

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CONSTANTINO DUEÑAS, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 15307. May 30, 1961*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-15307/>**PER CURIAM:**

Review of a judgment of the Court of First Instance of Rizal, finding appellants Constantino Dueñas, Felipe Gonzales, Juanito Tobias, Angel Flores, Sofronio Dagami, Pablo Roxas and Custodio Mainar, alias "Inchik", guilty of murder and sentencing each and every one of them to death, to indemnify jointly and severally the heirs of Carlos de los Reyes in the amount of P6,000.00, and to pay their corresponding share in the costs.

The evidence shows that on February 16, 1958, fighting occurred among the prisoners in the National Penitentiary in Muntinlupa, between a group of Manila boys, who called themselves "Sigue-sigue" gang, and a group of Visayans and Ilocanos, who in turn called themselves the "OXO" gang. The Manila boys occupied a brigade known as 3-A on the second floor of the building, while the Visayans and Ilocanos occupied Brigade 3-D. Brigades 3-A and 3-B are on the second floor, facing each other, while Brigades 3-C and 3-D are on the first floor, underneath Brigades 3-A and 3-B.

Early in the morning of February 17, a Tagalog inmate by the name of Dionisio Valdez of Brigade 3-D was asked by his companions, who were Visayans and Ilocanos, namely, Juanito Tobias, Constantino Dueñas and Custodio Mainar alias "Inchik", to go with them to Brigade 3-A to help in breaking up its door. As said Brigade 3-A was occupied by Tagalogs like Valdez, they thought it would be possible for Valdez to ask the inmates to open up the door. Valdez was afraid of his colleagues, so he went up with them. They were able to leave their brigade, because the lock to the door had been destroyed the night before. Upon reaching the door of Brigade 3-A, they found that it was securely locked and the inmates refused to open it. At about the same time, another inmate of Brigade 3-D by the name of Nataniel Labampa also went up to the door of Brigade 3-A, accompanied by Angel Flores, Custodio Mainar and Pablo Roxas. He also tried to have the door to Brigade 3-A opened, but as already indicated above, the inmates of said brigade had the door securely locked, so Labampa and his companions from Brigade 3-D were not able to get inside. But while they were standing near the door, they saw the appellant Constantino Dueñas coming out of Brigade 3-B with one Carlos de los Reyes, who was the "ranchero" or food distributor of the brigade. As they stepped out Dueñas had his arm on the back and shoulder of De los Reyes. They went in the direction of the fire escape and as they approached it, Felipe Gonzales approached Dueñas and De los Reyes, and hit the latter on the head with a piece of wood measuring about one yard long and two inches by two inches in thickness. De los Reyes immediately fell down and, thereupon, Juanito Tobias approached him and stabbed him on the chest. Thereafter, Sofronio Dagami and Pablo Roxas approached De los Reyes and let him down the fire escape, while other prisoners down below hauled him to the ground.

It was also shown that because of the fighting that occurred on February 16, the members of the "OXO" gang in Brigade 3-D gathered together on the night of the following day, and agreed to take revenge against the members of the "Sigue-sigue" gang. They broke the lock to their brigade and prepared some sharp instruments for use in the projected assault against their enemies. The one who especially incited his companions to take revenge was

appellant Custodio Mainar. The ones who helped in destroying the lock of the brigade were Juanito Tobias and Felipe Gonzales. The purpose of all their preparations was to avenge the death of their companions who had been attacked and killed the day before by members of the "Sigue-sigue" gang. As a matter of fact, they had shouted as one man, "We should revenge", to indicate their determination to avenge the wrong done, to their members.

The evidence also shows that the deceased Carlos de los Reyes was a Manila boy and pertained to the "Sigue-sigue" gang, which gang is a rival of the "OXO" gang to which the accused-appellants belong. The evidence likewise discloses that the corpse of De los Reyes was examined by a physician who found that the causes of death were: (1) strangulation; (2) stab wound, penetrating chest, right side; and (3) lacerated wounds, forehead. It was also found out that there was equimosis in the neck, caused by a piece of cloth which was tied around the neck of the deceased.

