

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE FERNANDO, DEFENDANT AND APPELLANT.

G.R. No. L-1138. December 17, 1947

Ponente: PERFECTO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fb1f3f5c1848/>

PERFECTO, J.:

Jose Fernando was found by the People's Court in a decision rendered October 17, 1946, guilty of the crime of treason, as denned and penalized by article 114 of the Revised Penal Code, and sentenced to reclusion perpetua, with the accessories of the law, and to pay a fine of P15,000, and the costs.

The information filed against appellant is as follows:

"That on or about the dates hereinbelow mentioned, in the different places hereinafter stated and within the jurisdiction of this Honorable Court, the above-named accused, Jose Fernando, not being a foreigner but a citizen of the Philippines owing allegiance to the United States and the Commonwealth of the Philippines, in violation of said allegiance, did then and there wilfully, unlawfully, feloniously and treasonably adhere to their enemy, the Empire of Japan, with which the United States and the Philippines were then at war, giving said Empire of Japan and the Japanese Imperial Forces in the Philippines aid and/or comfort in the following manner, to wit:

"1. That in or about the early part of 1942, in the City of Manila, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there wilfully, unlawfully and feloniously join and become an informer and/or spy of the Kempei-tai, a Japanese military police organization.

"2. That in or about the period comprised between 1942 and February 1945, in the City of Manila, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there wilfully, unlawfully and feloniously, as informer and/or spy of the Kempei-tai, report to the Kempei-tai, a number of persons as members of guerrillas, resulting in the arrest and apprehension, torture, and death of a number of those persons; and still in furtherance of his purpose of giving aid and/or comfort to the enemy, the above-named accused, did then and there unlawfully, willfully and feloniously join, lead and accompany Japanese soldiers in their raids against guerrillas, resulting in the arrest, apprehension and detention of a number of guerrillas.

"3. That in or about May 1943, in the City of Manila, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there wilfully, unlawfully and feloniously arrest, maltreat and detain Ponciano Briones, for the purpose of finding the whereabouts of Lt. Col. Pacifico Briones of the guerrillas.

"4. That in or about August 1944, in the City of Manila, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there unlawfully, wilfully and feloniously arrest, maltreat and detain Carlos Paz who was suspected of being a guerrilla.

"5. That in or about the early part of 1944, in the City of Manila, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there unlawfully, wilfully and

feloniously arrest or cause the arrest of Gregorio Hernandez; and still in pursuance of his purpose of giving aid and/or comfort to the enemy, the above-named accused, did then and there unlawfully, wilfully and feloniously investigate the said Gregorio Hernandez charging him with being a guerilla and selling firearms to the guerrillas, and threatening to take him to Fort Santiago, and tried to persuade him to become a spy for the Japanese.

"6. That in or about the early part of 1944, in the City of Manila, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there unlawfully, wilfully, and feloniously arrest or cause the arrest of Abraham Albines, and thereafter, the above-named accused investigated the said Abraham Albines, charging him with having sold firearms to guerrillas, and threatening to take him to the Japanese officer in Fort Santiago.

"7. That in or about May 1943, in Arayat, Pampanga, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there unlawfully, wilfully and feloniously lead, join, accompany and assist a group of Japanese and Filipinos which tried to arrest Consolacion Tongol, and being unable to accomplish that purpose, the above-named accused and his Japanese and Filipino companions, did then and there wilfully, unlawfully and feloniously arrest Gabriel Tongol, a brother of Consolacion Tongol, and detain him for two days and three nights in the Kempei-tai garrison.

"8. That in or about May 1943, in Arayat, Pampanga, the above-named accused, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there unlawfully, wilfully and feloniously lead, join, accompany and assist a group of Japanese soldiers and Filipinos for the purpose of obtaining the surrender of guerrillas in barrio Candating, Arayat, Pampanga, and not being able to obtain any favorable result, the above-named accused, together with his Japanese and Filipino companions, did then and there unlawfully, wilfully and feloniously attack the civilian population of Candating, Arayat, Pampanga, resulting in unnecessary hardships to, and in the wounding of, many civilians."

The lower court found that during the period comprised between 1942 and 1945, appellant was an informer and a member of the Kempei-tai, and, as such member, he had a group of ten renegade Filipinos whose mission was to make arrests of guerrilla suspects, subjecting them to investigation and torture in order to ferret out whatever information they possessed regarding the activities of the underground forces; he had Gregorio Hernandez and Abraham Albines under his custody; he arrested Ponciano Briones, father of Pacifico Briones, a ranking officer of the guerrilla forces, and subjected him to investigation and torture in order to elicit from him information as to the whereabouts of his son; and that he attempted to arrest Consolacion Tongol, but failing in his purpose, because of the intervention of the guerrillas, he took into his custody Consolacion's brother, Gabriel Tongol.

The fact that appellant has been an informer and a member of the Kempei-tai has been established, not only by the evidence presented by the prosecution, but also by the testimony of the accused himself, who, however, claims (a) that he was forced into the service by the enemy and (b) that his employment was a fact known and sanctioned by chieftains of the guerrilla outfits which governed Manila in their spheres of activities. Both defenses were rejected by the lower court.

At the hearing of this case on August 16, 1946, appellant made the admission that he is a Filipino citizen.

Eleven witnesses testified for the prosecution.

