

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO JULIANO, ACCUSED-APPELLANT.

G.R. No. L-33053. January 28, 1980

Ponente: ABAD SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f6d36788c7ff/>

ABAD SANTOS, J.:

In the morning of June 11, 1970, the lifeless body of Perfecto Tayao, a tricycle driver, was found along the road going to the Catholic cemetery of Bustos, Bulacan. The cause of death according to Dr. Ismael M. de Jesus, senior medical officer of Bulacan who conducted a post-mortem on the body is as follows:

"Wound lacerated, 5" long x 1" depth, running downward and midially located at occipital region right side, with fracture of the same, and part of the brain matter coming out, Wound lacerated 1 1/2" long x 1/2" depth in occipital region left side. Wound lacerated 3" long x 1" depth running downward and midially located at forehead left side, with fracture of frontal bone, another lacerated wound 1 1/2" long x 1/2" depth on the right forehead. Wound lacerated 2" long x 1" in depth in the left infra-orbital ridge.

CAUSE OF DEATH: Shock due to multiple fracture of the head." (Exh. "A")

On July 10, 1970, an information for murder was filed against Reynaldo Juliano in the Criminal Circuit Court of Bulacan. This information reads:

"That on or about the 10th day of June 1970, in the municipality of Bustos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Reynaldo Juliano with one Antonio Soriano who is still at large, armed with pieces of wood (urang), conspiring and confederating together and helping each other, did then and there wilfully, unlawfully and feloniously, with intent to kill one Perfecto Tayao and with treachery and evident premeditation, attack, assault and strike with the pieces of wood (urang) they were then provided the said Perfecto Tayao, hitting the latter on the different parts of his head and body, thereby inflicting upon him serious physical injuries which directly caused the death of the said Perfecto Tayao.

That in the commission of this crime, the following aggravating circumstances were present, to wit: 1. nocturnity; 2. use of superior strength, and 3. evident premeditation."

The above information was filed after the Bustos police had conducted an investigation on the death of Perfecto Tayao and after Reynaldo Juliano had given a formal statement (Exh. C) which read as follows:

"SINUMPAANG SALAYSAY NI REYNALDO JULIANO Y RODRIGUEZ SA PAGSISIYASAT NI PAT. NICASIO G. SANTOS SA HARAP NI SARHENTO VIVENCIO ABSIN DITO SA LOOB NG TANGGAPAN NG PUNO NG PULISYA DITO SA BUSTOS, BULAKAN NGAYONG IKA-16 NG HUNIO 1970.

Tanong -

Handa ka bang magbigay ng malayang salaysay sa loob ng tanggapanang ito na hindi ka pinilit, tinakot at ang

sasabihin mo dito ay pawang totoo lamang?

Sagot -

Opo.

T -

Sabihin mo nga ang tunay mong pangalan at iba pang bagay na maaaring mapagkakilanlan sa iyong pagkatao?

S -

Reynaldo Juliano y Rodriguez, Pilipino, may 21 taong gulang, binata, walang palagiang hanapbuhay, nakatapos sa ika-6 na baitang ng mababang paaralan at sa kasalukuyan ay naninirahan sa Poblacion, Bustos, Bulakan.

T -

Bakit ka naririto ngayon sa loob ng tanggapang ito?

S -

Inimbitahan po ako ng mga pulis Bustos upang makunan ng tanong.

T -

Noong gabi ika-10 ng Hunio 1970, maaari bang sabihin mo kung ikaw ay nasaan at ano ang iyong ginawa noon?

S -

Noong pong gabing iyon, ang oras ay humigit kumulang sa ika-7:00 ng nagkayayaan kami nina Rodolfo Hilario alias Amang, Eduardo Hilario alias Iba at Alfredo Santos alias Edo na maginuman ng serbesa doon sa Portillo sa Baliwag, Bulakan, at ako ay naunang umalis sa kanila.

T -

Noong iwanan mo sila, saan ka nagpunta?

