

EN BANC

[G.R. No. 79543, October 16, 1996]

**JOSE D. FILOTEO, JR., PETITIONER, VS. SANDIGANBAYAN AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

A person under investigation for the commission of an offense is constitutionally guaranteed certain rights. One of the most cherished of these is the right "to have competent and independent counsel preferably of his choice". The 1987 Constitution, unlike its predecessors, expressly covenants that such guarantee "cannot be waived except in writing and in the presence of counsel". In the present case, petitioner claims that such proscription against an uncounselled waiver of the right to counsel is applicable to him retroactively, even though his custodial investigation took place in 1983 -- long before the effectivity of the new Constitution. He also alleges that his arrest was illegal, that his extrajudicial confession was extracted through torture, and that the prosecution's evidence was insufficient to convict him. Finally, though not raised by petitioner, the question of what crime -- brigandage or robbery -- was committed is likewise *motu proprio* addressed by the Court in this Decision.

Challenged in the instant amended petition is the Decision^[1] of respondent Sandiganbayan^[2] in Criminal Case No. 8496 promulgated on June 19, 1987 convicting petitioner of brigandage, and the Resolution^[3] promulgated on July 27, 1987 denying his motion for reconsideration.

The Facts

Petitioner Jose D. Filoteo, Jr. was a police investigator of the Western Police District in Metro Manila, an old hand at dealing with suspected criminals. A recipient of various awards and commendations attesting to his competence and performance as a police officer, he could not therefore imagine that one day he would be sitting on the other side of the investigation table as the suspected mastermind of the armed hijacking of a postal delivery van.

Along with his co-accused Martin Mateo, Jr. y Mijares, PC/Sgt. Bernardo Relator, Jr. y Retino, CIC Ed Saguindel y Pabinguit, Ex-PC/Sgt. Danilo Miravalles y Marcelo and civilians Ricardo Perez, Reynaldo Frias, Raul Mendoza, Angel Liwanag, Severino Castro and Gerardo Escalada, petitioner Filoteo was charged in the following Information:^[4]

"That on or about the 3rd day of May, 1982, in the municipality of Meycauyan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, two of whom were armed with

guns, conspiring, confederating together and helping one another, did then and there wilfully, unlawfully and feloniously with intent of gain and by means of violence, threat and intimidation, stop the Postal Delivery Truck of the Bureau of Postal while it was travelling along the MacArthur Highway of said municipality, at the point of their guns, and then take, rob and carry away with them the following, to wit:

- 1) Postal Delivery Truck
- 2) Social Security System Medicare Checks and Vouchers
- 3) Social Security System Pension Checks and Vouchers
- 4) Treasury Warrants
- 5) Several Mail Matters from abroad

in the total amount of P253,728.29 more or less, belonging to US Government Pensionados, SSS Pensionados, SSS Medicare Beneficiaries and Private Individuals from Bulacan, Pampanga, Bataan, Zambales and Olongapo City, to the damage and prejudice of the owners in the aforementioned amount.

Contrary to law."

On separate dates, accused Filoteo, Mateo, Saguindel, Relator and Miravalles, assisted by their respective counsel, pleaded not guilty. Their co-accused Perez, Frias, Mendoza, Liwanag, Castro and Escalada were never arrested and remained at large. Accused Mateo escaped from police custody and was tried *in absentia* in accordance with Article IV, Section 19 of the 1973 Constitution. Accused Saguindel and Relator failed to appear during the trial on February 21, 1985 and on March 31, 1986, respectively, and were thus ordered arrested but remained at large since then. Like in the case of Mateo, proceedings against them were held *in absentia*.^[5] Only Filoteo filed this petition, after the respondent Court rendered its assailed Decision and Resolution.

Before trial commenced and upon the instance of the prosecution for a stipulation of facts, the defense admitted the following:^[6]

"The existence of the bound record of Criminal Case No. 50737-B-82, consisting of 343 pages from the Bulacan CFI (Exhibit A); in 1982 or thereabouts, accused Bernardo Relator was a PC Sergeant at Camp Bagond Diwa, Bicutan, Metro Manila; as such PC Sergeant, accused Relator was issued a service revolver, Smith & Wesson Revolver, 32 (sic), with Serial No. 11707 (Exhibit B) and holster (Exhibit B-1) with six (6) live ammo (Exhibit B-2); in 1982 or thereabouts, accused Eddie Saguindel was a PC Constable First Class; on May 30, 1982, accused Saguindel, together with accused Relator and Danilo Miravalles, a former PC Sergeant, was invited for investigation in connection with the hijacking of a delivery van by the elements of the Special Operations Group, PC, and the three availed of their right to remain silent and to have counsel of their choice, as shown by their Joint Affidavit (Exhibit A-20); and the existence of the sworn statement executed by accused Martin Mateo (Exhibit A-11) as well as the Certification dated May 30, 1982, subject to the qualification that said document was made under duress."

