

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO PADILLA, ACCUSED-APPELLANT.

G.R. No. 72709. August 31, 1989

Ponente: MEDIALDEA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-72709/>

MEDIALDEA, J.:

The accused, Alberto Padilla, was charged with the crime of robbery with homicide in Criminal Case No. 2375 before the Regional Trial Court, Branch XXVII[1] at Catbalogan, Samar. The information filed in the said case reads as follows:

"That on or about the 16th day of May, 1983, at nighttime which was purposely sought, in the Municipality of Daram, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, conspiring, confederating together and mutually helping one another with Boyce Hamindang, Toto Mendido and one alias 'Moloc', who are still at large, with deliberate intent to gain and by means of force and intimidation of persons, did then and there willfully, unlawfully and feloniously boarded the fishing boat owned by one Rogelio Gososo and, therefrom, employing force and intimidation against its crew members, took, stole and carried away with them one wrist watch valued at Eight Hundred Pesos (P800.00) and cash money amounting to Two Thousand Five Hundred Pesos (P2,500.00) owned by said Rogelio Gososo, to the damage and prejudice of said owner in the total value of Three Thousand Three Hundred Pesos (P3,300.00) Philippine Currency;

"That on the same occasion, in the manner charged above and pursuant to their conceived plan, the said accused, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Esteban Labian, a crew member, with a bolo, with which the said accused had conveniently provided themselves for the purpose, thereby inflicting upon him 'Stab wound 3 cm. at level of left nipple, 6 cm long penetrating the thoracic cavity perforating the heart', which wound directly caused his death.

"Contrary to law." (pp. 5-6, Rollo)

Upon being arraigned, the accused entered the plea of not guilty to the offense charged. After trial on the merits, the lower court rendered its decision on September 25, 1985, the dispositive portion of which reads:

"WHEREFORE, and in view of all the foregoing, the Court finds the accused ALBERTO PADILLA guilty beyond reasonable doubt as principal by direct participation of the consummated crime of robbery with homicide, punishable under Article 294 (par. 1) of the Revised Penal Code, and accordingly hereby sentences him to suffer the penalty of reclusion perpetua, with the accessories of the law; to indemnify the heirs of Esteban Labian in the amount of TWELVE THOUSAND PESOS (P12,000.00), and Rogelio Gososo in the sum of THREE THOUSAND PESOS (P3,000.00); and to pay the costs.

"The bolo marked Exh. 'A' is hereby confiscated in favor of the government.

"Atty. Fernando D. Fabrigaras is hereby compensated in the amount of P500.00 for his services as counsel de officio for the accused.

“SO ORDERED.” (p. 23, Rollo)

Not satisfied with the decision, the accused appealed.

The facts as found by the trial court are as follows:

On May 16, 1983, a group of sixteen fishermen working in a fishing venture locally known as "likum-likum" or "pangulong" owned by one Felipe Gososo of Brgy. Astorga, Daram, Samar, went to rest and spend the night in So. Badiang, Brgy. Bachao of the same municipality. Although Felipe Gososo himself was not there, his son Rogelio Gososo was with the group. Among the group, Rogelio Gososo, Paulino Quintas and Esteban Labian spent the night in the group's motorboat which had earlier been hauled up on the beach. Some of the fishermen were either in the banca where the nets were kept ("ligkupan") or in the resthouse. The others were in the house of Brgy. Councilman Hernani Salubaga.

At around 9:00 p.m., Rogelio Gososo, Quintas and Labian went to sleep in the motorboat. Gososo stayed on the cover directly above the engine; Quintas, a little bit astern, and Labian, a little to the front of Gososo at the middle of the motorboat. At about 11:00 p.m., Rogelio Gososo was awakened by two persons, one of whom was trying to get something from his pocket while the other was pointing a small bolo ("sipul") at him. They took Gososo's Seiko 5 wrist watch worth P800.00 and his money in the amount of P2,200.00 which he kept inside his pocket. Meanwhile, two other persons were near Esteban Labian. One of those two persons was accused Alberto Padilla. Labian, a 16 year old boy who had just awakened, tried to jump off the motorboat but was held back by one of the two men. When he was about to shout, Alberto Padilla stabbed Labian with a "sipul" (a small bolo) about a foot long. After Esteban Labian had been stabbed, the four persons ran away and took with them the money and the wrist watch. Shortly after, Rogelio Gososo accompanied by some men went by motorboat to Brgy. Calawan-an to inform the authorities. They reported the incident to Policeman Glicerio "Siyong" Gulane who at that time, happened to be in Brgy. Cansaganay. Thereupon, Policeman Gulane, together with three members of the Civilian Home Defense Force (CHDF), Rogelio Gososo and the latter's companions went to Badiang at around 1:00 a.m. of May 17, 1983 but did not find the suspects who were identified by Rogelio Gososo as Boyce Jamindang, a certain "Moloc", Alberto Padilla who stabbed Labian and Toto Mendido. Upon being informed that the suspects were from the Barangay proper of Bachao, Policeman Gulane and company proceeded to the said place. At about 2:00 a.m. they found Padilla lying on his back asleep with a bloodstained bolo in his right hand. They noted that Padilla's right hand and the right side of his shirt and long pants were stained with blood.

