

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO ADOVISO, DEFENDANT-APPELLANT.

G.R. Nos. 116196-97. June 23, 1999

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-116196-97/>

KAPUNAN, J.:

Pablo Adoviso appeals from the Joint Judgment[1] of the Regional Trial Court of Camarines Sur[2] declaring him guilty beyond reasonable doubt for two counts of Murder.

Appellant, allegedly a member of the Citizens Armed Forces Geographical Unit (CAFGU), was originally charged with four unidentified persons who have, however, remained at large. The information[3] charging appellant with the Murder of Rufino Agunos under Criminal Case No. P-2079 alleges:

That on or about the 18th day of February 1990 at about 8:00 o'clock [sic] in the evening at Sitio Tan-agan, Barangay Casugad, Municipality of Bula, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with assorted long firearms, conspiring, confederating and mutually helping one another, with intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shoot one Rufino Agunos several times with said firearms hitting the latter on the different parts of his body which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said Rufino Agunos.

That the crime complained of against the accused is not service connected.

ACTS CONTRARY TO LAW.

Except for the name of the victim, the information in Criminal Case No. P-2080 with respect to the killing of Emeterio Vasquez, contains the same allegations.[4]

Appellant pleaded not guilty to both charges. At the joint trial of Criminal Case Nos. P-2079 and P-2080, the prosecution presented their version of the events that transpired on the evening of February 18, 1990, as follows:

The spouses Emeterio and Anastacia Vasquez had two adjacent houses in Sitio Tan-agan, Barangay Casugad, Bula, Camarines Sur. One of the houses was actually a camalig where they stored harvested rice. The spouses preferred to live there because it was cooler. The living area of the camalig had walls of bamboo called salsag. This area was elevated from the ground. Three steps led down to an awning (suyab) walled with bamboo slats. These slats were placed horizontally approximately four to six inches apart. A portion of the awning was used as a kitchen but another portion had a papag where the Vasquez' grandson, Rufino Agunos, son of their daughter Virginia, would sleep whenever he tended the irrigation pump. The spouses' son Bonifacio occupied the other house eight (8) meters from the camalig with his own son Elmer.

At around 8:00 in the evening of February 18, 1990, Emeterio Vazquez was preparing coffee as his wife was about to retire for the night. Their grandson Rufino had already gone to sleep in the papag. Anastacia had just finished spreading the sleeping mat when she heard three or four gunshots. Emeterio then uttered that he had been

shot. Seeing Emeterio, Anastacia exclaimed, "Why should you not be hit when in fact there are guns in front of you." Anastacia saw the "protruding edge of the gun" on the wall near the stairs where Emeterio went down. A lamp near the stairs where Emeterio drank coffee illuminated the camalig but Anastacia failed to recognize the persons who fired their guns at her husband.

The Vasquez' son Bonifacio was in the bigger house when he heard the gunshots. Earlier that evening, Bonifacio was talking to Rufino regarding the engine of the irrigation pump. Bonifacio was still talking when he noticed that Rufino had fallen asleep, the latter's back against the bamboo wall. Bonifacio left Rufino snoring in the papag and went to the other house. Only a minute had passed after he had gone up when Bonifacio heard the gunshots. He and his 16-year-old son Elmer immediately went down the front yard to investigate.

Bonifacio hid himself in the dark portion of the yard, behind a coconut tree. From a distance of eight (8) meters, Bonifacio saw Rufino, who was inside the camalig, being shot by several persons from the outside. Looking through the bamboo slats of the camalig wall, Bonifacio recognized one of the assailants, with a large built and long hair, as appellant Pablo Adoviso because of the gas lamp that was lighted inside the camalig. Of Rufino's assailants, only appellant was not wearing a mask. Appellant was holding a long firearm wrapped inside a sack with its muzzle protruding and directed where Rufino was sleeping. Appellant then fired hitting Rufino. At that moment, Bonifacio heard his father Emeterio shout "Pino," (referring to his grandson Rufino) and saw his father go down the stairs carrying a gas lamp. Appellant fired again, hitting Emeterio at the stomach.

