

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO PASCUAL AND SERGIO NICOLAS (APPEAL WITHDRAWN),
DEFENDANTS-APPELLANTS. DOMINGO PASCUAL,
DEFENDANT-APPELLANT.**

G.R. No. L-27569. October 28, 1977

Ponente: SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fc1820991913/>

SANTOS, J.:

For the death on December 29, 1964 of Odarlico Sotero, 28 years old, married, jobless, of Mayantoc, Tarlac, Domingo Pascual and Sergio Nicolas, barrio lads, then eighteen and nineteen years old respectively, and farm hands in Bo. Pitombayog, also of Mayantoc, were charged with the crime of murder before Branch I, Court of First Instance of Tarlac, the Hon. Jose T. Lantin presiding. Both accused pleaded not guilty; but after trial, they were convicted and sentenced as follows:

"(T)o suffer the penalty of reclusion perpetua with the accessory penalties prescribed by law, to indemnify jointly and severally the heirs of the deceased Odarlico Sotero in the sum of ₱6,000.00, to indemnify jointly and severally the widow of said deceased in the amount of ₱792.00 as actual expenses incurred by her as a consequence of the death of her husband, both without subsidiary imprisonment in case of insolvency, and to pay the costs." [1]

A notice of appeal [2] having been filed for both accused by their counsel, the records were erroneously transmitted to the Court of Appeals [3] which forwarded the same to this Court. [4]

On March 18, 1969, before the brief for the appellants was filed, Sergio Nicolas withdrew his appeal for the reason that he wanted "to enjoy the privileges of a sentence (d) prisoner and to be entitled to any form of executive clemency." [5] The withdrawal was granted in a Resolution dated March 27, 1969. [6] Thus, this review pertains to the appeal of the accused-appellant Domingo Pascual only.

The evidence adduced at the trial show that in the morning of December 29, 1964, Odarlico Sotero requested the two accused, Domingo Pascual and Sergio Nicolas, to accompany him to Bo. Namagbagan to buy a goat, which he intended to slaughter on New Year's eve. The two acceded to the request; and they actually proceeded to the said barrio. But instead of accomplishing their purpose, they ended up spending the day taking drinks in stores along their way. [7]

When they finally decided to go home in the afternoon, they met an Igorot selling medicinal herbs. Odarlico asked the Igorot if the latter had medicine for nervousness. The Igorot did not understand Odarlico so he, the Igorot, asked Odarlico, what he meant. Odarlico got irritated. He held the Igorot by the collar and slapped his face. He then searched the pocket of the Igorot and got the latter's money. When the Igorot meekly asked Odarlico why he took his money, Odarlico denied having taken the same and started boxing the Igorot. Several persons arrived and tried to stop Odarlico but their efforts were in vain. An old man, finally, sent a boy to call for the barrio captain. [8]

Meanwhile, Alfredo Sotero and the other barrio councilmen were about to hold a council meeting at the house of the barrio captain. When the boy arrived at the house and informed the councilmen of the incident between Odarlico and the Igorot, Alfredo and his co-councilmen repaired to the place. They saw the Igorot crying while Odarlico and his two companions, Domingo and Sergio, were sitting by the side of the road. Alfredo asked the Igorot why he was crying. The Igorot replied that Odarlico boxed him and took his money. Alfredo then confronted Odarlico; but the latter denied having taken the money. The Igorot then informed Alfredo that the money was in the pocket of Odarlico. When Alfredo was about to search the pocket of Odarlico, the latter grudgingly drew the money from his pocket and threw it to Alfredo. Alfredo asked Odarlico if he was angry. Odarlico angrily replied: "You son of. . . , you are minding things you do not even see!" and, instantaneously, slapped the face of Alfredo. This angered Alfredo; and the two took a fighting stance. At this juncture, two sons of Alfredo, with bamboo poles in hand, came to the aid of their father. They were however, pacified by the people around them. Alfredo then told the companions of Odarlico, Domingo and Sergio, to go home.[9]

