

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LEODEGARIO LADRERA ALIAS "RUBEN TAGALOG";
ANTONIO GUIBAO, ROGELIO SUPERADA, ROMY DE BASCO,
HERMINIGILDO DE LOS SANTOS Y HABITA...**

G.R. No. 55339. May 21, 1987

Ponente: GUTIERREZ JR., J.

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GUTIERREZ JR., J.:

This is an automatic review of the decision of the Court of First Instance of Rizal Which convicted Leodegario Ladrera alias "Ruben Tagalog", Antonio Guibao Planillo alias "Antonio Guibao", Herminigildo de los Santos y Abitan, Jose Galban y Munlon, Jose Bautista y Pombuena and Felizardo Vargas y Gipaya of the crime of kidnapping for ransom with murder and sentenced them to DEATH, to proportionately indemnify the offended party in the amount of P12,000.00 without subsidiary imprisonment in case of insolvency, and to pay the costs.

On November 13, 1968, Ricardo Sy, 11 years old and a fourth grade student at Jose Rizal College was kidnapped in front of his own house at Mandaluyong, Rizal.

The following day, November 14, 1968, Ricardo's father, Sy Kiat, a wealthy Chinese businessman received a series of telephone calls informing him that Ricardo was in the callers' custody. The callers demanded a ransom of P45,000.00 for the boy's release. Sy Kiat pleaded that the ransom be reduced since he did not have that much cash. The kidnappers also instructed Sy Kiat that Alice Grino, a housemaid of the Sys should be the one to bring the ransom money to a certain place in Cubao, Quezon City.

On November 15, 1968, CIS agent Winifredo Recuenco, whose help was requested by a relative of Mrs. Sy, tried to implement a plan to entrap the kidnappers. Alice Grino was given "fake" money to deliver to the kidnappers with the police authorities trailing her. Unfortunately, this scheme did not work out as Grino deliberately failed to follow the detailed instructions on the route she should take and how delivery of the money should be effected. In the morning of November 15, 1968, Grino took the bus instead of a taxi as ordered by Recuenco. Hence, the police authorities were not able to trail her. Upon her return, Grino stated that she took the bus and went to the place as instructed by the kidnappers but the kidnappers did not appear at the designated meeting place. In the afternoon of the same day, when the police authorities were finally able to trail Grino the kidnappers never appeared.

Two days after, or on November 17, 1968, the body of the kidnapped boy was discovered concealed in a culvert at the canal near the gate of the Sys' house. Dr. Ernesto P. Jimenez, NBI medico-legal officer who conducted the autopsy on Ricardo's cadaver found that the body was bloated and in an advanced stage of decomposition accompanied by a greenish-black discoloration of the skin and peeling off of the epidermal layer on the upper part of the body: that there were abrasions on the left cheek, scalp, neck, left elbow region and on the right and left wrist; that aside from a wound on the left and right ankles and second degree burns on the right arm, there was a rope tied around the left foot, ankle region, and a piece of electric wire tied on the right foot, ankle region (Exhibit

E); and, that there was a piece of rope, which looked like a piece of cotton, wrapped around the neck of the victim. (Exhibit B-6).

According to Dr. Jimenez, the causes of death of Ricardo were the injuries on the head, severe and traumatic, which were possibly inflicted by a blunt instrument or object directed to the back portion of the head. The doctor concluded that the injuries sustained could have been perpetrated two (2) days earlier, more or less, before the actual necropsy examination was conducted.

On December 3, 1968, the provincial fiscal of Rizal filed an amended information which charged the appellants plus Alice Grino, Rogelio Superada and Romy de Basco with the crime of kidnapping for ransom with murder.

Rogelio Superada and Romy de Basco could not be tried as they have remained at large.

Upon motion of the prosecution, Rolando Blanco was discharged from the information so that he could testify as a state witness.

The trial lasted for about eight years. After the retirement of Judge Delfin Flores who first handled the trial, Judge Ricardo L. Pronove, now an Associate Justice of the Court of Appeals, took over and promulgated the decision which acquitted Alice Grino and convicted the appellants.

The trial court ruled that Rolando Blanco's testimony was sufficient to establish the guilt of all the appellants, independently of the extra-judicial statements executed by the latter.