S -

Sumakay po ako sa isang traysikel na aking nasalubong at ako ay napahatid sa Kabaret dito sa Poblacion, Bustos, Bulakan at nang ako ay umibis na sa nasabing traysikel ay inaabutan ko iyong tsuper ng dalawang (P2.00) piso bilang upa ngunit hindi tinanggap sapagka't kulang daw.

T -

Ano naman ang iyong ginawa?

S -

Inanyayahan ko na lang po siya na uminon ng serbesa sa kantina ng kabaret.

T -

Pinagbigyan ka ba naman niya ng anyayahan mo siya?

S -

Opo.

T -

Sino sino kung mayroon ang nakainuman mo sa kantina ng kabaret?

S -

Sina Antonio Soriano alias Boy Tentay, Ric Manuel, Alfredo Santos at si Pating na isang belias sa kabaret ang siyang umiistima sa amin, at nang kami ay magtayaran na ay binayaran ko ang aming nagastos kay Normita sa asawa ni Amading na mayari ng kantina at muli kong inalok ng dalawang piso iyong tsuper, ngunit hindi tinanggap sapagka't naatraso daw siya ng malake.

T -

Sinabi mo sa gawing itaas nito na iniwanan mo sa Portillo, Baliwag, Bulakan sina Rodolfo Hilario, Eduardo Hilario at Alfredo Santos, bakit mo nakainuman sa kantina ng kabaret si Alfredo Santos?

S -

Hindi po nagtagal ay dumating si Alfredo Santos at ako ay hinihingan ng pera para ibayad sa aming nainom sa Portillo na noon ko lamang nalaman na hindi pala sila nagbayad.

T -

Matapos na hindi tanggapin noong tsuper ng traysikel na iyong sinakyan ay ano pa ang ginawa mo?

S -

Kinausap ko si Antonio Soriano alias Boy Tentay na aming dalhin sa pantiyong katoliko dito sa Poblacion, Bustos, Bulakan upong aming takutin iyong tsuper na aking sinakyan.

T -

Noong umalis na kayong tatlo sino ang nakasakay sa loob ng traysikel?

S -

Si Antonio Soriano po ang unang sumakay at sumunod po si Romy de Vera at ako naman ay doon sumakay sa likuran ng tsuper sapagka't dati na po akong basa pagkagaling ko sa Baliwag.

T -

Noong nakasakay na kayo, saan kayo nagtungo?

S -

Sinabi ko sa tsuper na kami ay uuwi na.

T -

Naihatid ba naman kayo noong tsuper?

S -

Hindi po, sa halip na kami ay umuwi ay doon kami napahatid patungong pantiyon at bago kami makarating sa pantiyon ay pinahinto ko iyong tsuper.

T -

Huminto ba naman iyong traysikel?

S -

Opo.

T -

Noong nakahinto na iyong traysikel, ano ang ginawa mo?

S -

Inutusan ko po si Antonio Soriano na kumuha ng pamalo at hindi po nagtagal ay dumating siya na may dalang dalawang pamalo at ibinigay sa akin iyong maliit liit ng bahagya.

T -

Ano ang ginawa ninyo ni Antonio Soriano?

S -

Una po akong namalo ng makaitlong beses sa mukha noong tsuper at sumunod po si Antonio Soriano na pumalo sa batok noong tsuper na hindi ko na po matandaan kung ilang beses at si Romy de Vera naman ay nagtatakpong paalis.

T

Noong mapalo na ninyo ni Antonio Soriano iyong tao na tsuper ng traysikel, ano ang nangyari sa kanya?

S

Siya po ay nabuwal sa lupa.

T -

Noong nabuwal na siya sa lupa ay ano pa ang iyong ginawa?

S -

Amin pong pinagtulangang hilahin iyong tsuper at aming iniwanan sa gitna ng bukid na patay na sa palagay ko.

T -

Ano ang ginamit ninyong pamalo?

S -

Kahoy po.

T -

Ipinakikita ko sa iyo ang dalawang putol na kahoy na ito (ipinakita ng imbistigador kay Reynaldo Juliano sa harap ni Sarhento Vivencio Absin PC) alin sa dalawang iyan ang ginamit mo?