The following morning news spread that Odarlico Sotero was dead. His body was found lying on the ground, face down, lifeless in an isolated spot not far from the house of Alfredo Sotero.[10] At about 10:00 o'clock that same morning, Municipal Health officer, Dr. Benjamin K. Calderon, accompanied by Sanitary Inspector Tomas Molina and Patrolmen Francisco Mariano and Andres Naval, repaired to Bo. Pitombayog where they found the dead body of Odarlico.[11] Dr. Calderon, examined the body and made an autopsy report,[12] to wit:

xxx xxx xxx

FINDINGS:

- Old Scar, Dorsal surface of the hand, left.
- Puncture Wound, skin deep, middle finger, left hand.
- Violet colored patches of the neck, breast, abdomen and lateral surface of arm and forearm.
- Lacerated wound, elbow joint, volar surface, skin deep and about 1/2 inch in length, left.
- Lacerated wound, back of ear skin deep, right.
- Lacerated wound, parietal region left side, about 1 1/2 inches in length and about 1 centimeter deep.
- Lacerated wound of the occipital region, left side about 1 1/2 inches in length with compound fractures of the occipital bone.
- Lacerated wound, of the occipital region below lesion no. 7, left side, about 1 1/2 inches in length with fracture of the occipital bone.
- Lacerated wound of the mastoid region about 3 inches in length with fracture of the mastoid bone, left side.
- Lineal scratch of the thigh medial side, left.

DIAGNOSIS:

Shock, cerebral hemorrhage secondary, due to compound fractures of the skull with brain involvement.

xxx xxx xxx

BENJAMIN K. CALDERON

Rural Health Physician

Mayantoc, Tarlac

According to Dr. Calderon's testimony, the approximate time of Odarlico's death was seventeen (17) hours prior

to his examination. He attributed the death to injuries caused by a blunt instrument.[13]

Because Domingo and Sergio were the last persons seen with Odarlico the day previous, Patrolmen Mariano and Naval apprehended the two and brought them to the municipal building that very same morning. In the course of the investigation by the police authorities, the two accused executed sworn statements admitting the commission of the crime. The material and relevant portion of Sergio's statement follows:[14]

xxx xxx xxx

"Q.

After they finished drinking, where did you go again?

A.

We went to the place of the house of old Policarpio Mariano also of Namagbagan.

Q.

When you were there, what else did you do?

A.

There was an Igorot man selling medicinal roots, Odarlico Sotero asked medicine for nervousness in tagalog but the Igorot did not understand, he boxed the Igorot and took P1 .00.

Q.

When he boxed the Igorot, what did you do also?

A.

We pacified them sir, because Ofring Sotero, Barrio councilman arrived and the councilman returned his money and sent us home.

Q.

When you went home, do you remember something unusual that happened?

A.

There was, sir, because that was the time when Odarlico Sotero told us to go and burn the rice stacks (mandald) of old Asiong Labonete. No, they are good people, we said sir, but he told us if we will not follow he will kill us.

Q.

Did you follow the purpose of Odarlico Sotero?

A.

Yes sir, because when we attempted to run, because we did not like what he told us about burning the rice stacks he prevented us and that was the time we agreed to kill him.

Q.

When you have agreed to kill Odarlico Sotero how did you do it?

A.

Domingo Pascual took a piece of bamboo {bayog) used in fencing the place for seedling and when we reached the barbed wire fence of old Ofring Sotero, Odarlico Sotero raised one of his legs to go over the fence, Domingo Pascual beat his head two times, he fell down but still breathing, then Domingo Pascual told me you also, I took the place of bamboo from him and beat the head of Odarlico Sotero two times.

Q.

What time was it when you killed Odarlico Sotero? A. Around 7:00 o'clock night time sir.

Q.