The prosecution sought to prove its case with the testimonies of Bernardo Bautista, Rodolfo Miranda, Capt. Rosendo Ferrer, M/Sgt. Noel Alcazar and Capt. Samuel Pagdilao, Jr.^[6-a] and the submission of Exhibits A to K. In their defense, accused Filoteo and Miravalles presented their respective testimonies plus those of Gary Gallardo and Manolo Almogera. Filoteo also submitted his Exhibits 1-14-Filoteo, but Miravalles filed no written evidence. Thereafter, the prosecution proffered rebuttal evidence and rested with the admission of Exhibits A-16-a, A-31 and L.

Evidence for the Prosecution

At about 6:30 in the morning of May 3, 1982, Bureau of Post mail van no. MVD 02 left San Fernando, Pampanga to pick up and deliver mail matters to and from Manila. On board the vehicle were Nerito Miranda, the driver, and two couriers named Bernardo Bautista and Eminiano Tagudar who were seated beside the driver. They arrived at around 9:40 that morning at the Airmail Distribution Center of the Manila International Airport where they were issued waybills^[7] for the sacks of mail they collected. They then proceeded to the Central Post Office where they likewise gathered mail matters including 737 check letters^[8] sent by the United States Embassy. All the mail matters were placed inside the delivery van, and its door padlocked.

As they had to deliver mail matters to several towns of Bulacan, they took the MacArthur Highway on the return trip to Pampanga. When they reached Kalvario, Meycauayan, Bulacan at about 4:30 in the afternoon, an old blue Mercedes Benz sedan^[9] overtook their van and cut across its path. The car had five (5) passengers -- three seated in front and two at the back. The car's driver and the passenger beside him were in white shirts; the third man in front and the person immediately behind him were both clad in fatigue uniforms, while the fifth man in the back had on a long-sleeved shirt.^[10]

Two of the car passengers aimed an armalite and a hand gun at driver Nerito Miranda as someone uttered, "Are you not going to stop this truck?"^[11] Frightened, Miranda pulled over and stopped the van's engine. Alighting from the car, the armed group identified themselves as policemen.^[12] They ordered the postal employees to disembark from the van. As he stepped out of the van, Miranda took the ignition key with him, but when threatened, he surrendered it to one of the car passengers.^[13] The three postal employees were then ordered to board the Benz.

As he was about to enter the car, Bautista looked back and saw one of the malefactors, who turned out to be Reynaldo Frias, going up the van. Inside the car, the three delivery employees were ordered to lower their heads. They sat between two of their captors at the back of the car while two others were in front. Later, Nerito Miranda asked permission to straighten up as he was feeling dizzy for lack of air. As he stretched, he caught a glimpse of the pimply face of the man to his left. He also recognized the driver who had glanced back. These men turned out to be Angel Liwanag and Reynaldo Frias, respectively.^[14]

As the car started moving, Bautista complained about feeling "densely confined". He was allowed to raise his head but with eyes closed. However, he sneaked a look and recognized the driver of the car as Raul Mendoza and the fellow beside him who

poked a "*balisong*" at him as Angel Liwanag. The man in uniform on the front seat was Eddie Saguindel. Earlier, as he was about to enter the car, Bautista looked back and recognized Frias.^[15] These incidents yielded the pieces of information critical to the subsequent identification of Mendoza, Liwanag, Saguindel and Frias in the line-up of suspects at Camp Crame later on.

The car seemed to move around in circles. When it finally came to a stop, the captured men discovered that they were along Kaimito Road in Kalookan City. They were made to remove their pants and shoes and then told to run towards the shrubs with their heads lowered. Upon realizing that the hijackers had left, they put on their pants and reported the incident to the Kalookan Police Station.

The Security and Intelligence Unit of the Bureau of Posts recovered the postal van at the corner of Malindang and Angelo Streets, La Loma, Quezon City on May 4, 1982. Discovered missing were several mail matters,^[16] including checks and warrants, along with the van's battery, tools and fuel.^[17]

In a letter-request dated May 6, 1982 to then Col. Ramon Montaña, then Postmaster General Roilo S. Golez sought the assistance of the Special Operations Group (SOG) of the Philippine Constabulary in the investigation of the hijacking incident.^[18] Responding to the request, the SOG, which was tasked to detect, investigate and "neutralize" criminal syndicates in Metro Manila and adjacent provinces, organized two investigative teams. One group was led by Capt. Rosendo Ferrer and the other by 1st Lt. Samuel Pagdilao. Initially, they conducted a "massive intelligence build-up" to monitor the drop points where the stolen checks could be sold or negotiated.