All the accused denied having participated in the acts which brought about the death of De los Reyes, imputing the act to their co-accused Jose de la Cruz, who was acquitted by the court below. Jose de la Cruz had executed an affidavit, dated February 22, 1958, to the effect that he was the one who had hit De los Reyes the "ranchero", on February 17, 1958 in Brigade 3-D. But Jose de la Cruz denied having made such statement, when the same was shown to him at the trial. He further declared that he was the guard of Brigade 3-B, and he was holding a two-feet long piece of wood while guarding said brigade and that De los Reyes stabbed him on the forearm, inflicting a wound thereon, but he did not report the said stabbing. However, his statement is immaterial as he was acquitted by the court below.

Felipe Gonzales, one of the appellants, denied having clubbed De los Reyes, as testified to by the witnesses for the prosecution, claiming that he had always been inside his brigade. Appellant Juanito Tobias also declared that he was inside the brigade in the morning of February 17 and did not see anything happen. He further asserted that the door of his brigade was closed and so he could not have gone out. He also denied being a member of the "OXO" gang. He admitted, however, that Nataniel Labampa and Dionisio Valdez are companions of his in Brigade 3-D.

Custodio Mainar, for his part, declared that at the time De los Reyes was stabbed he was sleeping in his brigade where he had just arrived and was not feeling well then, the brigade have just been raided by the "Sigue-sigue" gang. He also denied that he, Dueñas and Tobias have gone up and having seen Felipe Gonzales, Jose Tobias, Angel Flores and Constantino Dueñas in the morning in question.

Constantino Dueñas also denied the testimonies of prosecution witnesses Valdez and Labampa that he was seen in the company of De los Reyes in the morning of February 17, 1958, as he was going out of Brigade 3-B. He declared that he does not know De los Reyes, and that the person who gave them food that morning was one by the name of Jaime, and not De los Reyes. He also declared that he did not have anything to do with the commotion of February 17, 1958; that when he heard the commotion in the morning, after he took his breakfast, he met Loreto Villanueva who directed him to clean the dormitory. Loreto Villanueva testified in his favor, declaring that Dueñas was in Brigade 3-D in the morning of February 17, 1958; that when he was about to go out of the brigade, he met Constantino Dueñas and told him not to go out; that he noticed the incident near a fire escape, but did not see or know who were involved in the further incident. Testifying further for Dueñas, he declared that when the incident happened, he was inside the dormitory at the end of Brigade 3-D performing his duty as cleaner, and that when he left the brigade Dueñas was still performing his duty as cleaner. On cross-examination, he declared that he was at the end of Brigade 3-B when he heard the commotion on the early morning of February 17, and this place is about 7 meters from the door. He also testified that he had heard the commotion at the gate of Brigade 3-A, because attempts had been made to go up that brigade and at that time he was about 40 meters away from the door of Brigade 3-A.

From the position in which he was at the time of the incident, it is evident that the testimony of this witness is not sufficient to destroy the positive testimonies of the witnesses for the prosecution that Dueñas was seen going out of Brigade 3-B in the company of De los Reyes. Besides, the record shows that he saw Dueñas long before the incident in question and not during its occurrence.

A consideration of the evidence satisfies us that there was a conspiracy between the accused-appellants to take revenge against the members of the "Sigue-sigue" gang who had attacked them the previous day; that they had prepared some sharp instruments to assault their opponents and that they had in fact broken up the lock of their brigade 3-D. It was also shown that it was the accused-appellants who asked the witnesses Valdez and Labampa to go up with them to the door of Brigade 3-A, so as to use the latter, who are Manila boys, as a ruse to secure the opening of the door of Brigade 3-A.