When you and your companion have finished beating Odarlico Sotero where did you and your companion go?

A.

We went home to our house sir.

Q.

Where did you put the piece of bamboo (bayog) you used in beating?

A.

Domingo Pascual threw it by the side of Bayating river.

Q.

Do you have any other companion when you planned to kill Odarlico Sotero?

A.

None sir, we are only two.

Q.

Do you admit your guilt in killing Odarlico Sotero?

A.

Yes, sir.

xxx xxx xxx

The pertinent portion of appellant Domingo's testimony follows:[15]

"A.

Odarlico Sotero boxed again an Igorot man selling medicinal roots when the Igorot could not understand him and when the Igorot could not tell the sickness of Odarlico Sotero.

Q.

After Odarlico Sotero boxed the Igorot, what else did he do?

A.

Odarlico Sotero took the money of the Igorot by force but councilman Ofring Sotero took back the money from Odarlico Sotero and returned it to the Igorot.

Q.

When the money of the Igorot was returned, where did you go again?

A.

We were going home then sir but when we were on the way Odarlico Sotero stopped when we stopped, that was the time when he told us to go and burn piles of a palay {mandala) belonging to Asiong Labonete in order that his house will also be burned.

Q.

When Odarlico told you to go and burn the piles of palay, what did you answer him?

A.

Brother, I said, I am afraid they are good people, I am ashamed to them.

Q.

What did he tell you when you answered him you did not like?

A.

If you do not like, I am going to kill you.

Q.

When he told you that he will kill you, if you will not obey him, what did you do?

A.

We agreed to run away but when he sensed our intention of running, he held us and prevented us, this time, we made an agreement because we did not like his desire of burning. When we followed him, I took a bamboo (bayog).

Q.

When you were on the way going to burn the piles of palay, what did you do?

A.

Because we can not accomplish his desire of burning piles of palay, we thought of killing him ahead so that when he lifted his first foot to go over the barbwire fence, and because I was following him, I beat him on the back of his head. On the first attack, I was able to disable Odarlico Sotero.

Q.

How many times did you beat him?

A.

Two times, sir, fell down lying on his belly but still moving.

Q.

Do you have companion in beating Odarlico Sotero?

A.

There was, sir, Sergio Nicolas, our companion.

Q.

Did you and Sergio Nicolas intended to kill Odarlico Sotero?

A.

Yes, sir.

Q.

Do you mean to imply that you and Sergio Nicolas killed Odarlico Sotero?

A.

Yes, sir.

Q.

After you have finished beating Odarlico Sotero, how did Sergio Nicolas beat him also?

A.

Because he was still moving, Sergio Nicolas took a piece of bamboo {bayog) and beat the head of Odarlico Sotero for two times.

Q.

After you and Sergio Nicolas finished beating Odarlico Sotero, what else did you do?

A.

We left him sir because we went home to our respective houses.

Q.

Do you admit your guilt in killing Odarlico Sotero? A. I admit, sir."

xxx xxx xxx

The prosecution tried to prove that the statements were executed voluntarily; the two accused vehemently denied the same and testified that their statements were extracted thru protracted investigation, intimidation and maltreatment.

On the basis of the affidavits signed by the two accused containing their alleged extrajudicial confessions — according to which the two accused killed the victim by striking Odarlico's head with a bamboo pole when he threatened to kill them because they refused to burn the mandala of Asiong Labonete — the trial court convicted both accused and sentenced them to life imprisonment as adverted to above.