Blanco's testimony was correctly summarized as follows:

"Rolando Blanco was a worker in a furniture shop at Lerma, Mandaluyong, Rizal. Being a relative of a maid employed in the household, he was allowed by Sy Kiat, the father of the victim Rolando Sy, to live in the garage of the house which was located at Sta. Ana, Mandaluyong, Rizal. A few days before November 10, 1968, Blanco met his first cousin, the accused Antonio Guibao Planillo, alias Antonio Guibao, in the furniture shop where he was working. On the occasion, Planillo requested Blanco to go to the Caltex station at the intersection of Boni Avenue and P. Cruz St., at Mandaluyong, Rizal, so that he could meet his companions. In compliance with the request, Blanco went to the gasoline station on November 10, 1968 at about 7:00 o'clock in the evening where, aside from his cousin Planillo, he met the other accused, namely, Jose Galban, Jose Bautista, Herminigildo de los Santos, Felizardo Vargas, Leodegario Ladrera alias Ruben Tagalog, and a certain Juanito. The meeting lasted for about five (5) minutes but during this brief period, Planillo was able to introduce to Blanco accused Ladrera as the "boss" and to inform him that the group was planning to kidnap Ricardo Sy, one of the children of the owner of the house where he was living. At this meeting also, accused Ladrera told Blanco in a point blank manner that if he would reveal the plot to anybody, he would be killed, a threat which was repeated by accused Felizardo Vargas. As required by accused Planillo and Ladrera, Blanco agreed to act as an observer, to monitor the movements of the people in the house of Sy Kiat whose son was the intended victim. Specifically, Blanco was asked by accused Planillo to go home early and to report to the group the identity of the people who go to the house of Sy Kiat.

"After the meeting, Blanco went home where he met Sy Kiat and the "labandera" who was his aunt. But because he was afraid of the threat earlier made by accused Planillo and Ladrera, he did not reveal to either this aunt or Sy Kiat what he had seen and heard.

"At about 6:00 o'clock in the afternoon on November 13, 1968, while standing near the gate of the house of Sy Kiat, Blanco saw an approaching red Volkswagen beetle car. The vehicle was being driven by accused Jose Galban and seated beside him in the front seat were the accused Ladrera and Vargas. The rear seat of the vehicle was occupied by the other four accused and when the car stopped, accused Galban called Ricardo Sy, a young boy, who was then driving a motor cycle in front of the house. Responding to the call, Ricardo Sy approached the car, but was forcibly thrown inside the vehicle. Accused Felizardo Vargas then immediately

covered the mouth of Ricardo Sy and with that, the beetle car sped away.

"At about 7:00 o'clock in the morning on November 14, 1968, while Blanco was on his way to work at Mandaluyong, Rizal, his cousin, accused Planillo called him. Planillo was then riding on the same Volkswagen car in the company of accused Galban, Ladrera, Vargas, Bautista and de los Santos. After Planillo informed Blanco that the group had already kidnapped Ricardo Sy, accused Ladrera said that the ransom money would be fixed in the amount of P45,000.00. And, accused de los Santos added that accused Alice Grino was the one to be asked to deliver the ransom money somewhere in Quezon City. At this meeting, which lasted for about ten to fifteen minutes, accused Ladrera again warned Blanco not to tell anyone what had already transpired. Later on, at about 1:00 o'clock in the afternoon, Blanco heard his co-accused talking about the money which Alice Grino carried and which they discovered to be fake.

"After working the entire morning on November 15, 1968, at the same furniture shop in Mandaluyong, Rizal, Blanco met again Planillo, Galban, Bautista and de los Santos at the same gasoline station. After Planillo informed Blanco that they were going to the place where Ricardo Sy was being kept, all boarded the red Volkswagen car, belonging to Ladrera, which proceeded to a "barong--barong" located at the squatters area somewhere in Quezon City. Inside the "barong?barong", Blanco watched the hands and feet of Ricardo Sy tied with a rope behind his back and his mouth gagged with a piece of black cloth. Guarding the prostrate boy at the time were accused Ladrera and Felizardo Vargas who later on, were joined by accused Romy de Basco, Superada and a certain Juanito. Because accused Galban was the driver of the Sy family, he told Blanco that it would be better to have the boy killed because Ricardo Sy could readily identify them to the authorities. Accused Ladrera also said that since the money brought by Alice Grino were fake, they had decided to kill Ricardo Sy. To the suggestion, accused Felizardo Vargas volunteered to kill Ricardo Sy and although Blanco sympathized with the plight of the boy, he felt powerless to do anything because he had to follow their gang leader, accused Ladrera.