For his part, Elmer, who rushed towards the camalig with his father Bonifacio, saw five (5) persons aiming their firearms at the camalig. Except for appellant, each of these persons had a cover over their faces. Three (3) of them were positioned in a ditch near the camalig while two (2) others were near its door. Elmer saw these five (5) persons shoot his cousin Rufino who was lying down on the papag. Although his back was hit, Rufino was able to crawl under the papag. Elmer's grandfather was also hit on the stomach but he managed to go up the camalig. When appellant and his companion by the camalig door saw Elmer, they fired at him then, with the three others at the ditch, escaped to the banana plantation. Elmer, on the other hand, fled towards the coconut plantation.

Upon returning to the camalig, Elmer saw his father carrying his grandfather Emeterio. He also found Rufino at the foot of a coconut tree near the river, lying on his side with his body curled. Rufino told Elmer that he had been hit and, when Elmer failed to locate his wound, Rufino took Elmer's hand and put it on his back. Elmer then moved Rufino "sidewise." Upon returning to the camalig, Elmer carried his grandfather and bandaged his stomach with diapers.

In the meantime, Bonifacio went to the municipal building of Bula to fetch the police. Inspector Antonio Lopez and Senior Police Officer 1 Claro Ballesar returned to the scene of the crime with him. The police brought Emeterio and Rufino to the municipal hall of Bula and then to the Bicol Regional Hospital. Both Emeterio and Rufino died early the next morning.

The certification^[5] dated March 7, 1990 and signed by Dr. Janice Nanette Estrada, resident physician of the Bicol Regional Hospital in Naga City, states that 35-year-old Rufino Agunos died of four (4) gunshot wounds: at the inguinal area, the sacral area, the thigh and the abdomen. The wounds at the inguinal area and the thigh bore contusion collars. The same physician certified that Emeterio Vasquez, 88 years of age, sustained seven (7) gunshot wounds at the paraumbilical area, lumbar area, hypogastrium, anterior aspect of the right forearm, anteromedial aspect of the right forearm, anteromedial aspect left arm and anterolateral aspect of the left arm. Four (4) of these gunshot wounds had contusion collars - at the paraumbilical area, the hypogastrium, the right forearm and the left arm.^[6]

Appellant Adoviso interposed alibi and denial as his defense.

Appellant claimed that he was a member of the CAFGU whose headquarters was located in Barangay Palsong, Bula, Camarines Sur. At around 7:00 in the evening of February 18, 1990, he was in Sitio Burabod, Palsong, about a kilometer away from the CAFGU headquarters. He, together with Francisco Bislombre, Benjamin Alina, Jr. and PFC Antero Esteron, had some drinks in the store of Honoria Tragante until around 11:00 p.m.

Honoria Tragante and Francisco Bislombre corroborated appellant's alibi. Antero Esteron likewise testified that from 7:00 until past 11:00 that night of February 18, 1990, he and appellant had a drinking spree at the Tragante store. He distinctly remembered that date because it was the fiesta of Balatan.

To support his denial, appellant presented Lt. Antonio Lopez, the deputy chief of police and SPO2 Claro Ballebar of the PNP Bula Police Station. Lopez identified a police certification^[7] prepared by Pfc. Ramon N. Canabe to the effect that the shooting incident was perpetrated "by unidentified armed men." Lopez said that he (Lopez) was one of those who brought the victims to the hospital who were then still conscious. The victims told him that they did not know who shot them or why they were shot.

SPO2 Claro Ballebar, however testified that in the follow-up investigation he conducted several days after the incident, Bonifacio Vasquez revealed to him that he (Bonifacio) "vividly saw the incident and recognized" appellant as one of the perpetrators of the crime and that the killings had some something to do with land dispute between Bonifacio's parents and the Galicia family.

The defense also offered in evidence the testimony of Ernesto A. Lucena, Polygraph Examiner II of the National Bureau of Investigation (NBI) in Manila, who conducted a polygraph test on appellant. In Polygraph Report No. 900175,^[8] Lucena opined that appellant's "polygrams revealed that there were no specific reactions indicative of deception to pertinent questions relevant" to the investigation of the crimes.