- Odon Alimañgohan, 42, residing at 1535 Felix Huertas, Manila, testified that during the Japanese occupation he came to know appellant one night in a gambling house at the corner of Oroquieta and Quiricada streets. Appellant was accompanied by three others. The people therein moved to run away, but the visitors told them not to be afraid because they were only looking for a certain person. Appellant often visited Dodong, a friend of the witness, who saw him twice carrying firearm. The witness knows that appellant was a member of the Kempeitai.

He asked the witness if he wanted to work with the Kempei-tai. The witness did not join it, "because the Japanese refused to accept me."

- Zoilo Rufino, 22, married, residing at 1255 M. Hizon, Manila, testified that he came to know appellant during the Japanese occupation because their homes are near each other, witness' house located in Sales street, and appellant's in Comandante street. In 1944, the witness was arrested by Domingo Santiago, informer of the Japanese. He was taken to the house of appellant in Comandante street. There he saw five men, including appellant, and a woman. He was detained there for about four days and was investigated and maltreated by Domingo Santiago, who was asking for the whereabouts of his brother. Appellant was staying in the house at night time. On the first night, the witness was placed under the house, but on the following days he was brought up. When he was arrested he was tied but after two days he was untied. Appellant saw the witness being tied. A few hours after his arrival in the house, a Japanese appeared who "told us that we are bad men; but when we refused to admit he told us that it is better for us to die because in that case they will not be taking the trouble of covering our bodies with newspapers." Witness' brother was also arrested. The witness was released by order of appellant who did not impose any condition. The witness was released ahead of his brother. Domingo Santiago was asking the witness P20,000 for his release. The witness told him that he cannot afford that amount because his earning is only enough for his needs. Appellant told the witness that he can be released but his brother cannot because he was an ex-convict. After his release, the witness looked for money and gave it to appellant after which his brother was released. He saw appellant in the place carrying arms. Later on, the witness heard from neighbors that his brother, Laureano Rufino, was arrested by an informer and a Japanese and killed.

- Santiago Briones, 40, married, 441 Evangelista street, Manila, testified that he had his tailoring shop at 820 Ilaya street, Tondo, and one day appellant, accompanied by one Adriano, came asking for the father of Pacifico Briones. The witness purposely denied knowing where he was, because he knew that Pacifico Briones was a guerrilla leader in the Central Luzon area. Appellant and companion showed that they bore firearms with them. Surprised, the witness admitted that Ponciano, father of Pacifico Briones, was living in the house. They went inside the house and they saw Ponciano, who is also an uncle of the witness. Appellant asked Ponciano for his son, but Ponciano answered that he did not know where his son was. They took Ponciano away. It happened in 1943 but the witness cannot remember the month.

- Ponciano Briones, 66, married, unemployed, resident of Cabiao, Nueva Ecija, testified that he had known appellant who married in Cabiao. In 1943, he was arrested by appellant at Ilaya street in his house located on a lot to reach which it was necessary to pass through the tailoring shop of Santiago Briones. Appellant was accompanied by Ruperto Adriano. They were armed with pistols. Appellant was asking for Pacifico Briones. He wanted the witness to find his son and to surrender him to them. Appellant and his companion were spies of the Japanese. His son Pacifico was a guerrilla major in 1943. The witness was brought to a building called Meisic. The next morning he was brought to the China Bank at Dasmarias street. Appellant and companion were forcing him to look for his son and to surrender him. There were many Japanese at the China Bank. He was investigated by appellant and his companion. Appellant struck him on the ribs with the butt of a revolver. In the afternoon the witness was released on condition that he was to report every morning to the Japanese Mijara at the China Bank building. He reported for about five days. Afterwards he was brought to Arayat, Pampanga. He was brought by appellant together with the Japanese, because they heard that his son was in the mountains of Arayat. He remained in the place for about a week. The Japanese told him to write to his son and go around the town to secure information about his son. From Arayat he was brought to Manila and then to Cabiao by appellant, Ruperto Adriano and Mijara. In Cabiao he remained for about eighty days. He was brought to a Japanese captain named Kimura. Kimura asked him about his son and to look for him and to surrender him. He was required to work in the garrison, to cut grass and fetch water. After eight days he was brought to Manila. He was not arrested

anymore and he returned home to the province. His son belonged to Ramsey's guerrilla unit. His son is dead. He was shot at the China Grill when he was a lieutenant-colonel and when the Americans had already arrived.

- Gabriel Tungol, 49, married, farmer, resident of Arayat, testified that he knew appellant since he took away witness' sister. It was in April, 1943. It happened at Mangakakutud, Arayat. One morning appellant and a companion "came to our house" armed with revolvers. They said that "they were taking away my sister," to surrender her "to the Japanese." His sister Consolacion in the beginning joined the guerrillas. "They were not able to take away my sister because she was sick" and "on that night the guerrillas came and took away my sister and Maria, another sister." The following morning appellant with another companion returned and took the witness to the Japanese garrison in Arayat. "The Japanese took my statement and I was detained there for two days and two nights. They were asking me of the whereabouts of my sister." He was maltreated by the Japanese and at the time appellant was present in the place. After taking his statement and two days' and two nights' detention, the witness was released. In May, he was arrested again by appellant. He was again detained for two days and two nights in the Japanese garrison. After his release, he was arrested for the third time by the Japanese, he did not see appellant anymore, and was again detained for one day and one night. He did not see appellant. He escaped, "because the Japanese tried to kill me. I went to the mountains."