S -

Iyan pong maliit na iyan at iyong isa naman po ang ginamit ni Antonio Soriano alias Boy Tentay.

T

Ano naman ang ginawa ninyo doon sa traysikel noong taong napatay ninyo?

S -

Itinulak din po namin sa gitna ng bukid at pagkatapos ay umuwi na kami.

T -

Anong oras humigit kumulang nang iyon ay isagawa ninyo?

S -

Siguro po ay humigit kumulang sa ika-12:00 ng hating gabi.

T -

Handa ka bang lumagda sa ibaba ng salaysay mong ito?

S -

Opo.

(SGD) REYNALDO R. JULIANO

SINUMPAAN AT NILAGDAAN sa harap ko ngayong ika16 ng Hunio 1970 dito sa Bustos, Bulacan.

(SGD) VICENTE R. RAMOS

Punong Bayan"

After trial, in a decision more noteworthy for its literary pretensions than for its substance, the court rendered the following judgment:

"RESPONSIVE TO ALL THE FOREGOING CONSIDERATIONS, this Court finds the accused guilty beyond a reasonable doubt of the crime defined and penalized in Article 248 of the Revised Penal Code and there being no generic mitigating circumstance but only aggravating circumstances, such as craft and uninhabited place which were purposely sought, in attendance, impose upon the said accused the DEATH penalty and accordingly, orders him to indemnify the heirs of Perfecto Tayao, the offended party, in the amount of TWELVE THOUSAND PESOS (P12,000.00); likewise to pay the said heirs the amount of TWENTY THOUSAND PESOS (P20,000.00), by way of moral and exemplary damages, with the other accessories of the law, and to pay the costs."

The case is now before us on automatic review.

With regard to Exhibit C, Patrolman Nicasio G. Santos of Bustos, Bulacan, testified that his duty as a policeman of Bustos, Bulacan, involves police investigation work; that on June 16, 1970 he investigated Reynaldo Juliano in the Office of the Chief of Police of Bustos, Bulacan; that in the said investigation he propounded the questions and Reynaldo Juliano gave the corresponding answers; that the said statement was signed by Reynaldo Juliano and subscribed and sworn to before Mayor Vicente Ramos, of Bustos, Bulacan.

In addition to the confession of the accused, Romy de Vera testified that he was in the company of Antonio Soriano at about 7:00 o'clock in the evening of June 10, 1970, whiling away the time in the house of Alejandro Tadeo where a game of domino was being held; that after the said game, he was invited by Antonio Soriano to go to the cabaret; that at the said cabaret he was left in the dancing hall by Antonio Soriano who went to buy cigarettes at the cabaret canteen, after telling him to buy three (3) tickets; that it was then that Reynaldo Juliano invited him to drink at the canteen, where he found Antonio Soriano already at the table; that they were seven (7) in all drinking at the said table, a woman, a person whom he did not know, Antonio Soriano, Reynaldo Juliano, Alfredo Santos, Ric Manuel and himself; that upon leaving the cabaret, he saw Reynaldo Juliano and Antonio