After one of the CHDF members removed the bloodstained bolo from Padilla's hand, Policeman Gulane awakened Padilla and told the latter to sit down. Gulane asked if he were responsible for the death of Esteban Labian. Padilla did not answer but merely stared at the policeman. Again, Policeman Gulane asked the accused about the bloodstains and other matters but the latter only stared at him. Thereafter, the group brought Padilla to Daram via Badiang in a motorboat and turned him over to Cpl. Alfredo Costo and Pfc. Castillo.

The autopsy conducted on the victim yield the following findings:

"EXTERNAL AND INTERNAL PHYSICAL EXAMINATION FINDINGS:

1. Presence of stab wound 3 cm. at level of left nipple (sic) 6 cm. long penetrating the thoracic cavity perforating (sic) the heart.

Cause of death: Cardiac tempomade secondary to stab wound." (Records, p. 4)

The accused, on the other hand, denied having killed the victim. He claimed that on that day, he went on a picnic with some barriomates at the bend of the shoreline around a kilometer from Brgy. Bachao; that he participated in the tuba drinking session and got drunk; that at 6:00 p.m., he went home to take supper; that at about the same

time, he saw Toto Mendido, Boyce Jamindang and Moloc on their way to a public dance in So. Badiang which is two kilometers away from Brgy. Bachao; that after his supper at about 8:00 p.m., the accused went to the barangay "tennis court" to watch over the motorboat of Jaime Jamindang as he was the engineman of said boat; that he fell asleep near the bench at the tennis court; that he did not carry a bolo with him; that he recognized the bloodstained bolo to be that owned by Toto Mendido as it was the same weapon used by the latter in mending the fish nets of his uncle; that his lack of response upon being awakened to the queries posed by Policeman Gulane was due to shock as three rifles were pointed at him; that in the motorboat where he was brought by Gulane's group, the accused denied the charge against him whereupon the CHDF struck him with the muzzle of their guns.

Defense witnesses, Rodrigo Labian, the father of the victim and Paulino Sevilla, Brgy. Captain of Bachao, testified that the killer was Toto Mendido and that they came to know the real assailant from information given by Policemen Gulane and Dianing, relatives, rumors emanating from the place which all pointed to Mendido as the killer and from one of the suspects, Moloc, respectively.

The lower court rejected the alibi of the accused as weak and the testimonies of his defense witnesses as inadmissible as part of the *res gestae* and for being hearsay.

In this appeal, the accused-appellant assigned four errors committed by the lower court, to wit:

"I

THE TRIAL COURT ERRED IN CONCLUDING THAT ROGELIO GOSOSO WAS ABLE TO POSITIVELY IDENTIFY THE ACCUSED AS THE ONE WHO STABBED TO DEATH ESTEBAN LABIAN.

"II

THE TRIAL COURT ERRED IN NOT GIVING CREDIT AND PROBATIVE VALUE TO THE TESTIMONY OF RODRIGO LABIAN, THE FATHER OF ESTEBAN LABIAN, THAT IT WAS NOT THE ACCUSED WHO STABBED HIS SON TO DEATH.

"III

THE TRIAL COURT ERRED IN DISREGARDING THE TESTIMONY OF PEPITO SEVILLA, THE BARANGAY CAPTAIN OF BARANGAY BACHAO, DARAM, SAMAR, WHICH TESTIMONY WAS PART OF THE *RES GESTAE*.

"IV

THE TRIAL COURT ERRED IN GIVING CREDIT AND PROBATIVE VALUE TO THE EVIDENCE OF THE PROSECUTION THAT THE ACCUSED WAS THE ONE RESPONSIBLE FOR THE DEATH OF ESTEBAN LABIAN, BECAUSE HE WAS ALLEGEDLY FOUND IN THE TENNIS COURT HOLDING A BOLO (EXHIBIT "A" FOR THE PROSECUTION AND EXHIBIT "I" FOR THE DEFENSE), WHICH WAS STAINED WITH BLOOD AND THE RIGHT SIDE OF HIS PANTS AND SHIRT WERE ALSO STAINED WITH BLOOD WHICH EVIDENCE IS AGAINST THE ORDINARY COURSE OF THINGS AND AGAINST HUMAN NATURE AND HUMAN EXPERIENCE" (Brief for the Appellant, pp. 1-2; pp. 51-58, Rollo).