On May 28, 1982, the SOG received a tip from a civilian informer that two persons were looking for buyers of stolen checks. Capt. Ferrer requested the informer to arrange a meeting with them. The meeting materialized at about 9:00 P.M. of May 29, 1982 at the Bughaw Restaurant in Cubao, Quezon City. With cash on hand, Capt. Ferrer posed as the buyer. The informer introduced him to Rey Frias and Rafael Alcantara. Frias in turn showed Capt. Ferrer a sample Social Security System (SSS) pension check and told him that the bulk of the checks were in the possession of their companions in Obrero, Tondo, Manila. After some negotiations, they agreed to proceed to Tondo. Then as they boarded a car, Capt. Ferrer introduced himself and his companions as lawmen investigating the hijacking incident. Shocked and distressed, Frias calmed down only when assured that his penalty would be mitigated should he cooperate with the authorities. Frias thus volunteered to help crack the case and lead the SOG team to Ricardo Perez and Raul Mendoza.

Capt. Ferrer instructed Lt. Pagdilao, his assistant operations officer who was in another car during the mission, to accompany Frias to Obrero, Tondo while he escorted Alcantara to their headquarters at Camp Crame. On the way to the headquarters, Alcantara denied participation in the hijacking although he admitted living with Martin Mateo who allegedly was in possession of several checks. Alcantara was turned over to the investigation section of the SOG for further questioning.

Meanwhile, Lt. Pagdilao's group was able to corner Ricardo Perez in his house in Tondo. Confronted with the hijacking incident, Perez admitted participation therein and expressed disappointment over his inability to dispose of the checks even after

a month from the hijacking. He surrendered the checks in his possession to Lt. Pagdilao.^[19]

An hour and a half later, Capt. Ferrer received information over their two-way radio that Ricardo Perez and Raul Mendoza were in Lt. Pagdilao's custody. Capt. Ferrer ordered that, instead of returning to headquarters, Lt. Pagdilao and his companions should meet him in Quirino, Novaliches to apprehend Martin Mateo. They met at the designated place and proceeded to Gulod, Novaliches arriving there at about 10:30 P.M. of May 29, 1982.

Walking atop a ricefield dike to the house of Mateo, they noticed two men heading in their direction. Perez identified them as Martin Mateo and Angel Liwanag. The latter threw something into the ricefield which, when retrieved, turned out to be bundles of checks wrapped in cellophane inside a plastic bag.^[20] As the two were about to board the SOG teams's car, Mateo said, "*Sir, kung бага sa basketball, talo na kami. Ibibigay ko yong para sa panalo. Marami pa akong tseke doon sa bahay ko, sir, kunin na natin para di na natin babalikan.*"^[21] Capt. Ferrer accompanied Mateo to his house where they retrieved several other checks in another plastic bag.

On the way to the SOG headquarters in Camp Crame, Mateo and Liwanag admitted participation in the postal hijacking. At a confrontation with Perez and Mendoza, all four of them pointed to petitioner, Jose D. Filoteo, Jr., as the mastermind of the crime.

Consequently, Capt. Ferrer directed Lt. Pagdilao to accompany Mateo to the house of petitioner in Tondo, Manila. The lawmen found petitioner at home. Upon being invited to Camp Crame to shed light on his participation in the hijacking, petitioner was dumbfounded ("*parang nagulat*"). Pursuant to standard operating procedure in arrests, petitioner was informed of his constitutional rights,^[22] whereupon they proceeded to Camp Crame. However, the group, including petitioner, returned to the latter's place to recover the loot. It was "in the neighborhood," not in petitioner's house, where the authorities located the checks.^[23]

The authorities confronted Filoteo about his participation in the hijacking, telling him that Frias, Mendoza and Perez had earlier volunteered the information that petitioner furnished the Benz used in the hijacking. Thereupon, Filoteo admitted involvement in the crime and pointed to three other soldiers, namely, Eddie Saguindel, Bernardo Relator and Jack Miravalles (who turned out to be a discharged soldier), as his confederates. At 1:45 in the afternoon of May 30, 1982, petitioner executed a sworn statement in Tagalog before M/Sgt. Arsenio C. Carlos and Sgt. Romeo P. Espero which, quoted in full, reads as follows:

"BABALA: -- Nais kong ipaalam sa iyo, Patrolman Filoteo, na ang dahilan ng pagsisiyasat na ito ay tungkol sa isang kasong Robbery-in-Band/Hi-Jacking na naganap noong ika-3 ng Mayo 1982 doon sa Meycauyan, Bulacan, mga bandang alas-4:00 ng hapon, humigit-kumulang, kung saang maraming tsekeng US, tseke ng BIR at iba pang mga personal na tseke ang nabawi mula sa iyo. Nais ko ring ibigay sa iyo ang babala alinsunod sa mga isinasaad ng Section 20, Article IV ng Bagong Saligang Batas ng Republika ng Pilipinas, kagaya ng mga sumusunod: