

## ADMISSIBILITY OF INVOLUNTARY CONFESSIONS

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## I. INTRODUCTION

"There is no branch of the Law of Evidence," said Chief Justice Sherwood, three generations ago, "in such inextricable confusions as that relative to confessions."<sup>1</sup> Although in the Philippines as elsewhere, confessions voluntarily made are, as a general rule, admissible against the person confessing, diversity of opinion arises with respect to involuntary confessions. In the United States, confessions involuntarily made, as a rule, are inadmissible. In the Philippines, as we shall observe later, there is a budding judicial sentiment to take the contrary view. As a consequence of this judicial attitude, different opinions clashed as to what is at present the prevailing rule in the Philippines with regard to coerced or involuntary confessions. In this work, we will endeavor to clarify the confusion resulting from the sudden but unexplained deviation by the Supreme Court from the generally accepted principle that involuntary or coerced confessions are inadmissible in evidence.

## II. DEFINITIONS

For the sake of clarity and understanding, we must define certain important terms that will be constantly encountered in this work. The terms "confession", "voluntary confession", and "involuntary or coerced confession" will be used consistently in the sense they are hereinbelow defined.

A confession is an acknowledgment, in express words, by the accused in a criminal case, of the truth of the main fact charged, or of some essential part thereof.<sup>2</sup> Another definition would be: a confession means a voluntary statement made by the person charged with a crime wherein he acknowledges his guilt of the offense charged and discloses all the circumstances of the act and his participation therein.<sup>3</sup>

A voluntary confession is taken to mean that which is made of the free will and accord of the defendant without coercion induced by fear or threat of harm and without inducement by promising or holding out hope of reward or immunity.<sup>4</sup>

An involuntary confession is one obtained under the influence of fear, especially fear induced by threats of bodily harm, torture, personal violence, or abuse by methods known as "sweating" or third degree or by holding out a promise or hope of a reward or immunity—in short, a confession which is forced or extorted in any manner by overpersuasion, promise, or threats.<sup>5</sup>

This work will be devoted mainly to the discussion of involuntary confessions.

## FORMS OF INVOLUNTARY CONFESSIONS

Involuntary or coerced confessions may come in different forms, such as those obtained by physical violence or brutality, psychological coercion, inducement by promise of reward or immunity, the influence of drugs, or by means

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<sup>1</sup> Cited in 3 Wigmore on Evidence Sec. 831.

<sup>2</sup> U.S. v. Lio Team, 23 Phil. 63.

<sup>3</sup> Stone, Clifford O., Jr., *Confessions During Confinement*, 9 Okla. Law Review 419, 423; see also 3 Wigmore, 3rd Ed., Sec. 821; Wharton's Criminal Evidence, Sec. 579; Chamberlayne, Trial Evidence, Sec. 564; A.L.I. Model Code of Evidence, Rule 505.

<sup>4</sup> 20 Am. Jur., Sec. 496.

<sup>5</sup> *Ibid.*

coming under the so-called McNabb rule. We will discuss them, presently, in this order.

### *Physical Brutality or Violence*

The quest of man is to humanize the law. Hence, he abhors any form of savagery. In the place of the trial by ordeal, we try a man through the guidance of modern rules of procedure reflecting man's growing respect for man and his fundamental rights. Infliction of physical harm or injury is persuasion in its basest and most uncivilized form. It has been our experience that its employment herded its victims oftenly to falsehood and very rarely to truth. Hence, why a confession obtained through physical violence or brutality is inadmissible is too understandable.

In accordance with this principle, a confession is inadmissible where it was the result of violence or intimidation,<sup>5a</sup> such as, where the defendant made the confession after having been required to drink stale urine,<sup>5b</sup> or where the accused confessed to the commission of the crime of robbery in band on account of threats and ill-treatment which they received from an officer of the Constabulary who tied them to the pillars of the constabulary station, struck them with his fist and with the butt of his revolver, struck them on the stomach with a stone, leveled his revolver at the mouth of one of them and threatened to kill them unless they plead guilty.<sup>5c</sup> The ill-treatment need not be directly inflicted upon the accused-confessor. It may be made upon his co-defendants, within his hearing and almost within his immediate presence, and still his confession may be considered coerced for the sight is sufficient warning of what might be forthcoming to him if he persists in denying his guilt.<sup>5d</sup> What counts is not the actual infliction of physical harm but rather the effect of that infliction upon the mind of the defendant.