- Fernando Tongol, 33 married, farmer, resident of Arayat, testified that he knew appellant when he arrested his brother Gabriel. Appellant and a companion "came to our house" and "told us they will surrender my sister Consolacion in Manila and asked me to go with them. We tried our best to please them in our house. They told us to prepare and after two hours they returned, but at that time my sister became sick because of fright, and because of that sickness of my sister they were not able to take her away. After that they departed, and I also left. That night my sister was taken away by the guerrillas. My brother was taken away the following day," by appellant and a companion. They were armed with revolvers. They brought his brother to the Japanese garrison.

- Engracio Manese, 27, married, farmer, resident of Arayat, testified that Gabriel Tongol is his brother-in-law. In May, 1943, he was living in barrio Mangakakutud, Arayat. In Manila, appellant took away Gabriel. Consolacion Tungol was taken away by the guerrillas. Gabriel was taken to the Japanese garrison. His wife Maria became afraid and hid in one of the houses, then joined Consolacion who was with the guerrillas in the mountains.

- Juanita Rosales, 24, married, laundrywoman, resident at 1729 M. Hizon, Manila, testified that she had known appellant since the Japanese occupation, Gregorio Hernandez is her husband, who was arrested by appellant. The arrest took place at 1729 M. Hizon street. It was nighttime. Her husband was brought to Comandante street, the place where the office of Jose Hernandez was located. She went to the place the following morning. She saw there Jose Fernando and his men in her house. She talked with Leoncio Fernando one of the accused men and with appellant. She asked appellant why he arrested Gregorio Hernandez and appellant answered "because he was a guerrillero. Jose Fernando told me then that if I do care to live with him he would release Gregorio Hernandez but if not, he will bring Gregorio Hernandez to Fort Santiago. Then, we continued talking. After that, I talked also to Gregorio Hernandez and I told him what Jose Fernando told me and my husband said to me, 'Well, it is up to you, because if that is the only way for my salvation, then you use your discretion.' Then, I told Jose Fernando 'I will live with you on condition that you release Gregorio Hernandez' and he really released Gregorio Hernandez." Gregorio Hernandez was brought to the House of Jose Fernando at Dapitan street. He was released in the afternoon following the day of his release. From that time, the witness came to live at Comandante street with Jose Fernando. "I do not remember for how many months I lived there. I lived with him as his wife in order to secure the release of Gregorio Hernandez. I have seen the men he arrested. I cannot remember how many men were brought there, but I know that almost everyday there were persons who were brought and maltreated there." Jose Fernando and his men were maltreating them by using a piece of iron. The witness saw Japanese in the

house. The Japanese were Mijara and Quijacho. They used to go to the place once in a while. About two times a week. It was said that Mijara was an interpreter and Quijacho was the chief of the accused. Everytime they went to the place they used to talk with the accused, who was given rice and money by the Japanese. The witness was brought to Zurbaran street and also to Canton Hotel. In Zurbaran she lived with Jose Fernando under the house of Mijara. They left that street, "because according to them, as they arrested many persons, they were afraid that the guerrilleros may go to that place." She stayed under the house of Mijara "quite long." While there, she saw persons arrested by Jose Fernando. They were maltreated. There were few brought to Zurbaran street but many at Canton Hotel, located at the corner of Rizal Avenue and Azcarraga streets. When she was living with Fernando at the Canton Hotel, almost everyday, she saw persons being arrested and maltreated. "It is very seldom that a day had passed by without a person arrested . . . There were many persons living there also. According to them, those arrested persons were guerrilleros. They maltreated them and tied them up. Then they were given to the Japanese." The Japanese just went there. There were three men under Jose Fernando. Among the arrested persons the witness remembered one by the name of Berting. After leaving the Canton Hotel, she went to Jaen , Nueva Ecija with Jose Fernando. "I deserted him without knowing or rather without his knowledge and I went back to my house." Gregorio Hernandez is in Bulacan. When appellant arrested Gregorio Hernandez, he was accompanied by Leoncio Fernando, Carlos Domingo and Johnny. The witness became acquainted with Jose Fernando only at Comandante street before he arrested her husband. It was two weeks before. Since then, "he has been making some propositions to me." She was then working at Comandante street, "because I had a small bar there." The accused was visiting her there. Her husband was arrested because he was suspected as a guerrillero although he was not.

- Fidel Ferreras, 25, married, laborer, resident at 1226 Lealtad, Manila, testified that he has known Jose Fernando for a long time, since they were in the Buencamino Hacienda. The witness was arrested by Vicente Reyes at Tutuban station because of being a USAFFE arid was delivered at Meisic station to Jose Fernando. He does not remember the date. "Upon my arrival there, Jose Fernando and the Japanese called Simura, conferred with each other, and after their conference, Jose Fernando began to punish me. "I was hanged" by the Japanese, "for more than one hour. While I was suspended and tied in the wire with my face downward, the Japanese was hitting my legs and other parts of my body and this Jose Fernando was talking with that Japanese." The witness showed a scar of about two inches long and one-fourth inch wide located at the right clavicle, for a wound he suffered from the beatings. Jose Fernando did not take part in the maltreatment. "He just asked the Japanese to maltreat me." The witness saw Ponciano Briones, father of Pacifico, when they went to Cabanatuan because they were loaded together in the same train. They were six in all, including Vicente Reyes, a Japanese, and Jose Fernando. They were brought to the house of Captain Kimura. The witness was asked questions there. He remained in Cabanatuan for more than a month in the house of Captain Kimura. "We were free to go anywhere in that house. From Cabanatuan we were brought to Arayat" by Jose Fernando and the Japanese Kimura. The witness does not remember when he was released. "I was released from the Japanese garrison in Arayat." When he was being investigated at Meisic by the Japanese, Jose Fernando acted as an interpreter. Jose Fernando told the witness to confess if he was really an ex-USAFFE. Jose Fernando was armed with a rifle but he wore no uniform.