"Accused Galban, Bautista and Herminigildo de los Santos thereafter ordered Blanco to return to the house of the victim and observe any development. Accordingly, at about 6:30 o'clock in the evening, Blanco stationed himself at the gate of the house of Sy Kiat while at the same time, positioned at a street corner near the house were the accused Planillo, Galban and Bautista. A few moments later, the same red Volkswagen car appeared carrying the victim Ricardo Sy in the company of the accused Ladrera, Vargas, de los Santos, Juanito and Superada. Stopping at a distance of about six (6) meters from the house, accused Vargas alighted from the car and suddenly pushed to the ground Ricardo Sy whose hands were still tied with rope and whose mouth was still gagged with the same black piece of cloth. As a result, the boy fell down and at that instant, accused Felizardo Vargas hit Ricardo Sy on the head twice with an iron pipe. Accused Jose Galban who was standing nearby did nothing and after a while, accused de los Santos bound the body of the victim with a piece of rope to which a stone was attached. Thereafter, accused Ladrera and Felizardo Vargas shoved the body of the victim inside a culvert and the death weapon, which measured about 1 foot and 10 inches in length 3 to 5 lbs. in weight, was handed by accused Galban to Rolando Blanco for safekeeping. Upon receiving it, Blanco hid the iron pipe in a room on top of the garage where he was staying."

As their main defense, the appellants question the credibility of Blanco on two material points.

First to be challenged is Blanco's account of how the commission of the kidnapping on November 13, 1968 was effected. The appellants specifically stress the improbability of Blanco's testimony that eight of the accused arrived in a red Volkswagen beetle immediately before the kidnapping incident. They submit that a small Volkswagen beetle whose normal capacity is five passengers could not have possibly accommodated nine (9) people including Ricardo Sy.

Blanco under cross-examination testified on this matter as follows:

Q. Mr. Blanco, when the Volkswagen beetle arrive at the site of the alleged kidnap-ping on November 13,

1968, how many persons were riding at the back of the said car?

A. Five, sir.

Q. They were seated side by side?

A. One of top of the other. (Underlining supplied)

Q. And according to you, there were three persons seated in front of the said car, is that correct?

A. Yes, sir.

Q. Four, including the deceased Ricardo Sy?

A. Yes, sir.

Q. They were also sitting one on top of the other?

A. Ricardo Sy was seated on the lap of one of them while the others were sitting side by side.

(Tsn, January 26, 1970, pp. 1216-1217)

In a subsequent cross-examination, Blanco when asked about the same issues reiterated that there were eight people inside the beetle who were "piled on top of each other." (Tsn, March 23, 1970 p. 35).

This testimony of Blanco readily explains how eight or nine people could be accommodated in the Volkswagen beetle. They sat one on top of each other. As the trial court observed: "While it cannot be denied that nine persons might find it inconvenient to ride in small vehicle like the beetle car, it was not impossible for them to do so, however, considering that the accused and Ricardo Sy, who was then a young boy, were of slight built and small stature."

Given the seating arrangement and the slight built and stature of the accused, it was not impossible for the eight accused and Ricardo Sy to have been accommodated in the beetle. Criminals bent on the heinous crime of kidnapping a helpless boy for ransom, who insured that no participant would "squeal" by having everyone take part in the main act of the crime, would not hesitate to pack themselves into a small car without minding the inconvenience.

Second, is Blanco's account on the actual killing of Ricardo Sy. The appellants claim that Blanco's testimony to the effect that Ricardo was killed by the accused in front of his house at about six o'clock in the evening at the time when police authorities were already investigating the kidnapping is quite incredulous. They raise the following query: Why was the killing not carried out in the squatter's area in Quezon City which was a secluded place wherein no one could have possibly witnessed the crime?

The decision to kill Ricardo in front of his own house is explained by the record.