### *Psychological Coercion*

As intimated, duress short of physical brutality may render a confession involuntary, therefore, inadmissible. Under this classification we may include confessions attended by any or combination of the following circumstances: prolonged questioning by relays of inquisitors, otherwise known as the "relay tactics", removal of the prisoner far from home, threatening with mob violence, and holding the prisoner incommunicado.<sup>6</sup> To these may be added the youth and inexperience of the prisoner.<sup>7</sup> Thus in the case of *Malinsky v. New York*<sup>8</sup> conviction was reversed where the confession upon which the verdict was predicated, was obtained after a repeated grilling for over a 4-day period while the defendant was kept naked in a hotel room. Denial of rest, long continued interrogation during unusual hours, and illegal detention without clothes were the circumstances considered sufficient to brand the confession involuntary.\* In another case<sup>9</sup> systematic persistence of interrogation, the length of the period of questioning, the failure of the police to advise the prisoner of his rights, the absence of counsel or

<sup>5a</sup> U.S. v. Mercado, *infra*.

<sup>5b</sup> People v. Francisco, *et al.*, *infra*.

<sup>5c</sup> U.S. v. Lozada, *et al.*, *infra*.

<sup>5d</sup> U.S. v. Baluyot, *et al.*, *infra*.

<sup>6</sup> McKenney, Frank, *Constitutional Law—Due Process—Psychological Weakness of Prisoner Considered in Determining Whether His Confession is Coerced*, 8 Mercer Law Review, 367.

<sup>7</sup> *Ibid.*

<sup>8</sup> 324 U.S. 409.

\* It must be especially noted that in this case, the Supreme Court of the United States further declared that where a confession was obtained through means violative of due process, conviction must necessarily be reversed, notwithstanding evidence sufficient to support a conviction exists independently of the coerced confession.

<sup>9</sup> Driver v. State, 201 Md. 25.

friends, and the character of the prisoner were considered relevant factors determinative of the voluntariness of the confession of the accused. In a Philippine decided case<sup>10</sup> the confession of a father to the crime of homicide was not admitted because it was influenced by parental sentiment. The Supreme Court said. The admission of the accused was correctly rejected by the lower court for the reason that it was made under the influence of parental sentiment, probably with the intention to save his two children, co-accused in the same case xxx. Under the foregoing cases, physical element was not considered a prerequisite to coercion and this doctrine was followed in other cases.<sup>11</sup>

However, a confession will not be considered inadmissible by the mere failure of the police to warn the accused that he need not talk and that if he does what he says may be used against him.<sup>12</sup> The same conclusion will hold true to a confession made, after the accused was exhorted by the detectives that she "had better tell the truth" for the reason that the admonition is not in the nature of a threat.<sup>13</sup>

No hard and fast rule can be formulated in determining the involuntariness of a confession. Each case must be decided by weighing the degree of pressure exerted against the power of resistance of the person confessing. It must clearly appear that the confession was the result not of reasoned and voluntary choice.<sup>14</sup> "What would be overpowering to the weak of will or mind might be utterly ineffective against an experienced criminal."<sup>15</sup>

#### *Promise of Reward or Immunity*

A confession elicited by promises or proffered benefits is inadmissible unless the confession was made before the promise or proffered benefits, or a sufficiently long period of time had elapsed between the promise or proffered benefits and the confession as to negate a causal relation between them.<sup>16</sup> For instance, promises that the accused will not be prosecuted or that his punishment will be lighter will render the confession inadmissible.<sup>17</sup> In the case of *U.S. v. Caballeros, et al.*,<sup>18</sup> the confession of Caballeros was made because of promises to him and other defendants that nothing would be done to them. As a consequence of this finding, the Court rejected the confession. In another case,<sup>19</sup> the confession was not admitted upon the ground that it was made by the defendant in reliance upon the promise of a police officer that the latter would see to it that nothing happened to the defendant. Likewise, a confession is not sufficient to sustain a conviction if it was signed because of the insistence of the counsel of the accused but not out of his own volition and belief that it was true.<sup>19a</sup>

But when the defendant confessed after having been told by a detective that if he would sign the confession the latter will take care of him, the confession is valid and admissible. The Court said that the defendant could not have taken that statement in the sense that he would be freed or that the

<sup>10</sup> *People v. Martinez, et al.*, 42 Phil. 85.