Soriano talking at the entrance of the cabaret, although he did not hear what they were conversing about; that since it was raining very hard at the time, Antonio Soriano, who boarded the tricycle first, invited him to ride on the tricycle, which invitation, although he ultimately accepted, he first refused since, as he told Antonio Soriano, the tricycle could only accommodate two passengers; that Reynaldo Juliano seated himself at the back of the driver, since, according to him, he was already wet; that it was at about 12:00 o'clock midnight more or less of June 10, 1970 that he, Antonio Soriano and Reynaldo Juliano, on board the said tricycle, arrived at a place near the Catholic cemetery of Poblacion, Bustos, Bulacan, which is around fifty (50) meters more or less from the cabaret from where they came; that when they were already near the said cemetery, Antonio Soriano alighted from the tricycle and after a while he heard a thud and a groaning; that thereupon, he alighted from the tricycle to investigate what could have caused the sounds he heard and he saw Reynaldo Juliano hitting the said driver in the face and in the different parts of the body with a club; that he likewise saw Antonio Soriano hit the tricycle driver once; that the said driver who was seated on the driver's seat of the tricycle and who was holding the tricycle handlebar, fell down after having been clubbed with pieces of wood by Reynaldo Juliano, who was positioned in front but obliquely toward the left of the driver, and Antonio Soriano, who was somewhere at the back of the said tricycle driver; that he became frightened after witnessing the incident, so much so that he ran away, leaving the tricycle, the victim, and the assailants at the said place; that he came to know that Perfecto Tayao, the tricycle driver, was a resident of Sto. Nino, Baliwag, Bulacan; that Reynaldo Juliano used a small piece of wood (Exh. "E"), and Antonio Soriano, a big piece of wood (Exh. "E-1") in clubbing the said victim.

Sergeant Vivencio Absin of the Philippine Constabulary testified that he was detailed with the Bustos Police Department; that at around 5:15 in the morning of June 11, 1970, Eduardo Juliano, father of accused Reynaldo Juliano, and Gener Eugenio informed him at his house that there was a dead person along the road going to the Catholic cemetery; that he immediately dressed up and proceeded to the scene of the crime; that upon arrival at the said place he instructed the many onlookers to stay away from the scene of the crime in order that nothing would be touched; that he found thereat a pair of slippers (Exh. "F"), two (2) pieces of wood (Exh. "E" and "E-1"), two (2) keys, a tricycle, and a dead person; that he directed a photographer to take pictures of the scene of the crime; that he then brought the dead person, whom he noticed to have sustained wounds on the forehead, on the face, near the eyes, on the chin, and at the back of the head, and the objects he found to the municipal building; that he found a long strand of hair at the back of one of the pieces of wood but he failed to get a specimen of the hair of the victim for comparison; that upon arrival in the municipal building he requested the Sanitary Inspector to fetch the medico legal officer to examine the dead person; that once apprehended, accused Reynaldo Juliano was investigated by Pat. Nicasio Santos of the Bustos Police Department in his presence.

Eulalia Tayao, the widow of the deceased testified how she learned of the death of her husband. She also said that she has 7 children by her late husband, the ages of whom range from 3 1/2 years for the youngest to 18 years for the eldest; that their source of livelihood during the lifetime of her husband was his tricycle earnings which averaged from P3.00 to P4.00 a day; that as a result of her husband's death, she incurred expenses in the amount of P3,000.00, which sum of money she only borrowed since at the time her husband died they did not have a single centavo; that the said amount she borrowed was used in purchasing a coffin worth P800.00; for the expenses for the tomb amounting to P100.00; and for expenses for the third night celebration, prayers for 9 days, "patapos", celebration of the 40th day of the death of her husband, on which occasions she had many guests.

Testifying in his defense, Reynaldo Juliano said that the statement which he swore to inside the cell of the municipal building of Bustos, Bulacan, was signed by him on June 17 because Pat. de Vera threatened him on June 16 that he would saw the iron bar of the cell, force him to go out of the cell, and shoot him once he was outside the cell; that the threat was made on his person by Pat. de Vera in the presence of a person whom the policeman claimed to be the Chief of Police of Bustos, but during the latter part of his direct examination he