We are also satisfied that the persons who actually assaulted and killed De los Reyes were Constantino Dueñas, who led De los Reyes out of brigade 3-B, Felipe Gonzales, who struck the deceased on the head, and Juanito Tobias, who stabbed said victim in the chest. The participation of these three accused is therefore clear and positive. As to the other accused, we entertain grave doubts as to whether or not they can be made responsible for the death of De los Reyes. All that they had agreed upon on the night of February 16, was to take revenge on the members of the "Sigue-sigue" gang who were inside Brigade 3-A. There was no agreement to kill every Manila boy that they met. As a matter of fact, Valdez and Labampa were Manila boys and were their companions in the brigade. As to Dagami and Roxas, they only helped lower victims body down the free escape, but did not take part in the attack.

As to the attack on the deceased De los Reyes, there is absolutely no evidence that the accused-appellants had previously agreed to assault him in case they would not be able to enter brigade 3-A. When the attack on De los Reyes was made, the accused Dueñas and he were in front of the door of Brigade 3-A. The act of Felipe Gonzales in approaching De los Reyes and giving him a blow on the head and that of Juanito Tobias in approaching the fallen De los Reyes and stabbing him do not appear to have been induced by their co-accused. The conspiracy was for them to attack the inmates of Brigade 3-A, not to attack De los Reyes or any Manila boys who might come in their way. Under the above circumstances, the other accused-appellants can not be made responsible for the death of De los Reyes directly effected by Constantino Dueñas, Juanito Tobias and Felipe Gonzales.

The evidence shows that Dueñas was in Bilibid Prison on the day of the attack on De los Reyes, by reason of decisions of the Court of First Instance of Davao in Cases Nos. 566, 562, 733 and 797, for robbery in an inhabited house (2 charges), evasion of service of sentence, and attempted evasion of service of sentence, his imprisonment commencing on November 19, 1948 and ending on April 20, 1965 (Exh. "B"). Accused-appellant Felipe Gonzales has the following aliases in his records, namely, Fernando Gonzales y Baral, Felipe de los Santos, Pedro de los Santos and Juanito Sanchez. His record, Exhibit B-1, shows that he was committed to prison by decisions of the Courts of First Instance of Davao and Lanao in Cases Nos. 750, 2023 and 2108, for robbery, robbery with intimidation of persons, and evasion of service, having begun service of sentence on August 30, 1950 to end on August 11, 1965. Accused-appellant Juanito Tobias, alias Juanito Tobias y Ramos, appears to be in prison by reason of a judgment of the Court of First Instance of Ilocos Sur, that of the Court of First Instance of Manila, and those of the Justice of the Peace Court of Vigan and Pasay City, for theft, evasion of service of sentence, violation of Article 157 and robbery in an uninhabited place, in cases Nos. 1251, 48-R, 2002 and 32851, and served sentence beginning April 14, 1954, to end January 15, 1962.

The crime committed by the accused in this case is that of murder, qualified by the circumstance of treachery, for the reason that the victim was attacked suddenly by the appellants, with the use of deadly weapons, without provocation and without opportunity on the victim's part to defend himself. No mitigating circumstance attended

the commission of the offense, and in view of the fact that the appellants were serving sentences at the time of the commission of the crime, the penalty which should be imposed upon them is the maximum period of the penalty prescribed by law for murder, which is death, in accordance with Article 160 of the Revised Penal Code. The imposition of the penalty of death by the lower court is, therefore, correct.

Wherefore, the judgment of conviction and sentence of death imposed by the trial court upon the accused-appellants Constantino Dueñas, Felipe Gonzales and Juanito Tobias are hereby affirmed. The judgment and sentence imposed upon the other appellants Angel Flores, Sofronio Dagami, Pablo Roxas and Custodio Mainar, alias "Inchik" are hereby set aside, and they are hereby declared acquitted of the criminal charge. With proportionate costs against the three accused-appellants found guilty of the murder charge and a proportionate share of the costs de oficio as to the shares of the other appellants.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, and De Leon, JJ., concur.

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