<sup>11</sup> *Fikes v. Alabama*, 352 U.S. 191; *Leyra v. Denno*, 374 U.S. 557; *Lee v. Mississippi*, 333 U.S. 742; *Haley v. Ohio* 332 U.S. 596.

<sup>12</sup> *People v. Hernane*, 75 Phil. 554.

<sup>13</sup> *U.S. v. Evangelista*, 24 Phil. 453.

<sup>14</sup> *Supra*, see note 6.

<sup>15</sup> *Malinsky v. New York*, *supra*.

<sup>16</sup> *Payton v. U.S.*, 222 F. 2d 794.

<sup>17</sup> *U.S. v. Lamadrid*, 27 Phil. 76; *U.S. v. Caballeros*, 4 Phil. 350, *Dunn v. State*, 279 P. 2d. 389.

<sup>18</sup> *Supra*.

<sup>19</sup> *U.S. v. Lamadrid*, *supra*.

<sup>19a</sup> *U.S. v. Lim Cay Pit*, 28 Phil. 418.

confession would not be used against him.<sup>20</sup> To the same effect would be a confession made upon an appeal "for the good of the service."<sup>21</sup>

The promise must, in order to invalidate a confession, have been made by some person who has the power or authority to make good the promise<sup>22</sup> and the promise must be of such a nature as would be likely to influence the accused to falsify his statements. The term *person in authority* not only includes public officers but also an employer of the accused. It is the relationship between the promisor and the accused that is the controlling factor.<sup>23</sup> As a corollary to the foregoing rule, a confession obtained by threats or while the accused was laboring under the influence of fear is not admissible.<sup>24</sup> The fear, however, must be fear of actual harm and must have a causal relation to the pressure exerted upon the accused. A mere fear not so induced but only arising from the accused's own imagination does not render the confession involuntary.<sup>25</sup>

#### *Influence of Drugs*

Closely related to the above-mentioned involuntary confessions are those made by persons under the influence of drugs. The most familiar example of these confessions is that made while under the influence of intoxicating liquor. However, the inculpatory utterances falling under this class must, to be barred, have been made while the speaker's condition is in that of alcoholic mania or unconsciousness which renders him incapable of making a confession.<sup>26</sup>

Certain drugs, so-called "truth serum", interfere with the subject's free will. Sodium pentothal, for instance, reduces the mind to a state of semi-consciousness wherein the individual is unable to critically survey his answers to questions, or to associate, select, and inhibit his remarks. As such, confessions influenced by this drug have been held inadmissible.<sup>27</sup>

#### *McNabb Rule*

The McNabb rule<sup>28</sup> bars any confession of the prisoner made while he is illegally detained. The U.S. Supreme Court justifies this rule on the following grounds:

(1) The technique of obtaining information through delaying a prisoner's appearance for instruction as to his rights to have counsel and to remain silent is considered incompatible with our fundamental concepts of justice;

(2) Confessions obtained under such circumstances are more likely to be untrustworthy due to psychological pressure to which the prisoner may have been subjected but which may be difficult to prove in court; and

(3) The rule attempts to protect the individual both by deterring the police from subjecting prisoners to prolonged examinations before they know of their rights and by excluding such confessions when the police have not in fact been deterred.<sup>29</sup>

In the case of *Mallory v. U.S.*<sup>30</sup> the McNabb rule was reiterated. It was held in that case that the defendant's confession was inadmissible because he was not informed of his fundamental rights as a prisoner, such as, the right to counsel, to preliminary investigation before a magistrate, to keep silent, not

<sup>20</sup> *People v. Pardo et al.*, 79 Phil. 568.

<sup>21</sup> *People v. Cabrera*, 43 Phil. 64.

<sup>22</sup> *U.S. v. Asensi*, 34 Phil. 671.