- Gregorio Hernandez, 29, single, telephone operator, residing at 1729 M. Hizon, testified that he was arrested by the accused in 1943. He had forgotten the month and date. It must be about October. He was arrested in his house at M. Hizon street . "At night, when I was lying in my bed, at about 10 o'clock, I heard that somebody was knocking our door, and when I went to see who was knocking the door, I saw three men. Only I know the names of the two but not their surnames—Johnny and Frank, and the other one is Dominador Rodriguez. They forced me to go down from my house. I was not even able to put my suit. I was in my sleeping outfit." "He was brought to the corner of Oroquieta and San Lazaro. I found there the herein accused Jose Fernando. Frank, referring to Jose

Fernando, faced the witness and told him 'Here is your man'." His hands were tied by Frank upon order of Jose Fernando. He was there for about thirty minutes. Abraham Albines and Carlos Francisco arrived arrested. "We were brought to Rizal Avenue and to Comandante street," guarded by five persons including Jose Fernando. Fernando "took us to the house one by one and asked about our activities as guerrilleros." Fernando was armed with a .45. The witness was asked about names and activities of guerrilleros. He answered that he did not know anything about the guerrilla organization. He remained in Comandante street the whole night. Fernando ordered his men to tie the hands of the witness who was brought to Dapitan. There was no misunderstanding between the witness and Jose Fernando before 1943.

- Abraham Albines, 28, single, government employee, 1729 M. Hizon, testified that he came to know Jose Fernando after his arrest in the early part of October, 1943. The witness was in a gambling den at the corner of Quiricada and Oroquieta streets when four men raided the place. They asked for Gregorio Hernandez, Carlos Francisco and the witness. Gregorio Hernandez was not there, because he went out. Carlos Francisco and the witness were taken and brought to the corner of Oroquieta and San Lazaro. Among the four persons who raided the place was Jose Fernando. When they arrived at the place they saw Gregorio Hernandez already tied with three men. Then they were taken to Comandante street passing through Rizal Avenue. At Comandante street, they were investigated by Jose Fernando. Fernando asked the witness about his guerrilla activities and whether he wanted to join the Kempei-tai. The witness did not accept the offer. In 1944 the witness was occupied in helping in the laundry at Bambang street. The witness was not a guerrillero. Appellant asked him questions but did not maltreat him.

Nine witnesses testified for the defense.

- Arsenio S. Muñoz, 53, single, Captain, residing at 551 España, knew the accused since before the war. He was the contractor of the River Control between Cabiao and Candaba during the war. He met him as a guerrilla lieutenant, and they often met each other because the witness was also a guerrilla. They used to meet at Cabiao and Arayat. The accused was second in command to Captain Basco in the early part of 1942. The witness does not know whether appellant remained as a guerrillero until the liberation. In 1943, the witness met the accused in Manila at the Central Hotel with other Filipinos and the witness "heard that he was working with the Japanese. Mr. Jose Fernando knew that I passed to Briones organization and he knew also that I am a guerrilla member and also I knew that he was working with the Japanese and he came to me and he induced me to surrender to the Japanese, but I did not approve his proposition, and then I told him: 'I think Joe, I cannot surrender.' Then he replied: 'Well, it is up to you, if you want to surrender or not. Then, one day, while I was taking my lunch in the Plaza Hotel, one Mr. Rufino Buenaventura approached me and he told me that I should go to the Military Administration Office between 12 and 1 o'clock in the afternoon, and I went there and I was brought before a Japanese interpreter and I was investigated about my activities as a guerrilla member and I admitted that I was a guerrillero, and at about 3 o'clock that same afternoon, Mr. Jose Fernando and his companions arrived and Mr. Fernando approached me and he told me that I should not be afraid, because he was willing to help me, and at about 6 o'clock in the afternoon I was released. After my release, I was told that I should go to Nueva Ecija with one Leonor but I told him: 'I cannot go.' My regiment was the one who arrested Jose Fernando and turned him over to the CIC."

- Roberto Simbol, 32, married, ex-serviceman, residing at 1511 Ipil, Sta. Cruz, Manila, testified that in 1942 he was in a guerrilla organization in Arayat with Jose Fernando, who was first lieutenant with the late Lt. Col. Pacifico Briones. Fernando was appointed organizer of the Barrio Defense Corps. In January, 1943, there was a split between the Huks and USAFFE men and by that time Jose Fernando and Pacifico were captured by the Huks but were able to escape. The witness came to Manila when he was sick of malaria and after his recovery in the

San Lazaro was captured by a Japanese of the Kempei-tai. Jose Fernando heard about his capture and worked for his release, and once he was released he went back to his outfit "and since then I knew that Jose Fernando was a Japanese agent."