In rebuttal, Bonifacio Vasquez revealed that when he reported the incident to the police, he did not identify appellant as one of the culprits because he was afraid of appellant who was a member of the CAFGU. Nevertheless, Bonifacio did mention to the police that he recognized appellant as one of the perpetrators of the crime although he told them that he did not recognize appellant's four (4) companions. He did not mention to Lopez and Canabe appellant's identity because he was "confused" about what had happened in their house.

On March 25, 1994, the trial court rendered a Joint Judgment finding appellant guilty beyond reasonable doubt for two (2) counts of murder and disposing of Criminal Case Nos. P-2079 and P-2080 as follows:

WHEREFORE, in view of all the foregoing, joint judgment is hereby rendered:

In Criminal Case No. P-2079, finding the accused PABLO ADOVISO guilty beyond reasonable doubt of the crime of MURDER and imposing upon him the penalty of RECLUSION PERPETUA and to pay the legal heirs of Rufino Agunos, consisting of the widow, Evelyn T. Agunos and their four (4) children the sum of FIFTY THOUSAND PESOS (P50,000.00) Philippine Currency;

In Criminal Case No. P-2080, likewise finding said accused PABLO ADOVISO guilty beyond reasonable doubt of the crime of MURDER and imposing upon him another penalty of RECLUSION PERPETUA and to pay the legal heirs of the late EMETERIO VASQUEZ, consisting of Anastacia Vasquez and Bonifacio Vasquez, another sum of FIFTY THOUSAND PESOS (P50,000.00) Philippine Currency with all the accessory penalties provided therefore in both cases and to pay the costs in both instances.

SO ORDERED.^[9]

Appellant hinges his bid for exoneration on whether he was properly identified by the two (2) eyewitnesses as one of the killers of the victims. He contends that eyewitnesses Bonifacio and Elmer Vasquez presented an "incredible" story because it is "highly improbable" that they could have "distinctly and positively recognized

accused-appellant as one of the perpetrators of the crimes." [10] According to appellant, Bonifacio, who was in the dark portion of the yard hiding behind a coconut tree, could not have identified appellant by the light emanating from gas lamp inside the camalig where Emeterio Vasquez and Rufino Agunos were staying at the time of the incident. Neither could Elmer Vasquez, who declared that he saw his grandfather shot by appellant, could have identified appellant because of the poor lighting coming from the gas lamp being carried by his grandfather. Appellant claims that the gas lamp carried by Elmer's grandfather was "a small can about two (2) inches tall and the wick is smaller than a cigarette" and the lamp inside the camalig "was placed inside a bigger can so that the direction of the light emanating therefrom was upwards and not sidewise." [11]

Visibility is indeed a vital factor in the determination of whether or not an eyewitness could have identified the perpetrator of a crime. However, it is settled that when conditions of visibility are favorable, and the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be accepted. [12] Illumination produced by kerosene lamp or a flashlight is sufficient to allow identification of persons. [13] Wicklamps, flashlights, even moonlight or starlight may, in proper situations be considered sufficient illumination, making the attack on the credibility of witnesses solely on that ground unmeritorious. [14]

In this case, not one (1) but two (2) gas lamps illuminated the place - the one placed inside the camalig and that held by Emeterio as he descended from the stairs after the first volley of gunfire. Appellant's contention therefore that one particular gas lamp could not have lighted the place because it was placed inside a can is puerile. Besides, Elmer was not describing either of the gas lamps during the incident. The defense counsel at the trial and appellant's counsel misunderstood the testimonies of Elmer and his grandmother on that matter. Thus, Elmer testified:

ATTY. CORTES:

Q

Is it not that the lamp you said placed along the door, which is already marked as lamp, is that not this lamp was placed inside a kerosene can as testified to by your grandmother so that the cat could not cause it to fall?

A It was placed just on the floor not inside the can." [15] (Underlining supplied.)

