

RENATO B. TORRES, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 65913. July 28, 1986

Ponente: FERIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-65913/>

FERIA, J.:

This is a petition for review on certiorari of the decision of the Sandiganbayan dated December 12, 1983, convicting petitioner Renato B. Torres of homicide, the dispositive portion of which reads as follows:

"WHEREFORE, accused Patrolman Renato B. Torres y Barcena is hereby found guilty beyond reasonable doubt as principal of the crime of Homicide, defined and penalized under Article 249 of the Revised Penal Code. Appreciating the mitigating circumstances of voluntary surrender and the victim's sufficient provocation or threat immediately preceeding the act sued upon and without any aggravating circumstance to offset the same, the penalty of reclusion temporal prescribed by law is reduced by one degree to prision mayor, pursuant to paragraph 5 of Article 64 of the Revised Penal Code. Applying the Indeterminate Sentence Law, the said accused is hereby sentenced to suffer an indeterminate penalty, ranging from FOUR (4) YEARS and TWO (2) MONTHS of prision correccional as minimum, to EIGHT (8) YEARS and ONE (1) DAY of prision mayor, as maximum; to pay the legal heirs of the deceased, Danilo Rivera y Pumicpic, the amount of P2,920.00 as actual damages; P24,000.00 for the unrealized net income or lost earning capacity of said deceased for a period of ten (10) years; and P15,000.00 as indemnity for the death of the latter."

The statement of facts summarized by the Solicitor General in his Comment, which was later considered as his Memorandum, is not disputed by petitioner.

Petitioner Renato Torres became a member of the Metropolitan Police Force, Southern Police District on March 16, 1980. In the afternoon of April 5, 1982, he and another policeman, Corporal Ruben Onelia, were assigned to direct traffic at the corner of C. Jose Street and Epifanio de los Santos Avenue (EDSA) in Pasay City.

At about 5:30 p.m., petitioner saw the victim Danilo Rivera driving his motorcycle in a zigzag manner along C. Jose Street and then along EDSA. Shortly after the victim came out of C. Jose Street, petitioner called his attention and commanded him to pull over to the side. The victim questioned his apprehension. Petitioner approached him and pointed out that he was driving in a zigzag fashion. He observed that the victim was either drunk or high on drugs because of his red eyes. The victim replied that he was not violating any traffic regulation. At this juncture, the discussion between the two became more heated. Petitioner required the victim to produce his driver's license. The victim refused to hand it over. Petitioner threatened to take him to the police station. He went closer to the victim who then dismounted from his motorcycle. Petitioner insisted that the victim go with him to the police station but the victim refused to budge. When petitioner reiterated his command, the victim retorted that he was delaying him in his work. Nevertheless, petitioner disregarded his remark and continued trying to force the victim to go with him to the police station.

At this point, the victim defied the petitioner by pulling out from his pants pocket a bladed knife commonly known as "tusok", which is six inches in length, including the two-inch handle. The victim lunged at petitioner who was two meters away. Petitioner moved back, drew his gun and warned the victim that he will shoot if he (the victim) attacked again. Petitioner noticed that the victim was not standing steady. When he attempted a second thrust, the victim lost his balance. At that instant, petitioner shot him at the back. When the victim fell, petitioner immediately hailed a taxi and took the victim to the Pasay City General Hospital. He then left for the police headquarters to surrender. He placed himself under the custody of Colonel Alfredo Angeles, chief of the Investigation Division. He turned over to him his service revolver and the knife carried by the victim. In the meantime, the victim died and was duly autopsied by Dr. Renato C. Bautista. He noted the cause of death in his report (Exh. A): Hemorrhage, profuse, secondary to gunshot wound; Back, left side. After due investigation, petitioner was charged with homicide two days later, or on April 7, 1982 (tsn. pp. 4-7, July 28, 1982; pp. 4-20, 24-29, 31-32; May 9, 1983; pp. 9-10, July 19, 1983; Rec. p. 1).

On April 7, 1982, petitioner was charged with homicide to which he pleaded not guilty. On December 12, 1983, respondent Sandiganbayan convicted petitioner. It ruled that the shooting and killing of the deceased was not attended by any justifying circumstance; that the true happenings preceding the shooting belie and militate against self-defense or fulfillment of duty; that at most, petitioner was entitled to the mitigating circumstance of sufficient provocation or threat, apart from voluntary surrender, but not to total absolution of liability.

Petitioner did not file any motion for reconsideration with respondent Sandiganbayan. Instead, he filed with this Court a petition for review on certiorari on January 30, 1984 alleging that the Sandiganbayan erred (a) when it failed to consider in favor of petitioner the elements of unlawful aggression and reasonable necessity of the means used to repel it; (b) when it dismissed outright petitioner's theory of self-defense just because he did not suffer any scratch; and (c) when it convicted petitioner despite the fact that there was doubt as to his guilt, hence no civil damages should be awarded.