After a painstaking review of the evidence on record, We reverse the judgment of conviction.

As a general rule, the findings of the trial court are given utmost respect on appeal unless it has overlooked certain facts of substance and value, which if considered, would affect the result of the case. Such exception now comes

to fore in the instant case.

A careful reading of the judgment on appeal shows that the trial court relied heavily on the sole testimony of prosecution witness, Rogelio Gososo, who testified to the identity of the assailant. The pertinent portion of Gososo's testimony runs as follows:

"ATTY. FABRIGARAS (counsel de oficio for accused-appellant)

Q Now, did you recognize those two persons, the one who frisked your pocket and the other one allegedly pointing a bolo at you?

A Yes, sir, I am familiar with the faces and if ever they will be brought here in court I could recognize them.

Q You do not know the names of these two persons?

A Boyce and Toto.

Q Boyce the last name?

A Jamindang.

Q Now, these two persons who were with Esteban Labian and the one who stabbed, (sic) did you recognize those two persons?

A Yes, sir.

Q Who were they?

A Alberto Padilla and Toto Mendido.

COURT

Q How about the Toto who was with Boyce what was his name or family name?

A Toto was with Esteban Labian, the two persons who were with me were Boyce Jamindang alias Molok.

Q Why did you recognize them, do you meant (sic) to say that you know them before the incident on May 16, 1983?

A I knew because they often go to the sea to ask for fish.

Q These four persons?

A Yes, sir.

ATTY. FABRIGARAS

Q Since when have you seen them go to the sea?

A Since the time we went on fishing at that place within two months that we had been fishing.

Q Since it was evening and there was no light inside the motorboat as you testified into (sic) the records of the case, how did you recognize these persons?

A The four of them, two had flashlights.

Q Who were the two who had the flashlights?

A The one who was carrying a flashlight was with Esteban Labian while the other who has a flashlight was also with me.

COURT

Q Who was carrying the flashlight because you know the four?

A The one who was carrying the flashlight was one alias Molok.

Q Who else?

A And the other one was Toto.

Q Do you mean to say that without the flashlight you could not recognize persons at that time?

A I was able to recognize them because whenever they focused the beam of the flashlight on my body it reflects (sic) over their faces.

Q I will repeat the question of the court. Without that flashlight you would not recognized those four culprits, is that right?

A I still could recognize them because that evening it was a starry night.

Q Yes, it was a starry night, let's admit that it was a starry night but you were under the canvass, (sic) is it not?

A Yes, sir.

ATTY. FABRIGARAS

Q So even if it was a starry night you could not recognize these four persons without any light such as the flashlight, it that right?

FISCAL COBRIROS

Answered already by this witness, Your Honor.

COURT

Witness may answer.

A The more that I recognized them because it was a starry night and they also had a flashlight.

Q Now, was the light of the flashlight not focused to your eyes to blind you?

A No, sir, it was only focused to the parts of my body.

Q How many times was that flashlight focused towards your body?

A I was not able to count.

Q So it was many times?

A Yes, sir, not just twice.

Q Who focused that flashlight towards you, who was that?

A It was Molok.

Q That culprit who was pointing the bolo to you?

A Yes, sir.

Q That light was focused towards you when you were facing them, facing Molok?

A Yes, sir, I was facing Molok.

Q And you were facing towards the astern and Molok was facing towards the prow?

A I was facing them at that time when they were near the outriggers." (TSN of April 6, 1984, pp. 38-40)

The aforequoted testimony, to Our mind, engenders nagging doubts rather than certainty, of the appellant's identity as the real perpetrator of the crime. It must be noted that except for the distant light of the stars, the place where Gososo and company slept was dark. The record is silent as to the color of Gososo's outfit which could have indicated whether or not the same reflected light. In this situation, human experience attests that the beam of a flashlight focused at a non-reflective object like parts of a person's body does not bounce back to illuminate the face of the flashlight holder. Further, the starlight could not have been much of an aid to Gososo considering that he was then under the canvas roofing of the unlighted motorboat.

Since there were two eyewitnesses to the crime, We find it peculiar that the other eyewitness, Paulino Quintos, was not used by the prosecution to support the testimony of Gososo. On their part, the robbers, as they are wont to do, would take pains to avoid recognition. Precisely, they sought the cover of darkness to assure success of their evil design. Under the circumstances, there are serious misgivings as to the identification of appellant as Labian's assailant. Gososo's testimony has failed to pass the test of positiveness and reliability necessary for conviction. In case of reasonable doubt, the same must be construed in favor of the accused who is presumed innocent under the law until otherwise proven.