For her part, Anastacia testified as follows:

ATTY. CORTES:

xxx.

Q Because you were already about to retire, the doors and windows were already closed, is that correct?

A Yes, sir.

Q That you also shut down or closed the light, is that correct?

A No, sir, we even placed the kerosene lamp inside a can.

Q You said, you placed the lamp inside a can so that the light is going up, is that correct?

A Yes, sir.

Q So, the light was not illuminating sidewise because it was inside a can?

A When we left, I got the kerosene lamp and brought it with me.

ATTY. CORTES:

I think, the witness did not get the question right, Your Honor.

COURT:

Repeat the question.

ATTY. CORTES:

Q My question Madam Witness is, when you were about to retire?

A The lamp was placed on the floor where my husband was drinking coffee.

COURT:

Q Who are the persons you are referring to as having left when you placed the light inside the can?

A

My son, Bonifacio, and the policemen, Your Honor, when the(y) brought Emeterio and Rufino to the hospital.[16] (underlining supplied).

Clearly then, the lamp inside the camalig was placed on the floor and a can was placed over it only after the incident when Anastacia left with her son and the police to bring the victims to the hospital.

The bamboo slats of the camalig could not have effectively obstructed the eyewitnesses' view of appellant, considering that the slats were built four (4) meters apart. Besides, it is the natural reaction of relatives of victims

to strive to observe the faces and appearance of the assailants, if not ascertain their identities, and the manner in which the crime is committed.[17] A relative will naturally be interested in identifying the malefactor to secure his conviction to obtain justice for the death of his relative(s).[18] It must be remembered that appellant was not a complete stranger to the eyewitnesses. Bonifacio had known him for ten (10) years[19] while Elmer had been acquainted with him for four (4) years. Elmer recalled that appellant used to join the rabuz at the barracks.[20] Familiarity with appellant's face and appearance minimized if not erased the possibility that they could have been mistaken as to his identity.

Appellant's allegation that it was "improbable" for him to have committed the crimes without a mask, unlike the other participants, deserves scant consideration. It is not contrary to human experience for a person to commit a crime before the very eyes of people who are familiar to them. Indeed, some may even take pride in their identification as the perpetrator of a criminal act.

Appellant also considers as a "positive sign," Bonifacio's failure to immediately identify him as the perpetrator of the crime to the police.[21] The delay in reporting his participation to the police was however sufficiently explained by Bonifacio. Bonifacio was afraid of appellant since the latter was a member of the CAFGU and, as such, was provided with a gun. He was also hesitant in identifying appellant immediately lest he got wind of his impending arrest and posthaste escaped the clutches of the law. The failure of a witness to reveal at once the identity of the accused as one of the perpetrators of the crime does not affect, much less, impair his credibility as a witness.[22] The general or common rule is that witnesses react to a crime in different ways.[23] There is no standard form of human behavioral response to a strange, startling and frightful event, and there is no standard rule by which witnesses to a crime must react.[24]

There is no merit in appellant's contention that Bonifacio had a motive in implicating him. According to appellant, Bonifacio suspected that he was hired by the Galicia family to kill Bonifacio's father who had earlier won in a land dispute with the Galicias. It is irrelevant here to talk of motive on the part of Bonifacio inasmuch as to credible witnesses had positively identified appellant as one of the participants in the killing of Emeterio Vasquez and Rufino Agunos.

Appellant's alibi thus crumbles in the face of his positive identification as one of the perpetrators of the crimes.[25] For an alibi to prosper, moreover, there must be proof that the defendant was not only somewhere else when the crime was committed but that he could not be physically present at the place of the crime or its immediate vicinity at the time of its commission.[26][26] Appellant did not prove the physical impossibility of his being in Sitio Tan-agan which is not exactly remote from Sitio Palsong where he claimed to be when the incident happened. Both places are within the Municipality of Bula. Appellant admitted that the distance between the two sitios could be negotiated in three hours even without any means of transportation.[27] On the other hand, his alleged companion in Sitio Palsong, Antero Esteron, testified that the distance could be traveled in thirty-five (35) minutes by "trimobile" or private vehicle.[28]

Apart from the fact that appellant's alibi was inherently weak, he was not even sure where he was and who were his companions at the time the crimes were committed. We quote the observation of the trial court on this point:

On the premise that the trial court rendered the judgment of conviction on the basis of "mere conjectures and speculations,"[29] appellant argues that the negative result of the polygraph test should be given weight to tilt the scales of justice in his favor.