In the brief filed on June 6, 1969 by appellant's counsel de oficio,[16] the acquittal of the appellant is sought on the following grounds: (1) that the extrajudicial confession is not admissible in evidence for being involuntary; and (2) that, even if the same were admissible, it is not sufficient to establish appellant's guilt beyond reasonable doubt. To this submission, the Solicitor General,[17] representing the People concurs and concludes "that the guilt of the appellant of the crime of murder of which he has been charged had not been proven beyond reasonable doubt." [18] The People's counsel argues that — (1) there is no direct evidence whatsoever linking the appellant to the death of Odarlico Sotero outside of his own admission; (2) that there exists no evidence with respect to the ill motive of both appellant and Sergio Nicolas against the deceased; (3) that it would appear on the other hand that there are other persons who might have the motive to kill Odarlico; and, finally (4) that in the case at bar, there is

no clear cut showing that appellant is guilty of the charge for which he has been convicted, considering the following:

"(1) It is undisputed that there was no previous misunderstanding between the accused and the deceased. In fact the three were together during the whole day upon invitation of the deceased to buy a goat.

"(2) It is hard to believe that simply because the two accused demurred to the suggestion of the deceased to burn the piles of palay of one Asiong Labonete would be enough to arouse the feeling of the deceased to the extent of threatening them with death.

"(3) And there is no reason why the accused (Domingo Pascual and Sergio Nicolas) would be afraid of the supposed threat of the deceased Odarlico Sotero when there is no indication that the latter was armed for certainly he was of no match to the two accused.

"(4) The accused could have easily avoided the alleged threat of the deceased by the simple expedience of waiting for the deceased to go over the barbwire fence and running away on the opposite direction.

"(5) According to the affidavit of accused Sergio Nicolas, they followed the order of Odarlico Sotero but in the affidavit of appellant, they did not follow the suggestion of Odarlico.

"(6) The finding of the bamboo pole in the place allegedly indicated by the accused is not significant, as erroneously found by the trial court, for the same could be secured by anyone who is interested in pinning authorship of the crime to the accused.

"(7) Alfredo Sotero or anyone did not in anyway whatsoever refute the testimony of the appellant and Sergio that there was an altercation between the deceased and Alfredo Sotero, and that the latter and his two sons were the last persons with the deceased before he was killed." [19]

A careful consideration of the trial court's rationale for its finding of guilt of the herein accused, viz a viz, the submissions of the counsel de oficio and the Solicitor General, who recommends appellant's acquittal, the questions raised in this appeal may be synthesized for logical treatment as follow:

- Was the extrajudicial statement of the accused, which, along with the proof of corpus delicti, is the sole basis for his conviction, executed voluntarily as the trial court held; or not, as the appellant thru counsel de oficio and the appellee, thru the Solicitor General, claim?
- Assuming that the said extrajudicial statement was executed voluntarily, is the same, coupled with the proof of corpus delicti, sufficient to establish appellant's guilt beyond reasonable doubt? and,
- What is the significance of the existence of probable motives on the part of other persons — i.e., the Igorot and Alfredo Sotero, barrio councilman — to kill Odarlico, on the guilt of innocence of the accused appellant?

Now to resolve the foregoing questions —

1. On whether the accused-appellant's extrajudicial confession is voluntary or not. The trial court concluded that the same was executed voluntarily because — (1) the affidavits contain details which could not have been supplied or invented by the police and which could have been given only by the accused themselves; (2) the same were taken by the Chief of Police of Mayantoc and subscribed and sworn to before the Municipal Judge, both public officials in whose favor the presumption of regularity in the performance of their official duties may be indulged; (3) when the written statements of the two accused were taken in the Office of the Chief of Police at the ground floor of the municipal building of Mayantoc, the windows were open and there were several persons inside and outside the same; (4) if the two accused were maltreated by the policemen in the manner and during the length of

time alleged by them, they must have suffered serious injuries and must have been totally disabled, which were not the case when they were brought before the municipal judge to subscribe and swear to their affidavits; (5) the alleged maltreatment was denied by Patrolman Naygan and Cpl. Maximino Jara of the Police Force of Mayantoc; and finally, (6) the finding of the police of the bamboo pole, Exhibit "D", mentioned in the affidavits of both accused as having been used, to kill the victim at the precise place pointed to by one of them, clearly shows that the statements were made by them and were not invented by the police.

