

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS.
FEDERICO TORIBIO ALIAS “FEDING”; DEFENDANT/
APPELLANT. NARDING TORIBIO, REYSON TORIBIO AND FREDDIE
TORIBIO ALIAS “EBOK”; A...**

G.R. No. 88098. June 26, 1991

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-88098/>

FELICIANO, J.:

Federico Toribio appeals from the decision of Regional Trial Court, Branch 6 of the 6th Judicial Region, Kalibo, Aklan, dated 13 February 1989 convicting him of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim Romulo Sonio the sum of P30,000.00 as moral damages in addition to costs.

An information dated 11 November 1985, charged appellant Federico Toribio together with his co-accused Narding Toribio, Reyson Toribio and Freddie Toribio with the crime of murder committed as follows:

"That on or about the 3rd day of August 1985, in the evening, in Barangay Tibiao, Municipality of Altavas, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with deadly weapons, consisting of unlicensed firearm known as 'pugakhang' and bolces, conspiring together and helping one another, with evident premeditation treachery and intent to kill, did then and there wilfully, unlawfully and feloniously shoot, fire at one ROMULO SONIO, thereby inflicting upon the latter, physical injuries, to wit:

EXTERNAL FINDINGS

1. Gunshot Wound multiple chest left.

POE - Chest left anterior axillary line level of nipple, penetrating, no exit.

POE - Chest left 6 ICS below nipple, penetrating, no exit.

2. Gunshot Wound Abdomen

POE - Epigastrium penetrating, no exit.

3. Abrasion Abdomen - epigastric region.

4. Gunshot Wound Thigh left multiple.

POE - 5 entrance anterior middle third thigh thru and thru.

5. Gunshot Wound leg left.

POE - leg middle third anterior thru and thru.

INTERNAL FINDINGS

1. Gunshot wound chest left penetrating, perforating left side heart and lung, bullets lodged at the left side of 1st and 2nd thoracic vertebrae.
2. Gunshot wound abdomen epigastric, perforating stomach & transverse colon.
3. Fracture tibia febula (sic) B/3rd left.

per Autopsy Report signed by Dr. Rogelio G. Rivera, Officer-in-Charge, Altavas, District Hospital, hereto attached as Annex 'A' and made integral part of this information, which injuries caused the death of Romulo Sonio per Certificate of Death signed by the same physician, likewise hereto attached as Annex 'B' and made integral part of this information.

That the following aggravating circumstances are present in the commission of the crime.

1. the crime was committed with the use of unlicensed firearm: and
2. the offense was committed by armed band.

That as a result of the criminal acts of the accused, the heirs of the victim suffered the following damages:

- a. P30,000.00 for the death of Romulo Sonio; and
- b. P50,000.00 for moral damages.

All contrary to law."^[1]

At the arraignment, all four (4) accused pleaded not guilty to the crime charged.

The trial court rendered in due time a decision convicting only the appellant Federico Toribio of the crime of murder. The dispositive portion of this decision reads:

"WHEREFORE, judgment is hereby rendered finding the accused Federico Toribio GUILTY beyond reasonable doubt of the crime of murder and in accordance with the provisions of Article 64, par. 1 Revised Penal Code, sentences him to thirty (30) years imprisonment of reclusion perpetua; to pay the heirs of the late Romulo Sonio the sum of P30,000.00; and to pay the costs.

Accused Federico Toribio, having been convicted of a capital offense, the bail bond posted for his temporary liberty is hereby ordered cancelled and may now be returned to their lawful owners.

For insufficiency of evidence of conspiracy, accused Freddie Toribio, Narding Toribio and Reyson Toribio are hereby ACQUITTED of the crime of murder; their bail bonds ordered cancelled and may now be returned to their lawful owners; and with costs de oficio.

SO ORDERED."^[2]

The appellant argues that the trial court erred in the following respects:

1. in giving much weight to the weak evidence of the prosecution instead of relying on the credible and un rebutted testimony of the witnesses for the defense; and
2. in finding appellant guilty beyond reasonable doubt of the crime of murder and in penalizing him under Article 64, paragraph I of the Revised Penal Code.

