

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY LAURIO AND DOMINADOR “TULONG” LAURIO, ACCUSED. DOMINADOR “TULONG” LAURIO, ACCUSED-APPELLANT.

G.R. No. 95351. August 09, 1991

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95351/>

GRINO-AQUINO, J.:

On July 25, 1989, the brothers, Jimmy and Dominador Laurio, were charged with murder in an information filed by the Provincial Prosecutor of Masbate, docketed as Criminal Case No. 5753 of the Regional Trial Court of Masbate, which reads:

"That on or about May 7, 1988 at midnight thereof, at sitio Bagong Sirang, Barangay Panique, Municipality of Aroroy, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously conspiring and helping each other, attack, assault, box and stab with a knife one Ely Banculo, hitting the latter on the different parts of the body, thereby inflicting wounds which directly caused his death.

"Contrary to law." (p. 7, Rollo.)

Upon arraignment, the accused Dominador Laurio, assisted by counsel de parte, entered a plea of "not guilty." Trial ensued only against him, because his co-accused, Jimmy Laurio, was, and still is, at large.

In the evening of May 7, 1988, a benefit dance was held in the dance hall at the public plaza in Bagong Sirang, Barangay Panique, Aroroy, Masbate. The dance was managed by Roberto Manlapaz who was president of the affair.

While the benefit dance was going on, Ely Banculo, Dominador Laurio, and Jimmy Laurio drank beer "grande" at a corner store near the plaza. When the three decided to retire, they offered a last drink to Roberto Manlapaz, who accepted it. Shortly after eleven o'clock in the evening, they asked permission to leave. After the three had departed, Manlapaz went to the comfort room about ten meters away. While he was there, he saw Dominador Laurio suddenly box Ely Banculo on the right jaw. The blow caused Banculo to fall on the ground. Instantly, Jimmy Laurio plunged his hand knuckle with a protruding blade three times into Banculo's body as he lay on the ground, wounding him on the right nipple, on the back, and in the right armpit.

Since the place of the scuffle was well-lighted by a fluorescent lamp on a nearby coconut tree, Dominador's neighbor, Andiolo Esquilona, who chanced to be passing by, witnessed the stabbing of Banculo by Jimmy Laurio. After rendering Banculo prostrate, the Laurio brothers fled.

Manlapaz reported the incident to the barangay captain, who went after the Laurio brothers straightaway. Dominador was arrested, but his brother Jimmy went into hiding and has remained at large.

Someone informed Banculo's wife, Delia, about the stabbing of her husband. She rushed to the scene of the crime in time for her husband to inform her that he was stabbed by Jimmy and Dominador Laurio.

Banculo was brought to the Atlas Clinic for emergency treatment. Afterwards, he was moved to the clinic of Dr. Corpus, where he remained for two days and two nights. As his condition worsened, upon the advice of Dr. Corpus himself, Banculo was transferred to the Masbate Provincial Hospital where he underwent an operation in the lungs. Unfortunately, infection had already set in. He died of cardio-pulmonary arrest secondary to septicemia with severe hemothorax, secondary to stab wounds, chest anterior (Dr. Enrique O. Legaspi's Certification-Masbate Provincial Hospital).

In a decision dated July 24, 1990, the Regional Trial Court of Masbate (Br. 45) found Dominador Laurio guilty beyond reasonable doubt of murder and sentenced him to suffer the penalty of reclusion perpetua, and to pay indemnity in the amount of P30,000 to the heirs of the victim, Ely Banculo, plus costs.

He has appealed that decision, alleging that the court a quo erred:

1. in finding that he conspired with his brother, Jimmy, and employed treachery in killing the victim; and
2. in giving full credit to the testimonies of the prosecution witnesses despite material inconsistencies.

There is merit in the appeal.

It is a basic principle of constitutional law that the accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. Lacking such certainty, the trial court has the duty to render a verdict of acquittal (*People vs. Macasinag*, 173 SCRA 292). The same degree of proof necessary to establish the crime is required to establish a criminal conspiracy (*People vs. Drilon, Jr.*, 123 SCRA 72). It cannot be established by conjectures but by positive and conclusive evidence (*People vs. Martinez*, 127 SCRA 260). A conspiracy may be inferred from the circumstances attending the commission of the crime, but, like any other ingredient of the offense, it must be established by clear and convincing evidence (*People vs. Agda*, 111 SCRA 330).

The evidence in this case shows only that the appellant, Dominador Laurio, and the deceased quarreled over a woman and that they had a fist fight. In anger, Dominador boxed Banculo on the jaw. His brother, Jimmy Laurio, immediately jumped into the fray by stabbing Banculo in different parts of the body and inflicting wounds which caused his death. There is no evidence that the brothers had conspired to kill Banculo or that Dominador had foreknowledge of what Jimmy (who apparently had no score to settle with Banculo) would do. Only a conspiracy between the brothers would qualify to murder Dominador's act of boxing the victim, but such a conspiracy was not proven as indubitably as the homicide itself (*People vs. Felix Raquipo*, 188 SCRA 571). Absent any evidence proving the gravity or duration of the physical injury inflicted by Dominador's fist blow upon the victim, or proof of a conspiracy of the Laurio brothers to seriously injure or kill the victim, Dominador is presumed, and should be held, liable for slight physical injuries only (*People vs. Bautista*, 30 SCRA 558; Art. 266, Revised Penal Code, Vol. II, 1987 Ed. by Aquino, pp. 603-605).

WHEREFORE, the appealed decision is hereby modified, by finding appellant Dominador Laurio guilty of slight physical injuries only and sentencing him to suffer the penalty of imprisonment for thirty (30) days of arresto menor, with the accessory penalties provided by law and to pay the costs. If he has been detained for longer than that period, his immediate release from custody is hereby ordered, unless he is being held to answer for some other offense or offenses.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, 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.