<sup>23</sup> *Dunn v. State*, *supra*.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Involuntary Confessions*, 31 Tulane Law Review, 125, 141.

<sup>27</sup> *People v. Heirens*, 122 NE 2d 231, 234, 238.

<sup>28</sup> *McNabb v. U.S.*, 318 U.S. 332.

<sup>29</sup> *Interpretation of McNabb Rule On Exclusion of Confessions Remains Unsettled*, 57 Columbia Law Review, 735-737.

<sup>30</sup> 354 U.S. 449.

was he warned that any statement he would make might be used against him. The Court went on to say that it is not "the function of the police to arrest, as it were, at large and to use an interrogating process at the police headquarters in order to determine whom to charge before a committing magistrate on probable cause."

It is doubtful, however, whether this rule will be applicable in our jurisdiction. This doctrine was adopted in the United States as an offshoot of the Due Process theory of excluding coerced confessions viz., that a confession is inadmissible if obtained through unfair means. In our jurisdiction, the theory is that an involuntary confession is inadmissible on the ground that it is untrustworthy; however, if later the confession is found to be true by the discovery of facts subsequent to its making confirming it or in its material part, the confession becomes trustworthy and is admitted regardless of the means employed in obtaining it.

Incidentally, questions have arisen as to whether confessions obtained through artifice or trick are admissible. Inasmuch as this question has not yet been considered by our Supreme Court, it is worthwhile to refer to American decided cases bearing on the subject. The weight of American authority admits this kind of confessions as long as the trick or artifice was not calculated to produce an untrue confession on the theory that they are voluntarily made.<sup>30a</sup> Thus where a detective disguised himself as a barber and, after winning the confidence of the defendant, the latter confessed to him, the confession is admissible in evidence.<sup>30b</sup> But where the same detective would pretend to be a lawyer for the prisoner, who treated him as such, informations obtained by the former from the latter would be privileged and inadmissible.<sup>30c</sup>

#### ADMISSIBILITY OF INVOLUNTARY CONFESSIONS

As a general rule, confessions are admissible only when freely and voluntarily given<sup>31</sup> and without compulsion or inducement of any sort.<sup>31a</sup> "A free and voluntary confession," said C.B. Eyre, "is deserving of the highest credit, because it is presumed to flow from the strongest sense of guilt, and therefore it is admitted as proof of the crime to which it refers xxx".<sup>31b</sup> It has been held that confessions taken before charges are filed against the defendant are admissible in evidence if they are voluntary.<sup>32</sup>

The Administrative Code repealed the provisions of Act No. 619 that no confession of a person charged with a crime shall be received in evidence unless it be first shown to the satisfaction of the court that it was freely and voluntarily made<sup>33</sup> and established a disputable presumption of voluntariness of confessions.<sup>34</sup> In a manner of saying, the burden is upon the defendant<sup>34a</sup> to prove that the confession he made was given as a result of violence, intimidation, threat or promise of reward or leniency.<sup>35</sup> However, the presumption becomes conclusive if the confession bears all the earmarks of voluntariness. It can be said that a confession bears such earmarks when upon its face there

<sup>30a</sup> SALONGA, PHILIPPINE LAW ON EVIDENCE, p. 227 citing 2 WHARTON, Sec. 670.

<sup>30b</sup> *Ibid.*, citing *People v. Dunnigan*, 163 Mich. 349.

<sup>30c</sup> *Ibid.*, citing *People v. Barker*, 60 Mich. 277.

<sup>31</sup> *Stone, Clifford O., Jr., supra.*

<sup>31a</sup> *U.S. Carignan*, 342 U.S. 36; *Denny v. U.S.*, 181 F. 2d 828, 833; *Wilson v. U.S.*, 163 U.S. 613, 623.

<sup>31b</sup> 1 Greenleaf, Sec. 219, quoting C. B. Eyre.

<sup>32</sup> *Jewell v. State* 41, Okla. 389.

<sup>33</sup> *People v. Singh, et al.*, 45 Phil. 676.

<sup>34</sup> *People v. Fontanilla, et al.*, (CA) 47 O.G. 1303.