The evidence for the prosecution tended to establish the following as the relevant facts:

The house of the victim Romulo Sonio and his wife Mercedita Sonio in Barangay Tibiao, Altavas, Aklan is

surrounded by coconut trees and banana plants and stands near a ricefield. On 3 August 1985, at around 5:00 o'clock in the afternoon, the victim and his wife Mercedita left their house to tap tuba from one of the nearby coconut trees situated 100 meters more or less from their house.[3] The victim's brother, Gerardo Sonio, and a friend, Romeo Patricio, were at that time in Romulo's house having been earlier fetched by the victim. Thus, Gerardo, the children of the victim, and Romeo (now deceased) were in the meantime left inside the house.

Upon reaching the particular coconut tree he had chosen, the victim promptly climbed up while Mercedita was left on the ground looking up at him. At the top of the tree, the victim shouted to Mercedita to go home and prepare their supper.[4] Accordingly, Mercedita went back home and it was while she was preparing their supper that she heard a gunshot followed by the victim's cry for help.[5] She immediately ran out towards the direction of the coconut tree Romulo had climbed. Gerardo, Mercedita's children and Romeo who had also heard the gunshot, followed her. Mercedita from a distance of about five (5) arm-stretches, saw the appellant aiming his shotgun (locally known as "pugakhang") at the victim who was still on top of the coconut tree. The victim attempted to dodge the anticipated shots and moved his body from side to side, causing the leaves of the coconut tree to sway.[6] But, appellant persisted and fired again at the victim, this time causing the latter to fall about twelve (12) feet to the ground.[7] Mercedita, fearing for her own life, ran and hid herself in the ricefield. When she saw appellant and his co-accused leave the scene of the crime, she emerged and approached her fallen husband.[8]

In the meantime, Gerardo upon seeing his brother Romulo fall from the coconut tree, turned to appellant and demanded to know why the latter had shot Romulo.[9] Appellant did not respond and instead pointed his gun menacingly at Gerardo and said "You also." [10] Thereafter, appellant and his companions hurriedly left the crime scene. Gerardo heard his brother groan and came to the latter's side to help him but, a few minutes later, Romulo expired. Gerardo proceeded to his parents' house in Kinsay-an to tell them the sad news.

Two (2) of the children of the victim went to the house of Guillermo Blacquio, Jr., a barangay councilman of Tibiao, to report the death of their father. The children also went to see Pablito Espino, a barangay captain, to ask him to look into the murder of their father. Espino, without going to the scene of the crime and actually investigating the matter, and relying upon information supplied by Blacquio who had allegedly examined the cadaver of the victim, reported to the Desk Officer of the Integrated National Police ("INP") of Altavas, Patrolman Jesus Dominguez, that the victim, while on top of a coconut tree, had been shot to death by unidentified men.[11]

The next day, Police Investigator Junio Salazar examined the body of the victim and talked to Gerardo. Gerardo informed Salazar that it was appellant Federico Toribio who had shot his brother.[12] Gerardo did not, at that time, execute a sworn statement. During a subsequent family conference, however, it was decided that Gerardo should execute a sworn statement in order to hasten the filing of criminal charges against appellant. Accordingly, on 4 September 1985, Gerardo executed a sworn statement in the Altavas Police Station, in which he once more identified appellant as the gunman who had shot Romulo Sonio.[13]

Appellant Federico Toribio's version of the facts was as follows:

On the day of the killing, appellant and his son Reyson were working as laborers at a fishpond managed by one Federico Gulac in Barangay Bay-ang, Batang, Aklan, having gone thereon 29 July 1985. Batang was about fifteen (15) kilometers from Tibiao. Appellant first learned about Romulo Sonio's death when he (appellant) returned to Tibiao on 5 August 1985.

Appellant also contends that the victim and his two (2) brothers, Polong Sonio and Emeterio Sonio, were widely known in Tibiao to be robbers and cattle rustlers. The victim's two (2) brothers, Polong and Emeterio, had earlier been killed by men believed to be members of the New People's Army ("NPA") and so, appellant argued, the

victim Romulo Sonio was probably killed by the NPAs, too.

The issues to be resolved here are whether or not appellant's guilt of the crime of murder had been shown beyond reasonable doubt, and whether or not the qualifying circumstance of treachery had been properly proved and appreciated.