Appellant, thru counsel de oficio, in his Brief, on the other hand, argues — (1) that the two-page statement consisting of 25 short questions and answers took three hours to complete, suggesting that there has been unrecorded questions and answers and harassment of the appellant in the hands of his investigators; (2) that the detail mentioned in the confession, namely, the bamboo pole allegedly used to kill the victim, is not of sufficient importance to render as corroborated an otherwise uncorroborated confession, for bamboo poles are very common in rural areas; (3) that the only other detail in the confession which could have come from the appellant is the existence of rice stalks belonging to Asiong Labonete, but no independent evidence was introduced to establish the existence of such rice stalks; (4) the two confessions contradict each other, because while the appellant stated that they did not burn the rice stalks (Exh. "B", Answer No. 15), Sergio Nicolas said that they burned the same (Exh. "A", Answer No. 13); (5) that the trial court found that the appellant accompanied Patrolman Victor Lardizabal to retrieve the bamboo pole allegedly used to kill the victim, but this finding of fact is belied completely by the prosecution's own evidence since Lardizabal testified that it was Sergio Nicolas whom he accompanied to the river bank to retrieve the bamboo pole; and (6) that the trial court erred in giving weight to the testimonies of prosecution witnesses.[20]

The Solicitor General in turn observes — (1) that the trial court capitalized on the supposed extrajudicial confession, which was vehemently denounced by the appellant and his co-accused as procured through force, violence and intimidation; (2) that accused's denial was timely since they did not have the opportunity to denounce their torturers while confined in the municipal jail; and, (3) that it was only after appellant was transferred to the provincial jail, after three weeks[21] of confinement in the municipal jail, that he had the opportunity to confide the matter to his brothers and sisters who then advised him to disclose the truth of his maltreatment.[22]

Since the conviction of the herein accused, is premised solely on his extrajudicial confession coupled with proof of corpus delicti, the voluntary character of said confession must be established by evidence beyond cavil of doubt. For if the voluntariness of the confession were in any manner to be subject to doubt, the confession cannot support the conviction in this case.

The rule is well settled that "the trial court's findings will be sustained unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted." [23] In the case of *People v. Villaroya*, We held that the trial court's findings must not be disturbed unless (a) the record shows that some facts or circumstances of weight or influence have been overlooked, or (b) the significance of which has been misinterpreted, or (c) some conclusion established from the facts is inconsistent with these findings, or (d) there is some inherent weakness in the evidence upon which the conclusion is based.[24]

The records reveal, however, that there are facts and circumstances which the trial court overlooked or the significance of which it failed to appreciate, which place in doubt its reliance on the sworn statement as voluntary and as sole basis for its finding of guilt beyond reasonable doubt of a very serious offense — murder.

a. The trial court concluded that the extrajudicial statement of the appellant was voluntarily executed for the

reason, among others, that the statement contained details which could not have been supplied or invented by the police and which could have been given by the accused only.[25] However, a thorough scrutiny of appellant's statement would show that the details concerning the place where and the time when the crime was committed, the manner of its commission, and the incidents attendant thereto, have been known, or could have easily been known, to the policemen who conducted the investigation. For it is a matter of record that the police authorities were well aware, before the statements were taken, where the body of the deceased was found, the manner of his death, and the approximate time when he was killed, because an investigation was conducted by them at the scene where the body of the victim was found, and the autopsy was performed in their presence.[26]

b. The trial court failed to note and/or did not attach significance to the fact that the two accused made diametrically conflicting assertions with respect to whether the hay stack of Labonete was indeed burned by them. Accused-appellant in his statement said that they did not burn the mandala; whereas, Sergio Nicolas, who withdrew his appeal, maintained that they did.[27]