claimed that he and the police officer were the only ones present when he was thus threatened; that he was likewise boxed many times by Pat. de Vera in the abdomen until he finally lost consciousness but that nobody else, not even a detention prisoner, was present during this occasion; that he was likewise threatened on the night he was apprehended in his house by Pat. de Vera and Pat. Velasquez; that on said occasion, he was brought to a river in Tanawan, Bustos, Bulacan, which is around 150 meters from his house, where he was dumped into the river, with his hands tied at his back; that when Pat. de Vera submerged his head in the river, his stomach became distended about 3 to 4 inches because of the water he swallowed; that after coming from the river, he learned that he was being accused of the crime because upon his arrival at the municipal building, Romy de Vera pointed to him as the one who hit and struck the victim herein; that when he was being maltreated in the river, he was being made to admit that he was Perfecto Tayao's assailant, although he admitted that prior to the occasion in the municipal building when he was pointed to by Romy de Vera as the assailant of Perfecto Tayao he did not know of any specific reason why Pat. de Vera and Pat. Velasquez maltreated him in the river; that the statement was not read to him by Pat. de Vera before he signed the same since upon his request that he be allowed to read the same he was boxed by Pat. de Vera in the stomach and told to sign the said document so that he would not be hurt anymore; that he learned from Romy de Vera himself that he is the first cousin of Pat. de Vera, when he (witness) was being forced to confess to the commission of the crime charged; that he was not presented on June 16 before Municipal Mayor Vicente Ramos of Bustos, Bulacan, whom he knew personally and who appeared to have been the administering officer of the statement; that the persons who killed Perfecto Tayao were Romy de Vera and Antonio Soriano; that Romy de Vera implicated him in the commission of the crime simply because they were together when the incident in question happened; that on the night of June 10, 1970, he proceeded alone to the Riverside Cabaret where he found Antonio Soriano and Romy de Vera who invited him to drink beer with them; that he was able to consume four (4) bottles of beer so much so that he got drunk inside the dancing hall where he slept with his head rested on the table; that he did not know what time he woke up although he knew that Antonio Soriano and Romy de Vera carried him bodily and boarded him inside a tricycle, because according to his companions they were going home already; that he did not know personally the tricycle driver; that he slept inside the said tricycle and woke up when the tricycle was bumped; that while still seated inside the tricycle he saw from a distance of more than an arm's length Romy de Vera and Antonio Soriano hitting Perfecto Tayao; that he requested Romy de Vera and Antonio Soriano not to hit the said tricycle driver but they did not heed his request and because he was drunk he did not get off the tricycle; that when the tricycle driver fell, Antonio Soriano told him, "let us run away", to which he replied that he could not run because he was drunk and he felt dizzy; that Romy de Vera and Antonio Soriano then accompanied him home.

The evidence for the prosecution, particularly Exhibit C and the testimony of Romy de Vera, convince us that Reynaldo Juliano did participate in the killing of Perfecto Tayao.

Reynaldo's counsel argues, however, that Exhibit C is inadmissible as evidence because Reynaldo was not afforded the right to counsel during the interrogation. He points to the admission of Patrolman Santos that Reynaldo was not informed that he was entitled to services of a lawyer before the investigation commenced. Counsel invokes the 1973 Constitution and the doctrines laid down in *Escobedo* (378 U. S. 478 [1964]) and *Miranda* (384 U. S. 436 [1966]). But the confession was offered and admitted in evidence during the trial of the case on September 14, 1970. The brief is dated February 2, 1972 and its supplement is dated February 6, 1973, and at those dates the constitutional provision on the inadmissibility of confession obtained without aid of counsel had not yet been passed upon by this Court. However, in *Magtoto vs. Manguera, et al.*, G.R. Nos. L-37201-02, March 3, 1975, 63 SCRA 4, 12, we ruled that: "[T]his specific portion of this constitutional mandate has and should be given a prospective and not a retrospective effect. Consequently, a confession obtained from a person under investigation for the commission of an offense, who has not been informed of his right (to silence and) to

counsel, is inadmissible in evidence if the same had been obtained after the effectivity of the New Constitution on January 17, 1973. Conversely, such confession is admissible in evidence against the accused, if the same had been obtained before the effectivity of the New Constitution, even if presented after January 17, 1973, and even if he had not been informed of his right to counsel, since no law gave the accused the right to be so informed before that date." The doctrine laid down in *Manguera* has been reiterated in a number of cases such as *People vs. Beralde*, G.R. No. L-32832; June 29, 1979, and is now definitive.

Reynaldo's counsel also argues that Exhibit C was extorted by force, violence and intimidation. He asserts that since Romy de Vera was one of the killers of Perfecto Tayao, Patrolman de Vera had a reason for shifting the blame on Reynaldo, hence the extortion of the confession.