At the trial, Mercedita Sonio was firm and categorical in identifying appellant Federico Toribio as the man she had seen shoot and kill her husband:

"x x x x x x x x

Q. And you stated that he died when he fell to the ground. How did you know that he was already dead when he fell to the ground?

A. Because I was already there.

Q. And you stated that you know the accused for so many years. Did you see them during the time of the shooting of your husband?

A. Yes, ma'am.

A. I saw them hiding behind the coconut tree.

x x x x x x x x

Q. And when you arrived in the crimescene where your husband fell down, what did the four accused do, if they did anything?

A. That they shoot my husband.

Q. You stated that the four accused were hiding at the coconut tree. How were you able to see them when they were hiding at the coconut tree?

A. I saw them because they were pointing a gun to my husband.

Q. And who among the four was aiming the gun towards your husband?

A. Feding Toribio.

Q. About how far was this Feding Toribio from your husband when you said Feding Toribio was aiming a gun against your husband?

A. About two armstretch.

x x x x x x x x."[14]

(Underscoring supplied)

Mercedita's positive identification of appellant as the killer was corroborated by the equally definite testimony of Gerardo Sonio that indeed appellant had shot and killed Romulo Sonio:

"x x x x x x x x

Q. Whom did you see shooting your brother at a distance of 5 armstretch away?

A. Federico Toribio was the one.

Q. How many explosions did you hear you said that while you were in your house around 100-150 you heard one explosion, is that correct?

A. Yes, sir.

Q. You said that you were 5 armstretch away at the scene of the incident when you saw Federico Toribio aiming his gun. Did you hear any explosion from that gun?

A. Yes, your Honor, there was an explosion.

Q. To whom was that gun being pointed at the time by Federico Toribio before you heard it explode again?

A. To my brother who was on top that coconut tree who was tapping tuba.

Q. And after you heard the explosion, what happened to your brother who was then on top of the coconut tree?

A. He was hit.

Q. And what happened to him when he was hit?

A. He fell.

Q. And when he fell down, what happened again if anything more happened?

A. I remarked them why they shot him.

Q. And what did they say?

A. They turned on me and aimed that gun towards me saying 'You also' after that they ran away.

x x x x x x x x.[15]

(Underscoring supplied)

The trial court found the testimony of Mercedita and Gerardo as positive, credible and reliable. The Court finds no reason to disagree with the findings of the trial court on this point. The constant rule is that "the findings of the trial court as to the credibility of the witnesses are to be given great weight and a high degree of respect by the appellate court." [16] While proof of the killer's motive is not essential for conviction, it is pertinent to point out that appellant Federico Toribio had admitted having denounced to the NPA the two (2) brothers of Romulo Sonio, both of whom were later killed. The trial court found that appellant hated the Sonio brothers (including Romulo Sonio) with a passion:

"There is no doubt in the mind of the Court that accused Federico Toribio shot and killed the deceased with a shotgun locally known as 'pugakang' while the deceased was on top of a coconut tree tapping tuba. He was not only positively identified by the prosecution witnesses but also accused Federico Toribio admitted having allegedly told the NPA that deceased Polong Sonio and deceased Emeterio Sonio, brothers of the late Romulo Sonio, were robbers and even led the NPA to the two (2) deceased brothers and identified them so that the NPA could kill them. While the killing of the two (2) brothers of deceased Romulo -Sonio was not the murder charged in the information, and does not by any means amount to direct evidence against accused Federico Toribio, yet the same is competent evidence to prove the intent of accused Federico Toribio in killing deceased Romulo Sonio which was charged in the information. He hated the Sonio brothers so much because they were allegedly cattle rustlers that he admitted that he was a principal in the killing of the two (2) deceased brothers of deceased Romulo Sonio." [17]

In its Appellant's Brief, the defense suggested that prosecution witnesses Mercedita Sonio and Gerardo Sonio had a motive for charging appellant Federico Toribio with the murder of Romulo -- revenge for Federico's having denounced to the NPA Romulo's two (2) brothers as robbers and for the death of those (2) brothers, presumably at the hands of the NPA. This appears a new and intriguing suggestion, but there is nothing in the record to support

it. The implicit suggestion is that the testimony of both Mercedita and Gerardo that Federico Toribio had shot and killed Romulo Sonio was a complete fabrication, designed to "frame" an innocent man, and that Romulo had in fact been killed by unknown persons. Mercedita and Gerardo, however, held fast to their statements and were not shaken by cross-examination.