- Estanislao Ordoñez, 54, married, businessman, residing at 1482 Quezon Blvd., testified that he knew the accused in Cabiao in 1935 or 1937. He met him in Manila. The accused told him that he was working with the Japanese, but he was also working for certain Filipinos. According to him, he was working as an agent of Fort Santiago. He also told me that he stayed there to keep the Filipinos who happened to be there. In 1945, when Texas men came to the house of Jose Ramos, witness' friend, to confiscate rice, they were given money to avoid the confiscation, the witness requested the intervention of the accused, who was able to have the money returned to the owner. The Texas men were agents of Fort Santiago. The incident happened in 1944.

- Exequiel Lacanlale, 41, married, detained in Muntinglupa, testified that he knows Gabriel Tongol. In May 1944, the witness was in Arayat with the Japanese as a prisoner. Mayor Ramirez of Arayat reported Gabriel Tongol to the Japanese that he had a gun and he was a member of the Huks. Gabriel Tongol was arrested by the Japanese and the witness saw him maltreated. Tongol admitted that he had a gun. Later he told the witness that he had to admit because he could no longer suffer the maltreatment. The Japanese compelled Gabriel Tongol to produce the gun and as a guaranty his wife and children were taken as hostages. He was told that if he could not produce the gun his house will also be burned. The accused had no connection whatsoever with the arrest of Gabriel Tongol. The witness is in Muntinglupa, "because I was suspected being a Japanese spy." In 1943 he was staying in Macabebe, Pampanga and in the middle of the same year he was in Arayat. He worked with the Japanese from 1943 to 1944, "because I was captured by them on December 6, 1942." He was accompanying the Japanese in their raids, "there was no alternative except to go with them." When Gabriel Tongol was captured by the Japanese the witness was present. Consolacion Tongol was not there, but his wife was present. There were about twenty Japanese in the group.

- Joaquin S. Galang, 26, married, merchant, residing at 1463 Dapitan, testified that about the middle of 1944, the accused was introduced to the witness as a good young man who was acting as agent of Fort Santiago and able to serve friends, by Mr. Tecson, a former companion of the witness at the Liceo de Manila. The accused was also introduced as a guerrillero. The witness stated that in case something might happen he would request the help of the accused, who committed himself to give help and added that he was a grandson of Felipe Buencamino and that he was from Cabiao, Nueva Ecija. One morning in October or November, the accused went to the witness' house to ask him if he was acquainted with Marcos Villa, who was a colonel under General Luna, stating that there was a warrant of arrest from Fort Santiago against him because the Japanese said that guerrilleros went to his house, adding that he did not want that the old man be arrested, suggesting to the witness to see to it that the old man should go to the provinces. The witness, being a friend of Marcos Villa, induced the latter to go to Isabela and even lent him P70 for transportation. The witness also testified about the request of the accused to save Alejo Galang who was about to be arrested that night by the Japanese for helping guerrilleros.

- Antolin S. Rosales, 34, single, mining engineer, residing at Visiones, Sampaloc, Manila, testified that in September, 1942, he met the accused in the house of Governor Robles. A week after the witness raided the Cabanatuan jail, because there were guerrilleros imprisoned therein. The witness was the captain of a guerrilla organization. The raid was successful. In 1943, while the witness was a prisoner in Fort Santiago, a Japanese asked the accused if he knows the witness. The accused answered that the witness was a good element. After a month, the witness was released. One day, the witness met the accused in the Escolta, where the accused informed him that he was an agent of the Japanese. During their long talk, the witness came to trust him and to give him information about his guerrilla organization and other underground work. But in July, 1944, the witness was

arrested. In January, 1945, the witness entered Manila, under Captain Maloles. In 1945, the witness was arrested by the CIC as a collaborator. The witness is released on bail. He is one of those accused of the crime of treason.

- Mario M. Bundalian, 41, married, district engineer, Bureau of Public Works, San Fernando, Pampanga, testified that he knew the accused in 1941 as one of the contractors of the government. He met him sometime in 1943 in Manila and the accused reported about his guerrilla activities in Cabiao, Nueva Ecija, being in the USAFFE unit, and they discussed about their work, but the conference did not last long. In 1943, the witness was a guerrilla officer assigned in Manila.