A polygraph is an electromechanical instrument that simultaneously measures and records certain physiological changes in the human body that are believed to be involuntarily caused by an examinee's conscious attempt to deceive the questioner.[30] The theory behind a polygraph or lie detector test is that a person who lies deliberately

will have a rising blood pressure and a subconscious block in breathing, which will be recorded on the graph.[31] However, American courts almost uniformly reject the results of polygraph tests when offered in evidence for the purpose of establishing the guilt or innocence of one accused of a crime, whether the accused or the prosecution seeks its introduction, for the reason that polygraph has not as yet attained scientific acceptance as a reliable and accurate means of ascertaining truth or deception.[32] The rule is no different in this jurisdiction. Thus, in *People v. Daniel*, [33] stating that much faith and credit should not be vested upon a lie detector test as it is not conclusive. Appellant, in this case, has not advanced any reason why this rule should not apply to him.

Appellant was therefore correctly adjudged guilty of two counts of Murder. Treachery qualified the killings to murder. There is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[34] In other words, there is treachery when the attack on an unarmed victim who has not given the slightest provocation is sudden, unexpected and without warning.[35] The victims in this case were totally unaware of an impending assault - Rufino was sleeping and Emeterio was going down the stairs when they were shot.

WHEREFORE, the Joint Judgment of the trial court is hereby AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Melo, Pardo, and Ynares-Santiago, JJ., concur.

[1] Penned by Judge Martin P. Badong, Jr.

[2] Branch 31.

[3] Records, p. 1, Criminal Case No. P-2079.

[4] *Id.*, at 3.

[5] *Id.*, at 35, Exh. D.

[6] *Id.*, at 34, Exh. C.

[7] *Id.*, at 370, Exh. 6.

[8] *Id.*, at 47, marking Exh. 8.

[9] *Id.*, at 422.

[10] Rollo, p. 204.

[11] *Id.*, at. 205-206.

[12] *People v. Cogonon*, 262 SCRA 693 (1996).

[13] *People v. Fabrigas, Jr.*, 261 DVTS 436 (1996); *People v. Penillos*, 205 SCRA 546 (1992); *People v. Loste*, 210 SCRA 614 (1992).

[14] *People v. Villaruel*, 330 Phil. 79, 89 (1996).

[15] TSN, July 30, 1993, p. 5.

[16] TSN, August 9, 1993, pp. 15- 16.

- [17] People v. Ramos, 260 SCRA 402 (1996).
- [18] People v. Sotes, 260 SCRA 353 (1996).
- [19] TSN, April 8, 1992, p. 3.
- [20] TSN, July 13, 1993, pp. 25-26.
- [21] Rollo, p. 208.
- [22] People v. Mendoza, 223 SCRA 108, (1993).
- [23] People v. Paynor, 261 SCRA 615 (1996).
- [24] People v. Teves, 321 Phil. 837 (1995).
- [25] People v. Santos, 270 SCRA 650 (1997).
- [26] People v. Alshaika, 261 SCRA 637 (1996).
- [27] TSN, September 4, 1992, p. 3.
- [28] TSN, July 30, 1993, pp. 26-27.
- [29] Rollo, p. 214.
- [30] WEST'S LEGAL THESAURUS/Dictionary, Special Deluxe Edition (1986).
- [31] WORDS AND PHRASES, "Lie Detector."
- [32] 29A Am Jur 2d Evidence § 1007.
- [33] 86 SCRA 511 (1978).**
- [34] Art. 14 (16), Revised Penal Code.
- [35] People v. Abapo, 239 SCRA 469 (1994).

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.