<sup>34a</sup> *People v. Napiza, et al.* (CA), 45 O.G. 333.

<sup>35</sup> *U.S. v. Lara*, 42 Phil. 308; *People v. Cabrera, supra*; *People v. Singh, supra*.

appears no sign of suspicious circumstances which tends to cast doubt upon its integrity; when it is so replete with details which could be possibly supplied only by the accused; if it is so spontaneous and coherent that only a mind undisturbed by torture and violence could have made it; if it contains facts even beyond those required by the interrogations tending to show freedom of the mind from extraneous restraints.<sup>36</sup>

It is the paramount duty of the police to see to it that the laws are faithfully complied with. But the performance of this duty must be tempered with reason and overzealousness should ever be avoided. Unwarranted compulsion, physical or otherwise, must never be used to extort a confession from an accused. A guilty defendant who is unwilling to admit his guilt can be exposed in the court. "The rack and torture chamber may not be substituted for the stand."<sup>37</sup> "x x x A confession from the mind by the flattery of hope, or by torture of fear, comes in so questionable a shape, when it is to be considered as the evidence of guilt, that no credit ought to be given to it, and therefore it is rejected."<sup>37a</sup>

In the early cases<sup>38</sup> decided by our Supreme Court, confessions, if shown to be involuntary, were discredited. In the case of *U.S. v. Lozada, et al.*,<sup>39</sup> it was held that a confession extorted by physical violence must be excluded. The Court said that "a confession obtained from a person in such a manner is null and void and can not be used as evidence against the defendant on trial. This is proverbial in law." Upholding the same doctrine, the Supreme Court, in the case of *U.S. v. De los Santos*<sup>40</sup> said: "involuntary confessions are rejected by all courts—by some on the ground that a confession so obtained is unreliable; and by some on the grounds of humanitarian principles which abhor all forms of torture or unfairness toward the accused in criminal proceedings. x x x Such a confession is not legal evidence and must be rejected. If the accused satisfactorily shows that it was made involuntarily, the confession stands discredited in the eyes of the law and is a thing which never existed."

However, recently, the Supreme Court<sup>41</sup> made a surprising declaration to the effect that an involuntary confession is admissible in evidence as long as it is not proven false.<sup>42</sup> In *People v. Delos Santos*<sup>43</sup> the Court, citing *Moncado v. People's Court, et al.*, G.R. No. L-824, January 14, 1948, declared: "But there is still another reason why the confession must be accepted as evidence against the appellant. Neither the appellant nor his counsel ever claimed that the confession is false. A confession to be repudiated must not only be proven to have been obtained by force and violence, but also that it is false or untrue for the law rejects the confession when, by force or intimidation, the accused is compelled against his will to tell a falsehood, not when by such force and violence he is compelled to tell the truth. This is in consonance with the principle that the admissibility of evidence is not affected by the illegality of the means by which it was secured." In a subsequent case,<sup>44</sup> the

<sup>36</sup> *People v. Mariñas, et al.*, (CA) 53 O.G. 2830; *People v. Samonte, et al.*, 54 O.G. 336; *People v. Jose, et al.*, (CA) 51 O.G. 4573.

<sup>37</sup> *Brown v. Mississippi*, 299 U.S. 278.

<sup>37a</sup> 1 Greenleaf, *supra*.

<sup>38</sup> *U.S. v. Baluyot*, 1 Phil. 452-453; *U.S. v. Lozada*, 4 Phil. 226, 228; *U.S. v. Caballeros, supra*; *U.S. v. Mercado, et al.*, 6 Phil. 332, 333; *U.S. v. De los Santos*, 24 Phil. 329; *U.S. v. Lamadrid, supra*; *U.S. v. Asensi, supra*; *People v. Francisco, et al.*, 57 Phil. 418.

<sup>39</sup> *Supra*.

<sup>40</sup> *Supra*.

<sup>41</sup> *People v. De los Santos*, G.R. No. L-4880, May 18, 1955; *People v. Villanueva*, G.R. Nos. L-7472-7477, January 31, 1956.

<sup>42</sup> SALONGA, PHILIPPINE LAW ON EVIDENCE, 1958 Ed., 203.

<sup>43</sup> *Supra*.