- Jose Fernando, 33, married, testified that at the outbreak of the war he was working in the Hacienda Buencamino at Cabiao. He was a contractor in a government construction job. On December 10, 1941, he helped the Red Cross at Cabanatuan. On June 2, 1942, he went to the Ramsey guerrilla unit. Since the beginning he was not satisfied with the Japanese occupation, so "I conferred with my townmates to form a body to combat the Japanese administration. We contributed money and we collected arms, and we organized a guerrilla unit." The witness was a first sergeant in June and in the following month he became first lieutenant of the Fourth Squadron. "I was assigned to the area comprising the provinces of Nueva Ecija, Pampanga and Tarlac, up to April 5, 1943. There was a split in the ranks in our guerrilla organization between USAFFEs and Hukbalahaps, and there were encounters between those two factions. My Commander, Dominador Basco, and myself were captured by the Hukbalahaps, and then the group of Hukbalahaps that captured us was raided by the Japanese, and I, together with Dominador Basco, were able to escape; and after escaping I reported to my former squadron. On my return to my former squadron, I stayed there for two days with them and I, Col. Briones and my commanding officer, Dominador Basco, agreed that we should place our respective families in a safer place, so I brought my family here in Manila." He brought his family to Manila on the seventh or eighth of April, 1943. "While I was looking for a place for my family I was apprehended by the Military Police together with Vicente Reyes and Ruperto Adriano. These two persons were formerly attached to our squadron, but at that time they were already with the MPs. I was tied, and I was brought to Fort Santiago. I was maltreated, investigated; they starved me there, and they gave me the water cure treatment. After that they tied me; then they made me rest in a certain room and I was approached by Vicente Reyes. Vicente Reyes asked me to tell them that I am really a Lieutenant Colonel in Central Luzon, because, according to him, he reported that I am the Lieutenant Colonel, because he was under obligation to point out the highest officer of the guerrillas in the Central Luzon area to the Military Police. I told him that it is against my conscience, but he told me that there is no other remedy, because otherwise he and myself will die. After that, I was called again by the MPs and I was investigated and I saw that Vicente Reyes had really presented evidence against me and I saw the evidence were clear, and so I admitted that I am the highest ranking officer of the guerrillas in the Central Luzon. The Japanese officer told me that if really my intention was to help my countrymen, then I should accept a position with them in the pacification of my countrymen. At first they offered me the position of Japanese informer. I refused this position, and what I suggested was employment in the office, in their management of the peace campaign. The Japanese did not accept my offer to work in their office, and instead they made me the head of ten Filipino agents in the Kempei-tai and they told me that if I would not accept this position, the Japanese would kill me and will behead all the members of my family. I accepted the position that they gave me and after that I reported to my squadron and other guerrilla men and I related to them what happened to me. The emissary whom I sent to different guerrilla units to relate my plight, named Leonor Francisco, came back to me and he told me that those people told him to tell me to continue also to help the guerrillas. I selected real guerrilla men, mostly ex-USAFFES and other people entrusted the communication that I sent to those different guerrilla units." The witness had connections with Squadron 29, USAFFE, that is Ramsey, at that time in Cabanatuan; with Lt. Teofilo Francisco stationed at Meycauayan, Bulacan; with Roberto Simbol stationed at Bataan; with Col. Pacifico Briones stationed at Pinatubo Mountains; he was sending communications

to the unit under Dominador Basco; with Squadron 101 under Commander Dominador Tombo. There were also several small units of guerrillas with whom the accused had had connections, among those were the unit at Dapitan, under Col. Marking, the unit at the corner of Oroquieta and Zurbaran, under Wenceslao Lamsen, and that under Capt. Leon Pichay, in Manila. "Upon my employment in the Japanese Military Police, the first step that I did was to select seven trusted genuine guerrillas, and to these seven men I entrusted the communications that I sent to the underground and to several guerrilla units. Then, among the ten men given to me by the Japanese of whom I was the head, I dismissed seven of them, and I retained in my office three ganaps. I cannot dismiss all of them, because this will arouse the suspicion of the Japanese, so I have to retain three in my office. Whenever there was a raid proposed by the Japanese to be made, the first step that I did was to warn the people there to transfer to another place, and after that, I report back to our office and reported to the Japanese that there was no guerrilla in said place; however, if they are not satisfied with the report and they wanted to raid the said place, they can do it, because I am satisfied that they could not find any person there, because I warned them beforehand. Take, for example, the unit under Commander Dominador Tombo. At the beginning of the year 1943, Capt. Tombo and myself were already wanted by the Japanese in the province, so we went here in Manila. This Capt. Tombo, every time he came to Manila, the first thing that he did was to report to me, telling me that they are here, and they came here with ten or fifteen men, and asked my advise or what advise I can give him. Then I told them to go to a certain place, giving him the number of my telephone, so that in case of danger they might call me; and as a matter of fact, up to the middle of the year 1944, when Capt. Tombo returned to the province, nothing happened to them, and even I gave them my revolver and ammunitions. Another case is about the headquarters commanded by Capt. Wenceslao Lamsen, in the City of Manila, corner of Zurbaran and Oroquieta. This headquarters was being closely watched by the Japanese Military Police, because there were really trusted men employed by the Japanese Military Police as their informers or agents, and I came to know that this place was closely watched by the Military Police. Inasmuch as one of my activities was to protect the guerrillas, I contacted Capt. Lamsen and I told him that his headquarters was being watched by the Japanese, and I told him that the best way to do, inasmuch as the building that he used as headquarters was composed of two stories, was that I will occupy the second story, so that I can camouflage the activities of the guerrillas, and in case the building will be raided, the Japanese will find out that I am using the first floor as my office. So, when the Japanese came to raid the place, I was confident that they could not find any guerrilla men in said building. When Capt. Lamsen approached me and asked me to do whatever I can, so that he will not be employed by the Japanese, because, according to him, he will not be able to manage his guerrilla unit. I did what I could to prevent the Japanese from employing him, and I succeeded in this. Then, another fact happened to Capt. Wenceslao Lamsen, when one night in November, 1944, at about 8 o'clock, the Military Police of the Airport Studio raided the place of Capt. Lamsen. I was the one who happened to be there, and when the Japanese Military Police found me, they asked me why I was there, and I said that I was occupying the place as temporary office; then the Japanese searched the place and found nothing, and they left."