c. Again the lower court failed to note that the statements in the affidavits of the two accused, with respect to the manner in which they hit Odarlico with the bamboo pole, are inconsistent with the findings of the Medical Officer as to the wounds and bruises sustained by him. While the affidavits state that each of the accused beat Odarlico two times at the head,[28] Dr. Calderon, in his Necropsy Report and in his testimony, states that the deceased suffered wounds and bruises in other parts of his body.[29]

d. Finally, the trial court found —

"Because Sergio Nicolas mentioned in his affidavit that the bamboo pole used in killing Odarlico was thrown by Domingo Pascual at the side of a river, Chief of Police Cruz ordered policemen Victor Lardizabal to accompany Domingo Pascual in going to Sitio Cabaruan in order to retrieve the said bamboo pole. That was on the morning of December 31, 1964. The duo rode in a pick-up vehicle and upon reaching Sitio Cabaruan, they proceeded to a place beside a river where, according to Pascual, he threw the bamboo pole. After searching the place, Lardizabal found that object, picked it up and then asked Pascual: 'is this the bamboo?,' and Pascual answered: 'Yes, sir.' x x x"[30]

This material corroborative detail must have induced the trial court's finding of appellant's guilt beyond reasonable doubt, since it would appear that appellant's extrajudicial confession was indeed corroborated by a very significant fact, namely, the finding of the bamboo pole, allegedly utilized in killing the victim, at the precise place allegedly pointed to by accused-appellant himself.

The truth of the matter, however, is that it was not appellant Domingo Pascual who was accompanied by Patrolman Lardizabal to the place where the bamboo pole was found, nor was Pascual the one who retrieved the bamboo pole. By testimony of Patrolman Lardizabal himself, it was Sergio Nicolas whom he accompanied to the place to retrieve the bamboo pole, thus —

xxx xxx xxx

"Q. Upon reaching that place beside the river, what did you do?

A. We searched for the piece of bamboo, sir, which he used in hitting the victim.

Q. When you said "we, " are you referring to the accused Sergio Nicolas'?

A. Yes, sir.

Q. Were you able to find the bamboo?

A. Yes, sir.

Q. How did you happen to find the bamboo pole?

A. We were able to locate the bamboo because he told me where he threw the bamboo.[31]

The foregoing facts and circumstances — i.e., (1) that the details were or could easily have been known to the police investigators; (2) the contradicting testimonies over a very significant matter, whether the mandala was burned or not; and (3) the presence of wounds and bruises in other parts of Odarlico's body — which were overlooked, or the significance of which the trial court failed to appreciate, place in serious doubt its finding that the statement is voluntary. And the trial court's mistake in its finding that it was appellant who was accompanied by Pat. Lardizabal to the place where the bamboo pole was thrown, belies an important corroborative detail, thus leaving the statement as the only basis, with proof of corpus delicti of course, for appellant's conviction for a very serious offense involving a sentence of life imprisonment.

2. Now on the sufficiency of the extrajudicial statement. On this question, the Solicitor General maintains that the extrajudicial confession on its face does not inspire belief. He contends — (1) that there was no previous misunderstanding between the accused and the deceased; in fact, the three were together the whole day upon the invitation of Odarlico to buy a goat; (2) that it is hard to believe that simply because the accused demurred to Odarlico's suggestion to burn Labonete's mandala, the same will be enough to arouse the feeling of Odarlico to the extent of threatening them with death; (3) that there is no reason why appellant and Sergio Nicolas would be afraid of Odarlico who was unarmed and was no match to the two; and (4) that the accused could have easily avoided the alleged threat of the deceased by running away.[32]

These observations are well-taken. The confession to serve as a basis for conviction must inspire credibility. It must not be improbable or excite disbelief. It must be one which the normal experience of mankind can accept as within the realm of probability. The statement — which ascribes to two youthful rural folk, a serious criminal design to kill someone against whom they entertain no ill will over a flimsy cause — refusal to burn a mandala, when they could have easily escaped or ran away — simply flies in the face of truth.