The trial court rejected appellant's defense of alibi. The general rule, applied by the trial court in this case, is that the defense of alibi cannot prevail over positive and credible identification of the accused. It has been repeatedly held by this Court that:

"Alibi is not credible in the face of the direct and positive testimony of the prosecution witness on how the assault on the victim was perpetrated by the accused. Contradictions in testimony of witness which refer to unimportant acts, do not affect its veracity." [18]

The fishpond where the appellant and his son Reyson were allegedly working on the day of the killing of Romulo Sonio was, as noted earlier, about fifteen (15) kilometers away from the house of the victim. The defense alleged that this fifteen (15) kilometers trip was commonly made (at least by appellant and his son) partly by motorized tricycle from Tibiao to Altavas and then by pump boat from Altavas to Batang. Federico Gulac, the alleged manager of the fish-pond, testified that appellant and his son had gone from Tibiao to the fishpond to work thereon 29 July 1985 (i.e., before the killing) and went back to Tibiao on 5 August 1985 (i.e., after the killing), creating the impression (though Gulac never explicitly said so) that they had stayed there all throughout the intervening days.[19] There was no showing, however, that it was physically impossible for appellant to have left Batang for Tibiao on the day of the killing, and then returned to Batang on the same day.[20] Examination of the testimony of Gulac reveals that he was remarkably evasive and vague in his answers on cross-examination and as well in his answers to the questions posed by the trial court, to the exasperation of the court. Gulac claimed he had kept records showing who worked when in the fishpond, but that he had surrendered the records to the owners;[21] the defense, however, made no effort to subpoena those records. In sum, his testimony was found inadequate by the trial court, and we find no reason for departing from this finding of the trial court.

In an attempt to discredit the testimony of Gerardo Sonio, the defense pointed to certain alleged inconsistencies in Gerardo's statements. Appellant claims that Gerardo had three (3) different versions as to why he was in his brother's house at the time of the shooting of Romulo. Gerardo, appellant contends, had told Police Investigator Salazar that he was there at that time because he and Romeo Patricio, a friend, had been invited by Romulo to drink tuba with him. The second version, appellant claims, was related by Gerardo to the Municipal Judge of Altavas, i.e., that he and the other members of the family had been invited by his brother Romulo to his house to partake of newly harvested rice. The third version, according to the appellant, was what Gerardo had recounted to the court during the trial: that Gerardo was there in the victim's house to fetch their mother. We note, however, that the matter of how and why Gerardo happened to be in the house of the victim Romulo was not a fact in issue in the trial. Any minor inconsistencies that may have crept into Gerardo's testimony in respect of such matter did not, consequently, affect his credibility. What had been definitely established by Gerardo and the other prosecution witnesses was that Gerardo was in the victim's house at the time of the shooting; and that he saw the appellant shoot Gerardo.[22] Besides, the alleged inconsistencies seem more apparent than real in this case.

Appellant also suggested that Mercedita's and Gerardo's testimony that appellant and his co-accused had tarried at the scene of the crime instead of immediately leaving after having shot down Romulo Sonio, was inherently incredible. We do not think so. In the first place, the precise place of the shooting was only about a hundred meters away from Romulo's and Mercedita's house, a distance traversable in a few minutes. Appellant's failure to quit the scene of the crime immediately after having shot Romulo Sonio is plausibly explainable by a desire on the part of appellant to make sure that the victim was mortally wounded.

Appellant also seeks to make capital of the fact that the police report had stated that the deceased Romulo Sonio was killed by unidentified persons while Mercedita and Gerardo had pointed to appellant as the gunman and killer. As noted earlier, the police report was based upon information conveyed by Barangay Captain Pablito Espino who had not personally investigated the killing of Romulo. Espino had simply relied upon information conveyed by Barangay Councilman Blacquio that the victim had been killed by unidentified men.[23] Espino's testimony is clearly an insufficient basis for disregarding the clear and positive identification by Mercedita and Gerardo Sonio of appellant as the killer of Romulo Sonio.