A confession is presumed voluntary until the contrary is proved. (5 *Moran*, *Comments on the Rules of Court*, p. 264; *People vs. Dorado*, 30 SCRA 53, 57, citing *U. S. vs. Zara*, 42 Phil. 308; *People vs. Cabrera*, 43 Phil. 64; *People vs. Singh*, 45 Phil. 676; *People v. Pereto*, G. R. No. L-20894, Dec. 29, 1967, 21 SCRA 1469). There is no such proof in this case. The lone negative testimony of Reynaldo has not overcome the presumption. On the contrary, the detailed nature of the confession and the identical sequence of the statement of facts and the persons involved and/or mentioned therein with that of the testimony of Romy de Vera, belies such claim. Reynaldo's detailed confession bolsters the prosecution's stand and bears the earmarks of voluntariness. (*People vs. Ventura*, G.R. No. L-32716, December 1, 1977; 80 SCRA 515). Moreover, the police officer who took down the confession and the Municipal Mayor of Bustos, Bulacan, before whom the questioned document was subscribed and sworn to are entitled to the presumption of regularity, short of any convincing evidence to the contrary. The records show that the questioned confession was in Pilipino and that appellant went over the document twice before he signed it. Also, it was shown that he was a first year student and could have easily understood its contents. As correctly observed by the trial court, Reynaldo's failure to report to higher authorities the alleged infliction of bodily harm upon him by the arresting/investigating police officers, particularly Patrolman de Vera; to present himself for treatment; to file the appropriate charge/charges against the responsible officers, including the Mayor; and to present the administering officer as rebuttal evidence negates his claim that force and intimidation was exerted upon him to make his confession. (P. 22, Decision).

The information alleges the qualifying circumstances of treachery and evident premeditation. But we agree with Reynaldo's counsel that these were not proved at the trial. As to evident premeditation, there is no direct and positive evidence that Reynaldo planned to kill Tayao. His confession states that the intention was to scare him only and there is no indication when this plan was definitely conceived. It was definitely not in Portillo, Baliwag, Bulacan, as the trial court states. Romy de Vera, the prosecution's star witness, did not know of any plan to kill Tayao nor of any conspiracy between Reynaldo and Antonio Soriano. Absent any proof as to how and when the plan to kill the victim was hatched or what time had elapsed before it was carried out, evident premeditation cannot be considered. (*People vs. Custodio*, 97 Phil. 698 [1955]). And as to treachery, there is no showing that Reynaldo and Antonio Soriano employed it when they killed Tayao. Reynaldo in Exhibit C said he hit the deceased on the face while all that Romy de Vera could say was that "After we passed the Poblacion and reaching near the place of the cemetery Antonio Soriano alighted and then I heard a thud and groaning and when I alighted from the tricycle I saw Reynaldo Julianio holding a piece of wood and was striking the driver of the tricycle with that piece of wood." (TSN, Sept. 11, 1970, p. 25.)

The crime committed was, therefore, homicide only.

The information also charges the following aggravating circumstances: nocturnity and use of superior strength. (Evident premeditation is also mentioned but this has already been alleged as a qualifying circumstance.) The trial court did not consider these aggravating circumstances as having been proved (for indeed there is nothing in the

record to support them) but found instead as present those of craft and uninhabited place albeit with no explanation whatsoever why they were so considered.

It passes understanding how Reynaldo could have used craft in committing the crime. Craft involves the use of intellectual trickery or cunning on the part of the accused. But as will be shown later Reynaldo was practically in a stupor when the crime was committed. So he could not have used craft. But the aggravating circumstance of desoblado has been proved. For the evidence shows that the site near the Catholic cemetery was purposely chosen for the purpose of "aming takutin iyong tsuper na aking sinakyan." (Exh. C.)