On November 15, 1968, CIS agent Winifredo Recuenco tried to entrap the kidnappers. As stated earlier, this entrapment was to be executed by the operatives trailing Alice Grino who, upon the insistence of the kidnappers was to bring and deliver the money at a certain place. With the use of a vicinity map, Alice Grino pointed to a place along East Avenue, Quezon City, near the squatter's area where she intended to wait for the person who would receive the ransom money at about 11:00 o'clock that morning. The "fake" money was then wrapped in a newspaper and placed inside a traveling bag in the presence of Max Buan, a Manila Times reporter and other members of the Sy household. Recuenco then deployed his men around the vicinity of East Avenue to trap the kidnappers. This plan, however, failed because Alice did not follow the pre-agreed plan. Instead of taking a taxi to East Avenue, as agreed upon, she followed the kidnapper's instructions and took a bus. Later on, Alice informed

Recuenco that she did not meet the kidnappers.

At around 5:00 o'clock in the afternoon. Alice Grino was again instructed by the kidnappers to bring the money. With this information, Recuenco once more deployed his men in Quezon City. The police authorities including Alice Grino stayed at the meeting place until about 6:00 o'clock in the evening but the kidnappers never appeared. Recuenco, then, withdrew his men and returned to the Sy residence.

At about 7:00 o'clock in the evening of the same day, another telephone call was received. This time the caller spoke to Alice Grino who reported that the kidnappers decided not to appear because they were aware of the trap set up for them and because the ransom money was composed of fake bills.

These circumstances indicate that the kidnappers were fully informed about all the movements of the police authorities. They had a "mole" inside the Sy household who listened during the planning of the entrapment. With the knowledge that at about 6:00 o'clock in the evening of November 15, 1968, the police authorities would be somewhere else in East Avenue, Quezon City trying to entrap them, they were confident that they could kill Ricardo Sy right in front of his house at Mandaluyong, Rizal without fear of being discovered.

The perversity of the kidnappers and their callous disregard for the life of an innocent child are shown by the fact that upon learning of the entrapment plan and about the pieces of paper or fake money being readied to fool them, they did not hesitate to kill the small boy in a place and manner calculated to shock and teach the family, and possibly others, a never to be forgotten lesson.

We have no doubt about the credibility of Rolando Blanco. He admitted his participation in the kidnapping of Ricardo Sy and about his having monitored or observed the Sy residence during the entire incident. The record does not show any improper motive on his part to falsely implicate the appellants to this diabolic crime. In fact, Antonio Guibao is his first cousin. They were all positively identified by Blanco.

We have carefully gone over the detailed testimony of Blanco and find it credible and worthy of belief. The direct examination conducted November 18 and December 10, 1969 covers 75 pages of transcriptions of stenographic notes. The rigorous cross-examinations conducted by a battery of five defense lawyers on January 13, January 19, January 26, February 18, February 24, March 2, March 4, March 23, April 28, May 13, May 19, June 9 June 23, July 7, and July 20, all in 1970, cover 488 pages of transcribed notes. Throughout the lengthy cross-examinations, the basic story of the witness remained unshaken.

Moreover, Blanco's testimony to the effect that Ricardo Sy was hit on the nape of the neck with an iron bar immediately after he was pushed out of the car upon their arrival not far from his house was confirmed by Dr. Jimenez' findings that the fatal injury on the back portion of Ricardo's head could have been caused by a blunt instrument. Besides, Dr. Jimenez testified that when Ricardo's body was discovered a piece of rope was tied around the left foot, a piece of electric wire was tied on the right foot, while a piece of cotton was wrapped around his neck. These findings confirm Blanco's testimony that after the boy was hit he was bound with a piece of rope to which a stone was attached, obviously to prevent his body from surfacing in the canal.

Appellants Antonio Guibao Planillo, Herminigildo de los Santos, Jose Galban, Jose Bautista and Felizardo Vargas executed extra-judicial statements admitting their participation in the crime. We have to examine the individual circumstances surrounding each specific confession instead of making a sweeping or general statement that none were involuntary or that all were coerced.

The trial court ruled on the admissibility of the extra-judicial statements. According to the authors, they were maltreated by CIS agents and the police authorities of Mandaluyong, Rizal forcing them to execute the extra-judicial statements.

They contend that they did not complain to the fiscal before whom their statements were subscribed because they were fearful of further maltreatment by the CIS agents and police authorities once they returned to their prison cells.

Owing to the nature of the crime, the media became interested in the case so much so that it merited headlines in the Manila Times, the then leading Philippine newspaper. The case received wide publicity. Hence, media representatives both from print and radio-television were constant witnesses to the investigations conducted on the accused. In fact, de los Santos' and Galvan's execution of their extra-judicial statements were witnessed by Max Buan, Jr. of the Manila Times while another newspaperman and Antonio Seva of the ABS-CBN radio and television network witnessed Galban's execution of his extra-judicial statement.