Finally, appellant argues that treachery was not present in the instant case considering that the victim had become aware of the presence of his attackers and had been able to shout for help. The Court is not persuaded by this argument. Romulo Sonio was clearly not in a position to defend himself at the time of the attack: he was then on top of a coconut tree. His assailant was on the ground aiming and firing at him much as if he were a sitting duck. There was, in other words, here the employment of means or methods or manner of execution which insured the attacker's safety from any defensive or retaliatory act on the part of the victim. Romulo Sonio perched on top of the coconut tree was quite helpless, and the trial court believed that such manner of execution was deliberately or consciously chosen by appellant. Again, we have no basis for rejecting this finding of the trial court: appellant did not give Romulo a chance to descend from the coconut tree but rather shot him down from the tree.

The location and position of the gunshot wound sustained by Romulo clearly showed that the victim had been attacked while perched on top of the coconut tree. The autopsy report of Dr. Rogelio G. Rivera stated that the point of entrance of the bullets (or shotgun pellets) that had pierced the heart or lung of the victim were in the "chest left anterior axillary line level of nipple" and "chest left 6 ICS below nipple". As pointed out by the Solicitor General in his Brief:

"x x x. The nipple is normally found at the level of the 6th thoracic vertebra. If the person firing the gun was at the level of the victim, the bullets would not have lodged at the 1st and 2nd thoracic vertebrae. In this case, the bullets were found lodged at the 1st and 2nd thoracic vertebrae, while the points of entrance of the bullets were either at the level of the nipple, or below the nipple. Necessarily, the trajectory of the bullets could only have been upwards, leading to the necessary conclusion that the victim was at a higher level than the gunman. (Snells, Clinical Anatomy, 2nd ed., p. 2)"[24]

FOR ALL THE FOREGOING, the Decision of the trial court dated 13 February 1989 is hereby **AFFIRMED**, with the modification that appellant shall indemnify the heirs of the late Romulo Sonio in the amount of P50,000.00.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Davide, Jr., JJ., concur.

[1] Rollo, pp. 5-6.

[2] Id., pp. 25-26.

[3] TSN, 24 September 1987, p. 5.

[4] TSN, 2 May 1986, p. 6

[5] Id., pp. 7-8; TSN, 13 October 1986, pp. 7-8; TSN, 24 September 1987, p. 6.

[6] TSN, 13 October 1986, p. 8; TSN, 24 September 1987, pp. 8-9.

[7] Id., pp. 9-10; TSN, 24 September 1987, pp. 9-10.

[8] TSN, 2 May 1986, p. 13.

[9] TSN, 24 September 1987, p. 10.

[10] Id., pp. 10-11.

[11] TSN, 4 February 1988, pp. 5-6.

[12] TSN, 2 May 1986, p. 25.

[13] Original Record, p. 34.

[14] TSN, 2 May 1986, pp. 10-11.

[15] TSN, 24 September 1987, pp. 9-10.

[16] *People v. Sarol*, 139 SCRA 125 (1985); *People v. Veloso*, 148 SCRA 60 (1987); *People v. Sarda*, 172 SCRA 651 (1989).

[17] Trial Court Decision, Rollo, p. 23.

[18] *People v. Casunde*, 134 SCRA 197 (1985); *People v. Garcia*, 141 SCRA 336 (1986); *People v. Pacoda, Jr.*, 142 SCRA 427 (1986); *People v. Aboga*, 147 SCRA 404 (1987); *People v. Pecato*, 151 SCRA 14 (1987); *People v. Gahal*, 170 SCRA 585 (1989); *People v. Madriaga IV*, 171 SCRA 103 (1989).

[19] TSN, 11 August 1988, pp. 3-6.

[20] *People v. Rose*, 166 SCRA 110 (1988); *People v. Tuando*, 150 SCRA 8 (1987); *People v. Lucas*, G.R. No. 80102, 22 January 1990; *People v. Solis*, G.R. Nos. 78732-33, 14 February 1990.

[21] TSN, 11 August 1988, p. 18.

[22] TSN, 2 May 1986, pp. 5-11; TSN, 7 July 1988, pp. 11-12.

[23] TSN, 24 September 1987, p. 7.

[24] Appellee's Brief, p. 18

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.