The witness testified also that one Manuel Gallego was wanted by the Military Police. He warned him and so Manuel Gallego was not arrested by the Japanese. Gallego was the representative from the Second District of Nueva Ecija. The witness used to help civilians coming from the provinces and arriving at Tutuban so as to prevent their rice from being confiscated by the Military Police. He also used to help peaceful guerrillas when they were being maltreated by the Japanese. Jose Hernandez, a lieutenant in the Ramsey Unit at Meycauayan "was arrested by the Japanese but my runner came immediately and reported to me that Jose Hernandez was arrested by the Japanese so I went at once to a superior officer to tell him that the person arrested is one of my men who is helping me in my peace campaign. I was able to convince the superior officer, and Jose Hernandez was released. The same is true with respect to Vicente Nuñez, of Squadron No. 4, when he was arrested by Vicente Reyes and Buenaventura—I interceded in their behalf, and through my intercession, they were released."

"While I was under detention in the month of May, Ponciano Briones was arrested by Vicente Reyes and one Ruperto Adriano, and I came to know this fact, because Vicente Reyes and Ruperto Adriano told me that they had arrested Ponciano Briones. After he was investigated he was released." The witness had nothing to do with the detention and maltreatment of Ponciano Briones. In December, 1944, Jose Nogoy, nephew of Ponciano Briones, brought from Cabiao a machinery which was confiscated by agents of the Japanese Military Administration. Ponciano Briones approached the accused requesting him to recover back the machinery or its costs, which was P4,000. The witness was able to recover only P3,000 and for his failure to recover the remaining P1,000, Ponciano Briones harbored resentment against him. Last September 1944, I, together with my men, arrested Gregorio Hernandez in his house because there was a complaint against him that he, together with other Texasmen extorted five thousand pesos from Pablo Pastaño and Estanislao Ordoñez. After arresting him, I brought him to my office, and while I was investigating him he told me that he left the five thousand pesos to his companions. Then I gave him some warning, and then I sent him home after taking the five thousand pesos from him. Since the month of June, 1944, I met Juanita Rosales, in one of the houses of prostitution and Juanita Rosales was one of the inmates of that house and I came to know her and came to have understanding with her: we agreed to live with each other. Her name was not Juanita Rosales—she was Juanita Ibañez, according to her certificate. We lived with each other for ten months, since June 1944. While we were in Jaen, Nueva Ecija, about the end of March, 1945, Juanita Rosales told me that Gregorio Hernandez had been her sweetheart before the war. Before April 27, 1945, I discovered that Juanita Rosales returned back to her old business in Jaen, Nueva Ecija, and I scolded her and I told her to leave. She returned here to Manila and I even gave her P20 for her transportation expenses. I met her at the headquarters of the guerrillas at Meycauayan on April 27, 1945. Nothing happened to us. When she came to the headquarters of the guerrillas at Meycauayan she reported to the guerrillas that I was an agent of the Japanese Military Police." The accused had Abraham Albines arrested because he "was in company with Gregorio Hernandez in their thieveries." Because Consolacion Tongol was sick, "she asked Lt. Leonor Francisco to fetch me. Upon my arrival at the house of Consolacion Tongol I asked her why she sent for me. She told me that she was sick and she wants to be hospitalized in the city. Then I told her to be prepared and I will conduct her to the hospital in the city. She told me that her money and clothes were placed at different places, and the best time for her to start was on the following day. I took my lunch in her house, and after lunch, she told me that she will get her clothes in the laundry; but after 30 minutes, a group of Japanese, accompanied by the Municipal Mayor of the town came to raid the house, and I was one among those arrested in the house. When I asked the Japanese why he was arresting me, he told me that I was denounced as a bad man. Then I showed to them my identification card, and the Japanese then found that I was not a bad man. I was conducted to the office of the Military Police in the town and there in the office I saw Consolacion Tongol. We slept in the town of Arayat that night, and that night I learned that Consolacion Tongol was kidnapped by guerrillas, and on the following morning I returned to Manila. Consolacion Tongol was the nurse of our guerrilla unit." The witness does not know anything about Gabriel Tongol. The second time the accused went to Arayat was because he was sent for by the barrio people of Candating and by the head of the guerrilla unit. They asked him to intercede with the Japanese authorities who have committed many abuses against the population. "Upon my arrival I remonstrated with the Japanese military authorities and I transmitted to them the plight of inhabitants of the barrio. On my arrival there in the barrio of Candating, the town mayor gathered the people of the barrio, and about 300 people gathered there, and the mayor separated those who were not guerrillas and he denounced the guerrillas to the Japanese. I interceded for them and explained to the Japanese that those people were not guerrillas, they were simply farmers, and I explained to the mayor that with that system there will be no real peace in the town. I quarreled with the mayor, because the mayor was insisting that those men who were segregated were guerrillas, and as a result of which I quarreled with him. To save those people, I selected one person by the name of Mabini, and I gave him instructions as to what he should do, that somebody should be sacrificed, that he should suffer,