The presence of the media people during the execution of de los Santos' and Galban's extra-judicial confessions negate the alleged maltreatment suffered by these accused at the hands of the police authorities. It is absurd to conclude that these media people would have pounced upon any signs or reports of maltreatment and not played them up in their respective newspapers or television and radio broadcasts.

We take note of de los Santos' handwritten statement (Exhibit "N") wherein he first admitted his participation in the crime.

De los Santos recounted during the trial that the contents of his handwritten confession were dictated to him by CIS agents Recuenco and Constantino and that before he wrote the statement he was mauled by a certain Medina and a Lambert and three other teenagers who took turns in hitting him with fist blows and clapping their palms against his ears. He also recalled that he was stripped off his clothes after which electric shocks were applied to his private parts.

An examination of De los Santos' handwritten statement shows an evenness of lines and strokes markedly consistent all throughout the two-page statement. Human experience has proven that the lines and strokes of a person's handwriting reflect his disposition at a certain given time. In the case of de los Santos' handwritten statement, we do not need a handwriting expert to tell us that his statement could not have been written under a compulsion of fear and immediately after he had been subjected to the maltreatment he professed.

In the case of Antonio Planillo alias "Antonio Guibao" he alleged that while in the custody of the CIS agents he was boxed and hit with the butt of a long fire-arm by several CIS agents. He testified that he signed his extra-judicial confession in front of eight to ten people during office hours at the office of Inspector Constantino of the CIS.

Likewise, Jose Bautista and Felizardo Vargas testified about the maltreatment they suffered from the CIS agents who allegedly forced them to sign their extra-judicial statements.

All the appellants claim that they were deprived of their right to silence and to counsel during custodial investigation. This constitutional objection, however, is unavailing in the instant case since the questioned extra-judicial statements were taken before the effectivity of the 1973 constitution. (*People v. Tuvera*, 130 SCRA 169).

The records are bereft of any reason why the rule enunciated in the cases of *People v. Mada-I Santalani* (93 SCRA 317), *People v. Balane* (123 SCRA 614) and *People v. Villanueva* (128 SCRA 488) should not be applied, "that where the defendants did not present evidence of compulsion of duress nor violence on their person; where they failed to complain to the officer who administered their oaths; where they did not institute any criminal or administrative action against their alleged intimidators for maltreatment; where there appeared to be no marks of violence on their bodies; and where they did not have themselves examined by a reputable physician to buttress

their claim, all these were considered by this Court as factors indicating voluntariness."

Hence, the bare assertions of Antonio Guibao Planillo, Jose Galban and Jose Bautista that they were maltreated by the CIS agents and the police authorities forcing them to execute their confessions are not sufficient to overthrow the prosecution's evidence that the same were not forcibly extracted from them.

Herminigildo de los Santos and Felizardo Varga both presented medical certificates to bolster their contention that they were maltreated. De los Santos was examined by a medical specialist of the Office of the Provincial Health Officer, Pasig, Rizal on December 17, 1968. The medical certificate does not show any sign or indication that he was suffering from an injury resulting from his alleged maltreatment. In fact, the medical examination indicates that de los Santos has nosopharyngitis sub-acute which could by no means relate to the alleged injuries he claims to have suffered during custodial investigation.

Vargas' medical certificate as a result of the medical examination conducted on him by a resident physician of the Philippine General Hospital showed the following injuries:

- "1. contusion-hematoma, greenish-blue, at the left shin:
 - "2. contusions (violet-blue with greenish periphery), at the left glabellar area, left pectoral area, and sternal area;
 - "3. ruptured bullae at the left posterior neck (2) and at the left para-spinal area, at about the level of the 2nd thoracic vertebra (1), and at the right olecranon area (1);
 - "4. areas of epidermal charring, at the right posterior cervical area (1), and at the right olecranon area (3)."
- (Exh. 3, p. 8, Record of Exhibits)

Considering the location of the injuries found in his body and his testimony as regards the maltreatment he suffered from the CIS agents which occurred during the late night and the early morning of November 23, 1968 at the headquarters of the Mandaluyong Police Department, we rule that Vargas' extra-judicial statement was taken under duress and should be excluded from the evidence of the prosecution.