Reynaldo's counsel claims that he is entitled to the mitigating circumstance of intoxication. We agree. Exhibit C itself shows that Reynaldo had been drinking since the early evening of June 10, 1970. This was confirmed by Romy de Vera and Jenet Adriatico a hostess at the Riverside Cabaret. The latter testified that Reynaldo had imbibed so much alcohol that he slept by resting his head on the table. There is no evidence that Reynaldo's intoxication was habitual or related to the intention to kill.

In view of the foregoing, we find the accused-appellant Reynaldo Juliano guilty beyond reasonable doubt of the crime of homicide only attended by the aggravating circumstance of desoblado but offset by the mitigating circumstance of intoxication.

WHEREFORE, the judgment of the lower court is modified as to the principal penalty in that the accused-appellant is hereby sentenced to an indeterminate imprisonment of seven (7) years of prision mayor, as minimum, to fifteen (15) years of reclusion temporal, as maximum. The judgment appealed from is affirmed in all other respects. Costs de oficio.

SO ORDERED.

Concepcion, Jr., Santos, Fernandez, Guerrero, and De Castro, JJ., concur.

Fernando, C.J., in the result.

Barredo, J., dissents for the same reasons given by Justice Herrera in whose opinion he concurs.

Makasiar, and Antonio, JJ., concur in the partial dissent of Justice Melencio-Herrera.

Aquino, J., dissents. Votes for the affirmance of the death penalty.

Melencio-Herrera, J., dissents in a separate opinion.

Teehankee, J., took no part.

DISSENTING

MELENCIO-HERRERA, J.:

I concur in the finding of culpability of the accused, Reynaldo Juliano.

I believe, however, that treachery qualifies the crime to Murder. The clubbing of the deceased by the accused Reynaldo three times on the face, and by Antonio Soriano (at large) on the back of the head, while the deceased was still on the driver's seat of the tricycle holding the tricycle handlebar, with Reynaldo positioned in front but obliquely to the left of the victim, and Antonio at the victim's back (p. 8, Decision), is a clear indication not only of the suddenness of the concerted assault but also of the employment by the accused of means in the execution of the crime which tended directly and specially to insure its execution without risk to themselves arising from the defense which the deceased might have made (Article 14 (16), Revised Penal Code). Thus, in *People vs. Bautista* (65 SCRA 460, 469 [1975]), the Court appreciated the qualifying circumstance of treachery for the reason that the

accused in a sudden, concerted and unprovoked act, all of them being armed with improvised deadly weapons, stabbed to death the victim who was not in a position to defend himself from the unexpected assault because he was holding in both hands the bread and coffee intended for the breakfast of the assailants. So also in *People vs. Gensola* (29 SCRA 483, 491 [1969]), the qualifying circumstance of alevosia was held to have attended the commission of the crime because after the first accused suddenly struck the victim with a stone, the defenseless victim was struck by the second accused with a piece of iron on the back of the head and by the third accused with a piece of iron on the left forehead.

I also believe that craft was correctly appreciated by the trial Court. Reynaldo and Antonio pretended to be bona fide passengers of the tricycle driven by the deceased in order not to arouse his suspicion and then killed him (see *People vs. Daos, et al.*, 60 Phil. 143). To ride the tricycle as a means of transportation was farthest from their thoughts as Reynaldo and Antonio had already agreed to take the victim to the cemetery to frighten him. As Reynaldo himself confessed: "kinausap ko si Antonio Soriano alias Boy Tentay na aming dalhin sa pantiyong katoliko dito sa Poblacion, Bustos, Bulakan, upang aming takutin iyong tsuper na aking sinakyan." x x x "sinabi ko sa tsuper na kami ay uuwi na"; x x x "sa halip na kami ay umuwi ay doon kami napahatid patungong pantiyon at bago kami makarating sa pantiyon ay pinahinto ko iyong tsuper."

The crime committed is Murder qualified by treachery, attended by the aggravating circumstance of craft, which, however, is offset by the mitigating circumstance of intoxication. The penalty prescribed by Article 248 of the Revised Penal Code for the crime of Murder, therefore, is imposable in its medium period, or reclusion perpetua.

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.