because that would be their only salvation. He followed my instructions, and they were saved. I took hold of this person named Mabini, and I investigated him in the presence of the Japanese, and I even slapped both of his face, and this man insisted that he is not a guerrilla, that he is a peaceful farmer. Then the Japanese approached us, and they asked what the person was trying to explain, and I told the Japanese that he was saying that he was not a guerrilla, that he was a peaceful farmer, but that we could not understand each other. Then the Japanese interpreter explained to me. I exerted all my efforts to convince the Japanese that I was really investigating, and because of that they were saved." After his mission in Candating, he returned to Manila, "Upon my return here in Manila, I closely watched the activities of the Japanese Military Police, and I stole the plan and sketches of the places here in Manila and suburbs to be zonified by the Japanese; and one time I was able to steal from the car of Colonel Takano, here in Escolta, the plans and sketches of the different places here in Manila and suburbs that were to be zonified; and as a matter of fact, the loss of those maps created a furor here in the city among the Japanese, and they have offered a reward of ten million pesos for the recovery of said sketches and maps. They were not recovered, because I sent said maps and sketches to the guerrilla officer, Capt. Antolin Rosales; and as a matter of fact what happened then was that even the detectives at the City Hall were arrested here in Manila, and some of them were brought to my office and were investigated. Then I helped in the arrest and investigation of the "texas" here in Sampaloc and Quiapo. When the American liberating forces arrived here in the city, February 3, 1945, I went with Capt. Wenceslao Lamsen, and I indicated to him the places of danger that may endanger the lives of Americans and guerrillas; and after that I proceeded to Jaen, Nueva Ecija."

After the witness joined the Japanese Kempei-tai and he was made the head of a group of ten men, he separated seven among them, but he could name only one Johnny, one Tony, one Pedro, and one Ruperto. He forgot their surnames. In 1942, he left Nueva Ecija because of the fact that he sensed that he was being pursued and wanted by guerrillas and the Japanese and by the peace officers of Cabanatuan or Cabiao. After he was made head of a group of Filipino agents, the accused enjoyed absolute freedom and he could escape. The Japanese "had not trusted me, so they were always suspicious of me. I had access to their offices, because at times they called us or investigated us."

- Dominador Panis, 28, married, sportsman, residing at 772 Tayabas, Manila, testified that he has known Jose Fernando before the war. Fernando knew pretty well that the witness was active in the resistance movement. They dined together many times, and the accused told him several times of raiding certain places. In November, 1944, the witness was arrested by the Japanese and brought to the Airport Studio where he was detained for 27 days. Through the intercession of Jose Fernando he was released. At the garrison, he was tortured and several scars of his face show the effects of his torture. I saw the accused once inside the Airport Studio.

After carefully weighing the above testimonies, we are convinced that the prosecution has been able to prove beyond all reasonable doubt that appellant, being a Filipino citizen, had adhered to the cause of the Imperial Government of Japan, by giving aid and comfort to their military forces stationed in the Philippines during the enemy occupation, having served as informer and active member of the Kempei-tai, the Japanese military police organization, having arrested Ponciano Briones, Gregorio Hernandez, Abraham Albines and Gabriel Tongol as guerrilla suspects or having immediate connection with guerrilla suspects, in an attempt to suppress the Underground resistance movement. In proving the overt acts imputed to appellant, the two-witness rule provided by article 114 of the Revised Penal Code has been fully satisfied.

Appellant's claim that he was forced into the service of the Kempei-tai by the enemy appears to be without merit. The circumstances under which he alleges having been forced by the Japanese to serve them seem to belie his allegation. It is incredible that, while appellant was undergoing detention and maltreatment for his alleged connection with the resistance movement, the Japanese should, without much ceremony, upon appellant's show of

willingness to abide by their order to serve them, release him, provide him with firearms, and put under his charge a group of Filipino informers in the service of the Kempei-tai. To place appellant in such a responsible position, full of opportunity and means either of helping the Japanese or sabotaging their military efforts, appellant must beforehand have shown them strong evidence of adherence and loyalty for the Japanese to trust him.

If appellant's claim of unwillingness was true and he was helping the underground resistance movement at heart, he offered no explanation for his failure to take advantage of the freedom granted him during the long months of service in the Kempei-tai by fleeing from the enemy to join the guerrilla forces or by sabotaging the military efforts of the Japanese. His uncorroborated claim of having stolen zoning maps appears to be too flimsy to be believed, not only because appellant has not shown any military usefulness in said theft, but also because the Japanese needed no maps for their zonings which they practiced in a haphazard and indiscriminate way. That appellant, instead of fleeing from, or sabotaging the efforts of, the enemy, should have made arrests and investigations to actually help the Japanese in their campaign, for the suppression of guerrilla activities, makes wholly unacceptable his claim of having entered the service of the Kempei-tai involuntarily.

Appellant's allegation that his employment in the Kempei-tai was known and approved by guerrilla leaders is a gratuitous allegation without any reliable evidence to support it. Not a single guerrilla leader or guerrilla soldier was called by appellant to support or corroborate him in his claim.

At any rate, even on the hypothesis that appellant's claim of his involuntarily induction into the Kempei-tai, and that said induction was approved by the guerrilla chieftains, have been proved, they cannot exculpate him from criminal responsibility for the arrests and investigations of guerrilla suspects and their relatives and for the punishments and tortures inflicted by him on them, as conclusively proved by the evidence on record, as with said overt acts he helped the military purposes of the enemy, with no other purpose than to show his adherence and support to the Japanese cause in the last war.

Appellant never claimed that he made the arrests and investigations and inflicted the punishments and tortures impelled by force or induced by insurmountable fear of the Japanese, which, if proved, would relieve him from criminal responsibility, nor with the knowledge and approval of guerrilla leaders, which, even if accepted, would not exculpate him and rather make said leaders answerable with appellant for the crime of treason.

The appealed decision is affirmed with costs against appellant.

Moran, C.J., Feria, Pablo, Hilado, Bengzon and Tuason, JJ., concur.

PARAS, J.:

In the result. Appellant caused the arrest of many persons who have been severely punished illegally.

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.