Appellant interposed an alibi on that fateful night. He claimed that he attended a picnic and joined a group drinking tuba; that after he got drunk, he went to eat his supper; and that thereafter, he went to the tennis court to watch the boat of Jaime Jamindang and in the process, fell asleep. He disclaimed participation in the crime and ownership of the bloodstained bolo. Alibi is generally considered a weak defense. However, it assumes importance where evidence for the prosecution is weak and betrays concreteness on question of whether or not the accused committed the crime charged (*People v. Delmendo*, L-32146, November 23, 1981; 109 SCRA 350). We have also ruled that although alibi is easily fabricated, it is not always false and without merit and when coupled with the improbabilities and uncertainties of the prosecution evidence, the defense of alibi deserves merit (*People v. Castelo*, L-48070, December 26, 1984; 133 SCRA 667). The tennis court where appellant slept is near the seashore. During the day and even at night, people pass through the tennis court using the stairs at its end which leads to the sea where pump boats and other motorboats dock and where one passes to go to the poblacion (TSN, July 16, 1985, p. 47). Defense witness Pepito Sevilla, Barangay Captain of Brgy. Bachao since 1972, corroborated appellant's claim that on that night of May 16, 1983, the latter was drunk and fell asleep on the tennis court. Sevilla testified, thus:

.“ATTY. FABRIGARAS

Q In the evening of May 16, 1983 where were you?

A I was also in our barangay.

Q And do you know where this accused Alberto Padilla was in the evening of May 16, 1983?

A Yes, sir.

Q Where was he?

A He fell asleep in our tennis court near the seashore.

Q Do you know why he fell asleep in the tennis court during that evening?

A Because he was drunk.

Q Why was he in that tennis court, do you know?

A Because he was watching over our motorboat, the motorboat he used in fishing.

Q Who is the owner of that motorboat?

A Jaime Jamindang.

Q Now, in what part of the tennis court was the accused Alberto Padilla sleeping?

A He fell asleep on the edge of the cemented bench near the stairs leading to the banca where he was watching over.

Q This tennis court, how far is this to the edge of the seashore?

A At the end of the tennis court is a stairs leading to the sea waters (sic).

Q Now, why do you know that Alberto Padilla was sleeping in that tennis court?

A Because we used to stand by every evening in that place." (TSN, July 16, 1985, pp. 46-47)

It cannot be gainsaid that a drunk sleeps like a log and becomes, as it were, dead to the world. Considering that the tennis court is accessible to anyone twenty-four hours a day, it is possible that the true assailant could have placed the fatal weapon in appellant's hand and wiped the blood on appellant's shirt and pants. This is not unlikely to happen as the records have shown that appellant hardly stirred when the bloodied bolo was taken off from his right hand by one of the CHDF members in the company of Policeman Gulane (TSN, August 30, 1984, p. 36). Likewise, We find it contrary to human behavior for appellant, after having killed another human being, would just nonchalantly sleep off his gruesome act without as much as hiding the weapon used and his bloodstained clothes. The records further disclose that appellant has no previous criminal record. Brgy. Captain Sevilla declared that the appellant has no record of abuses in that place and is a well-behaved person (TSN, July 16, 1985, p. 50). Moreover, the records are bereft of any laboratory test on the blood type of the blood found on the bolo, shirt and pants of appellant. Thus, mere bloodstains on the bolo, shirt and pants of appellant without any corresponding evidence of the blood type matching that of the victim will not be sufficient to convict the appellant (Cf. *People v. Tolentino*, L-501303, November 24, 1986; 145 SCRA 597).

In regard to the testimonies of Rodrigo Labian and Pepito Sevilla which imputed the killing of the victim to Toto Mendido, We hold that the trial court correctly ruled that the same are inadmissible as part of the *res gestae* and for being hearsay. Witnesses Labian and Sevilla did not have actual knowledge of the incident because neither of them witnessed it. More importantly, the information they received were not made under shock or stress or influence of a startling occurrence which had taken place or subsequent thereto. But, be that as it may, the rejected testimonies do not diminish the appellant's chances for acquittal. We have, time and again, emphasized that the prosecution must prove the guilt of the accused upon the strength of its own evidence rather than on the weakness of the defense (*People v. Castelo*, *supra*).

The totality of the circumstances of this case points to the innocence of the appellant. His guilt has not been proven beyond reasonable doubt. Only upon proof beyond reasonable doubt (which requires moral certainty, a certainty that convinces and satisfies the reason and conscience of those who are to act upon it) may the presumption of innocence be overcome (*People v. Martinez*, L-39402, September 24, 1986; 144 SCRA 303). The prosecution failed to come up with a credible, persuasive and strong evidence for conviction. Consequently, appellant's acquittal is in order.

ACCORDINGLY, the judgment of the trial court dated September 25, 1985 is REVERSED and appellant Alberto Padilla is hereby ACQUITTED on reasonable doubt. Costs de oficio.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

[1] Presided over by Judge Sinforiano A. Monsanto.

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.