-executive Judge of the Court of First Instance of Manila, Guillermo S. Santos; and on January 13, before the City fiscal of Quezon City.

[2] The gist of these witnesses' declarations — which they repeated during the trial — may be stated thus: that they saw Paras and de Jesus arrive about 10:00 a.m. of October 23, 1963 on board an army type jeep; that Paras and de Jesus bodily carried inside the pigpen a blindfolded and gagged man; that Adolfo Paras in particular, an uncle of Enrique, even castigated the latter when informed that the blindfolded man had been kidnaped but he did not press his argument that the victim be released since Paras got heated up and appeared ready to use a gun tucked at his waist; that Artemio Abuan and Rogelio Elipe, helpers in the Paras piggery, were warned by Enrique Paras not to go near the pigpen where the hogtied man had been dumped nor to tell anyone what they had seen under pain of harm that in the morning of October 24 the captive was already nowhere insight.

[3] People vs. Solon, 47 Phil. 443; People vs. Oliveria, 67 Phil. 427; People vs. Magpale, 70 Phil. 178; People vs. Lambino, 103 Phil. 504; People vs. Selfaison, et al., 1 SCRA 235; People vs. Marquez, 27 SCRA 808.

[4] People vs. Monton, et al. (1968), 23 SCRA 1024. In this case the accused moved to quash the information immediately upon its filing — and definitely before the case could be set for the arraignment or trial on the ground, among others, "that it was filed without due process of law for want of preliminary investigation." In sustaining the accused's motion to quash on the ground invoked, i.e., lack of preliminary investigation, this Court held: "As there has been in this case no renunciation or waiver of the right to preliminary investigation, and as, on the contrary, the whole proceeding has been punctuated with the sustained clamor for the right so withheld, the court a quo committed no mistake in granting the accused's motion to quash."

[5] Section 15 of Rule 112, Rules of Court, reads:

"SEC.-15. Investigation of persons in custody. — Where the accused is detained without a warrant for his arrest, he may ask for a preliminary investigation by a proper officer in accordance with the preceding sections, but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended. Notwithstanding such waiver the investigation must be terminated within seven (7) days from its inception.

If the case has already been filed in court and no preliminary investigation has been conducted by the fiscal because the accused has not made the waiver referred to in the preceding paragraph, the accused may, within a period of five (5) days from the time he learns of the filing of the information, ask for a reinvestigation thereof with the same right to cross-examine the witnesses against him and adduce evidence in his favor."

[6] Felicisimo de Jesus was picked up on January 6, 1964 while Enrique was placed under NBI custody on January 12, 1964.

[7] The same provision is incorporated in the new Constitution under section 19 of Article IV (Bill of Rights).

[8] Although it has not been clearly established which one of the two accused really delivered the fatal blows due to their conflicting versions in this regard — each one pointing to the other as the actual perpetrator — this point can hardly affect the accused's criminal liability in view of a clear showing of conspiracy between them.

[9] See: *People vs. Carillo, et al.*, 47 O.G. 4158.

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.