Nevertheless, the exclusion of Vargas' extra-judicial statement and even the extra-judicial confessions of the other accused will hardly matter. We sustain the trial court's finding that Rolando Blanco's testimony, independent of the extra-judicial confessions of the other accused, is adequate and convincing for the judgment convicting the herein appellants.

We likewise find implausible the contention that the failure to similarly maltreat and coerce Ladrera, the mastermind and leader, was a clever scheme devised by the peace officers to ensnare the accused in a single net of confessions, while at the same time sparing one of them to make it appear that, like him, they did not have, and were not forced, to confess.

The judgment of the lower court is proper in the light of the established facts and the then applicable law and jurisprudence. However, pursuant to Section 19 of Article III of the new Constitution, the death penalty imposed on the appellants is reduced to reclusion perpetua.

WHEREFORE, the questioned judgment of the court a quo is hereby **AFFIRMED** except for the modification that the death penalty imposed on the appellants is reduced to reclusion perpetua while the indemnification of P12,000.00 is increased to P30,000.00.

SO ORDERED.

Teehankee, C.J., Fernan, Narvasa, Melencio-Herrera, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

Yap and Cruz, JJ., see dissent.

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DISSENTING OPINION**CRUZ, J.:**

I regret I cannot join the majority in affirming the conviction of the accused-appellants because I do not think they have been proved guilty. My feeling is that the case against them, based mainly on their supposed confessions and the testimony of the state witness, has not been established beyond reasonable doubt.

To begin with, all the defendants from whom the sworn statements had been taken testified to repudiate them, claim-ing they had been manhandled and coerced into confessing.

Thus, Planillo said he was arrested in Samar and brought to Tacloban City, where he was mauled for two hours until he finally signed his confession. He identified his two NBI assailants but he could not complain later for fear of more maltreatment. He was also denied the services of counsel.[1] Bautista said he was blindfolded, boxed, kicked in the face, electric-shocked and subjected to karate blows by the Mandaluyong police and CIS agents, who also denied him counsel when he requested one.[2] De los Santos said his handwritten confession was dictated to him after he was boxed and his private parts were electrified, and that he signed another confession because of similar torture in-flicted on him, by three agents he identified by name, that caused chest pains and broken teeth, as certified by the Rizal Provincial Hospital.[3] Galban, the driver of the Sy family, said he was tortured at Camp Crame and was forced to sign a prepared statement while a gun was poked at his back. He was also denied counsel and claimed he, with Blanco and Bautista, was subjected to sexual indignities and was forced to sip his own urine.[4] Vargas said he voluntarily went to Camp Crame when he learned he was being sought and claimed he was manhandled by the Man-daluyong police and CIS agents into signing a confession. They burned his nape with cigarette butts. He was electric-shocked. They terrified him by pointing a gun at his temple and clicking it three times.[5]

It is noteworthy that except for Recuenco, who denied the manhandling imputed to him, none of the peace officers who were named by the several accused-appellants was pre-sented by the prosecution to refute the charges of torture made against them. As for the argument that the confessions were signed before the fiscal and media men without com-plaint, the appellants did not speak then because they were afraid of further punishment from the police, as Planillo testified.[6]

The majority opinion places much reliance on the handwritten confession of De los Santos, stressing it was written so evenly as to suggest a disposition free from pressure or constraint. Considering the way it was composed, it could also suggest that it was copied or dictated after he had been given a chance to relax and assured that there would be no more punishment for him.

While the trial court said that it could "not turn a deaf ear to the charges of torture and indignities" to which the defendants had been subjected, it nevertheless convicted them just the same.

I have no doubt that violence and intimidation were really used against the accused-appellants, given the practice

then (and sometimes even now) of overzealous investigators securing confessions through methods less than legal. The employment of such vices of consent had the effect of nullifying the confessions and rendered them inadmissible against the persons who had allegedly signed them.[7]

Thus discarding the said confessions and considering the denials of involvement in the crime by all the accused-appellants, we are left only with the testimony of the accused-turned-state witness, Blanco. There are a few intriguing parts in his narration of the crime that I believe should have been examined more carefully.

The first is his account of the actual commission of the kidnaping on November 13, 1968, in front of the vic-tim's house in Sta. Ana, Mandaluyong, Rizal, which is not exactly secluded.

According to him, this was done by forcing Ricardo Sy into a Volkswagen Beetle which was then occupied by the eight defendants.[8] Five of them were seated in the back and the other three in front. The boy made the ninth occupant in that small car,[9] and let it be added he must have been struggling in fright and fighting desperately to be free. Eight full-grown men and one resisting boy in a Beetle, whose normal capacity is only five passengers? The Beetle is a two-door car, certainly not the most convenient vehicle for a kidnaping, and this was to be done in front of the victim's own house, at only six o'clock in the early evening. Considering all these inconveniences, one can only wonder why all eight defendants should choose to ride together in that small car on that crucial occasion, like the Keystone Cops in a ludicrous skit.

Was it for the purpose of involving all of them in the crime they were about to perpetrate, of committing every one to the common plot, as the majority opinion suggests? If so, then why was Blanco himself not taken along with the rest, to make him equally implicated and guilty?

The second part of his testimony that also challenges belief has to do with the actual commission of the killing of the boy on November 15, 1968.

By Blanco's own testimony, the victim was secured in a house in the squatter area in Quezon City, and it was there that it was decided he should be killed because the ransom had not been delivered.[10] Yet, strangely enough, the plan was in the end not carried out in the safety and seclusion of that as yet undiscovered hide-out.

Instead, the boy was brought back to the vicinity of his own house, where the presence of police might be expected as the kidnaping was then still under investigation, again at six o'clock in the early evening, and in plain view of whoever else might happen to be in that relatively busy place.[11] It was the ultimate in derring-do.

There the child was dragged out of the car still bound and gagged. When he had fallen to the ground, he was fatally struck twice in the head with a lead pipe. Thereafter, they tied him up some more with a rope weighted with a rock as if they intended to sink him to the bottom of the ocean to prevent discovery. Instead they pushed him into a nearby culvert, with a part of the body exposed, and it was there that the decomposing corpse was disco-vered two days later. Blanco added that Vargas gave him the lead pipe, which he kept in his room in the garage, probably to cherish as a keepsake.[12]

If the account of the kidnaping assumes an element of the comical were it not for the ensuing tragedy, the account of the murder borders on stupidity, which I am not prepared to impute to the accused-appellants.

It is significant that the judge who wrote the deci-sion in this case was not the same judge who presided at the trial when Blanco testified on direct and cross-exami-nations.[13] Hence, as counsel for Ladrera aptly observed "the time-honored doctrine that the Supreme Court will not interfere with the findings of fact of the trial court with respect to the credibility of witnesses has no application here. That doctrine is based on the assumption that the trial judge has observed the norm of testifying of the wit-nesses, including their facial expression and tone of

voice. These, however, cannot be reproduced in the transcript of stenographic notes." [14]

For all the abhorrence this crime has provoked and notwithstanding the popular sentiment generated against the defendants, the simple fact is that the evidence of the prosecution is just not enough to convict them. The improbable testimony of Blanco and the inadmissible confessions presented to support him have not established the proof beyond reasonable doubt required to overcome the presumption that the defendants are not guilty. In the eyes of the law, they must be declared innocent because the contrary has not been proved.

Whoever killed that little boy deserves the strongest condemnation and punishment, but these must come from another Court still higher than this one. Lacking its infallible and omniscient certainty, we, as mortal judges going only by the evidence at hand, can convict only if the bloodied hand is bared beyond the whisper of a doubt.

[1] TSN, pp. 3677-2683, Jan. 17, 1973.

[2] Ibid., pp. 3068-3076, May 28, 1973.

[3] Rollo, pp. 49-51; TSN, pp. 2645-2651, Oct. 10, 1972; Exh. "3" and "3-A".

[4] TSN, pp. 2941-2964, March 29 & 30, 1973.

[5] Rollo, p. 60.

[6] Roolo, p. 53.

[7] People v. Cabrera, 134 SCRA 362; People vs. Galit 135 SCRA 465; People v. Bagasal, 39 SCRA 236; People vs. Ortila, 129 SCRA 250; People vs. Sabilano, 132 SCRA 83; People vs. Magbanua, 115 SCRA 461; People vs. Crisostomo, 108 SCRA 288.

[8] TSN, pp. 1216-1217, Jan. 26, 1970.

[9] Ibid.

[10] Rollo, p. 24.

[11] Ibid., pp. 24-25.

[12] Id., p. 25.

[13] Appellant Ladrera's Brief, p. 44.

[14] Ibid., pp. 43-44.

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