The Solicitor General submits that the facts prove the existence of unlawful aggression on the part of the deceased, since it is undisputed that the deceased attacked petitioner twice with a four-inch bladed knife; that unlawful aggression is clearly manifest since the physical assaults against petitioner placed his life in actual peril (*People vs. Sumicad*, 56 Phil. 647); that in determining the existence of unlawful aggression, it does not matter if the attacks have no predictable success; that, moreover, it is not necessary for petitioner to be wounded first to prove the existence of unlawful aggression, it being sufficient that the aggression be attempted so as to give rise to the right to prevent it (*People vs. Batungbacal*, 37 Phil. 382; *People vs. Hitosis*, 55 Phil. 298).

We agree with petitioner and the Solicitor General that the first requisite of the justifying circumstance of self-defense - unlawful aggression - is present in the case at bar (Article 11 [1] of the Revised Penal Code). There is no question that the third requisite - lack of sufficient provocation on the part of the person defending himself - is also present. Petitioner was merely acting in the performance of his duty as a traffic policeman when he tried to arrest the deceased for violating a traffic regulation. In fact, respondent Sandiganbayan appreciated the victim's sufficient provocation or threat immediately preceding the act sued upon as a mitigating circumstance together with petitioner's voluntary surrender.

The principal issue is whether or not the second requisite - reasonable necessity of the means employed to prevent or repel the unlawful aggression - is present. On this point the Solicitor General agrees with respondent Sandiganbayan that petitioner did not use reasonable means to repel the attack of the deceased. When the deceased lunged at petitioner the second time, he stumbled and even went past petitioner. At that instant, petitioner could have just struck at the deceased with his gun, or at worse, aimed his gun at a non-vital part of his body to overcome his resistance to arrest. However, petitioner chose to fire at the back of the deceased, thus

killing him almost instantly. The Solicitor General invokes the ruling in *People vs. Oanis* (74 Phil. 257, 262), to the effect that a peace officer is never justified in using unnecessary force in effecting arrests or in treating with wanton violence the arrested person or in resorting to dangerous means when the arrest could be effected otherwise. This doctrine was restated in the Rules of Court thus: "No unnecessary or unreasonable force shall be used in making an arrest, and the person arrested shall not be subject to any greater restraint than is necessary for his detention." (Sec. 2 of Rule 109, subsequently Rule 113). It is worthwhile noting that the rule was made stricter in Sec. 2, Rule 113 of the 1985 Rules on Criminal Procedure thus: "No violence or unnecessary force shall be used in making an arrest x x x."

We agree with the Solicitor General. In the case of *People vs. De Jesus*, this Court ruled that:

"With the deceased shown to be the aggressor as against Yalong, the reasonable-ness of the means used by Yalong to repel the aggression may however, not be assessed in his favor. The deceased was in a state of drunkenness, so he was not as dangerous as he would if he had been sober. His aim proved faulty and easily evaded as shown by the fact that Yalong was not hit by the stab attempts-blows directed against him. At best, We can grant incomplete self-defense in his favor, the necessity of the means he used to repel the aggression not appearing to Us clearly reasonable." (*People vs. De Jesus*, November 19, 1982, 118 SCRA 616, 627)

In the case at bar, petitioner testified as follows:

"Q

What happened after he stabbed you?

A

I moved back and then I drew my gun. I shouted at him, 'don't continue doing that, I will shoot you.'

Q

Then what did he do?

A

But he did not heed my warning and he continued lunging at me. And maybe because he was somewhat drunk or somewhat high in drugs, he was not steady and he was outbalanced and so, when he made that thrust, he lost his balance in which time I simultaneously shot him." (TSN, pp. 13-14, May 9, 1983)

Under such circumstances, there was no need for petitioner to fire his gun at the deceased.

The penalty prescribed by law for homicide is reclusion temporal. Considering the fact that two out of the three requisites for the justifying circumstance of self-defense are present, Article 69 of the Revised Penal Code is applicable and a penalty lower by two degrees may be imposed. The mitigating circumstance of sufficient provocation on the part of the deceased may no longer be considered because it is deemed absorbed by his unlawful aggression. But the mitigating circumstance of voluntary surrender may still be considered. Two degrees lower than reclusion temporal is prision correccional.

Applying the Indeterminate Sentence Law and in accordance with the recommendation of the Solicitor General, petitioner is sentenced to suffer imprisonment for a minimum period of six months of arresto mayor and a maximum period of two years of prision correccional.

WHEREFORE, with the modification of the penalty as above provided, the decision appealed from is affirmed.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.

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.