3. On the existence of probable motives on the part of other persons to kill Odarlico. The statements of both accused adverted to the quarrel between Odarlico and the Igorot and immediately thereafter between Alfredo and Odarlico, the accused both testified in great detail about these incidents[33] leading Us to believe, as contended by the Solicitor General, that these persons could have probable motives to kill Odarlico. On the other hand, it is admitted that the accused were investigated solely on account of their having been seen with Odarlico on the afternoon of the day he was killed. The records do not show that any investigation was conducted to verify whether other persons could have been responsible for the death of Odarlico, for example, the Igorot and Alfredo. And Alfredo did not rebut the testimonies of the two accused as to the incident which involved his allegedly being slapped by Odarlico and that his two sons had to come to his aid with bamboo poles.

These circumstances show how superficial indeed were the efforts on the part of the police force to ferret out the true culprit; how, as is the wont of police investigators, the death of Odarlico was investigated in perfunctory and cavalier fashion, and, as claimed by the accused, without regard to their rights against self-incrimination. That these could regrettably be case is borne by Our experience in many instances.[34] Rec examples are the celebrated cases of the Imperios, father ; son, who were investigated, then tortured, and made to conf their guilt by members of the police force simply because tl were "the last persons seen with the victim";[35] and that Isidro Buscato, Nestor Dalud and Jabib Tan who w investigated, then tortured and also made to confess then g because they ". . . were reportedly with the deceased Rode Lim the previous night . . ."[36]

The presence of other persons who could have proba motive to kill Odarlico but who were not investigated n serious doubts on the findings of the police investigators t appellant was one of the perpetrators of the killing. Thi especially so where there is no shred of evidence offered the prosecution to support appellant's guilt, except his h statement, the due and voluntary execution of which he veheme denied.

In resume, (1) the uncertainty as to the voluntariness of confession; (2) the improbability of the version as containe the extrajudicial confession; (3) the failure of the police authori to conduct a thorough and careful investigation of circumstances leading to the death of Odarlico, and the existe of motive on the part of others to kill Odarlico; and, finally, the erroneous finding of the trial court that appellant was one who showed and retrieved the bamboo pole — are facts and circumstances of weight and influence which all toget serious doubt on the guilt of herein accused-appellant of crime charged. He is. therefore, entitled to acquittal.

WHEREFORE, the judgment of conviction is hereby VERSED and the appellant. DOMINGO PASCUAL. is 'QUITTED of the Charge, with cost de oficio.

Fernando (Chairman), Barredo, Antonio, Aquino, and concepcion Jr., JJ., concur.

[1] Decision dated March 13, 1967, p. 25; Rollo, p. 116.

[2] Record, p. 189.

[3] Letter of transmittal dated April 7, 1967; Rollo, p. 2.

[4] Letter of transmittal dated April 22, 1967; Rollo; p. 1.

[5] Rollo, p. 49.

[6] Id., p. 60.

[7] T.S.N., Lucero Vda. de Sotero, hearing of August 26, 1966, p. 198; Pascual, hearing of September 21, 1966, pp. 224-233, Nicolas, hearing of November 7, 1966, pp. 349-354.

[8] T.S.N., Pascual, hearing of September 21, 1966, pp. 236-238; Nicolas, hearing of November 7, 1966, pp. 356-359.

[9] T.S.N.. Sotero. hearing of July 22, 1966, pp. 155-163; Pascual, hearings of September 21, 1966 and October 6, 1966, pp. 238-249; Nicolas, hearing of November 7. 1966, pp. 359-364.

[10] T.S.N.. Pascual, hearing of October 6, 1966, pp. 251-253; Nicolas, hearing of November 8. 1966, pp. 368-370.

[11] T.S.N., Calderon, hearing of February 14, 1966, pp. 48-50; Mariano, hearing of June 28. 1966. p. 113.

- [12] Exhibit "C". Record, p. 3.
- [13] T.S.N., Calderon, hearing of February 14, 1966, pp. 57-60.
- [14] Exhibit "A-I", official translation of Exhibit "A", affidavit of Sergio Nicolas, Record, p. 90.
- [15] Exhibit "B-I", official translation of Exhibit "B", affidavit of Domingo Pascual, Record, pp. 6-A - 6-B.
- [16] Atty. Cipriano Azada was appointed counsel de oficio for appellant in a resolution of this court dated March 27, 1969. Rollo, p. 60.
- [17] Supreme Court Associate Justice Felix V. Makasiar was then the Solicitor General. He was assisted by First Assistant Solicitor General Esmeraldo Umali and Solicitor Oscar C. Fernandez.
- [18] Appellee's Brief, p. 13; Record, p. 182.
- [19] Id., pp. 8-13.
- [20] Appellant's Brief, pp. 10-18, Record pp. 130-138.
- [21] Appellant was actually confined, in the municipal jail for three months, not "three weeks." (T.S.N.. Vol. 11, p. 337; Letter of Commitment, Record, p. 19).
- [22] Appellee's Brief, pp. 10-11, Rollo, p. 182.
- [23] Salonga, Philippine Law On Evidence, 3d ed. 1964, pp. 781-782, citing Lao v. Director of Lands, 43 O.G. 504 (1947); People v. Masin, 64 Phil. 757 (2937); People v. Cabrera, 43 Phil. 64 (1922); Salmon Dexter & Co. v. Wijangco, 46 Phil. 386 (1924); People v. Balines, G.R. No. L-9045, Sept. 28, 1956; People v. Lardizabal, G.R. No. L-8944, May 11, 1956; See also People vs. Carandang, etal, G.R. No. L-31012, August 15, 1973, 52SCRA259.
- [24] G.R. Nos. L-5781-82, August 30, 1957, 101 Phil. 1061, at p. 1068.
- [25] Decision, p. 21, Rollo, p. 112.
- [26] T.S.N., Calderon, hearing of Feb. 14, 1966, pp. 48-49; Mariano, hearing of June 28, 1966, p. 116.
- [27] Answer No. 15, Affidavit of Domingo Pascual, Exhibit "B-I", Record, p. 6-B; Answer No. 13, Affidavit of Sergio Nicolas, Exhibit "A-I", Record, p. 90.
- [28] Answer No. 16, Affidavit of Domingo Pascual, Exhibit "B-I", Record, p. 6-B; Nicolas, Exhibit "A-I", Record, p. 90.
- [29] Necropsy Report, Exh. "C", Record, p. 3; T.S.N., Calderon, hearing of Feb. 14, 1966, pp. 53-56.
- [30] Decision, p. 7; Rollo, p. 98.
- [31] T.S.N., Lardizabal, hearing of June 28, 1966, p. 138.
- [32] Appellee's Brief, p. 12. Rollo. p. 182.
- [33] T.S.N.. Pascual. hearings of September 21. 1966 and October 6. 1966. pp. 236-249; Nicolas, hearing of November 7. 1966. pp. 356-364.
- [34] See: U.S. v. Baluyut. G.R. No. 879, November 3, 1902, 24 Phil. U.S. v. Mercado, G.R. No. 2448. July 25, 1906, 6 Phil. 332; Peop Tipay, G.R. No. 49014, March 1, 1944, 74 Phil. 615; People v. Chaw Shun. G.R. No. L-19590, April 25, 1968, 23 SCRA 127; People v. Bag. G.R. No. L-26182, May 31. 1971, 39 SCRA 236; People

v. Franc G.R. No. L-40352, November 29, 1976, 74 SCRA 158.

[35] People v. Imperio, G.R. No. L-26194, March 29, 1972, 44 SCR i at page 78.

[36] People v. Buscato, et ai, G.R. No. L-40639, November 23, 197' I SCRA 30. at p. 32.

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.