<sup>44</sup> *People v. Villanueva, supra*.

Supreme Court quoted the declaration in the De los Santos case and added that it is not enough for the defendants to claim that they were coerced into making their confessions, but that they should also prove that they were compelled against their will to state or admit something which is against the truth.

It seems therefore that, presently, the task of a person accused of a crime is not only to prove that he was subjected to duress, coercion, or threat, but also to show that his confession is false, in order to be free from the incriminating effects of an involuntary confession.<sup>45</sup>

## TWO THEORIES ON THE EXCLUSION OF INVOLUNTARY CONFESSIONS

To fully appreciate the import of this statement discussion of the theories with respect to the admissibility in evidence of involuntary confessions is advisable.

### *Reliability Theory*

Under this theory, involuntary confessions are inadmissible because they are unreliable.<sup>46</sup> A confession not given voluntarily is thought to be untrustworthy for one who is weak might decide that it is better for him to tell a lie and to confess to something that he did not do than to prolong the torture to which he is being subjected.<sup>47</sup> Subscribing to the same view, Professor Wigmore said that the ground on which the confession made by the party accused, under promises of favor, or threats of injury is excluded is, not because any wrong is done to the accused, in using them, but because he may be induced, by the pressure of hope or fear, to admit facts unfavorable to him, without regard to the truth in order to obtain the promised relief, or avoid the threatened danger, and therefore admissions so obtained have no just and legitimate tendency to prove the facts admitted.<sup>48</sup> From the foregoing observations, it can be inferred that from the involuntary character of a confession flows a presumption of its falsity. It becomes incumbent upon the prosecution to prove that the confession is true before it can be admitted in evidence.

The distinguishing characteristic of this theory is its main concern for the truth or falsity of the confession and its utter disregard of the ethics of the means used to obtain it.<sup>49</sup> Consequently, where the coerced confession is confirmed by subsequent facts, it is purged of any infirmity and is accepted without hesitation.<sup>50</sup> In one case<sup>51</sup> the Supreme Court held that notwithstanding the involuntariness of the confession, it would nevertheless be admissible because it was confirmed by subsequently discovered facts. In the case of *People v. Garcia, et al.*,<sup>52</sup> the Court, finding the accused guilty of murder, said: "Even assuming the involuntary character of the said confessions, the finding of the bones and hair above-referred to confirms the admissions of guilt and renders the confession admissible in evidence. Professor Wigmore<sup>53</sup> very aptly stated this theory, this wise: "Where, in consequence of a confession otherwise inadmissible, search is made and facts are discovered which confirm it in material

<sup>45</sup> SALONGA, PHILIPPINE LAW ON EVIDENCE, *supra*.

<sup>46</sup> Maguire, John M. *Involuntary Confessions*, 31 Tulane Law Review 125, 127.

<sup>47</sup> Stone, *Evidence: Confession During Confinement*, 9 Okla. Law Review 419, 425.

<sup>48</sup> WIGMORE'S CODE OF EVIDENCE, Sec. 1081; W. P. RICHARDSON, THE LAW OF EVIDENCE, 7th Ed., Sec. 403; *Commonwealth v. Morey* 1 Mass. 461, 462.

<sup>49</sup> Sparer, Edward V., *Some Problems Relating to the Admissibility of Drug Influenced Confessions*, 24 Brooklyn Law Review 96, 100.

<sup>50</sup> 3 WIGMORE ON EVIDENCE, Sec. 856.

<sup>51</sup> *People v. San Luis*, G.R. No. L-2365, May 29, 1950.

<sup>52</sup> *Supra*.

<sup>53</sup> 3 WIGMORE, *supra*.

points, the possible influence which through caution had been attributed to the improper inducement is seen to have been nil, and the confession may be accepted without hesitation.

### *Due Process Theory*

According to this theory, a confession involuntarily made is deemed inadmissible because the means used to obtain it is offensive to the Due Process Clause of the Constitution.<sup>54</sup> The Due Process Clause provides, in part, "that no person shall be deprived of life, liberty, or property, without due process of law." This clause had been made the basis of a series of decisions by the United States Supreme Court prohibiting the use of coerced confessions in State courts. It is now a well-established rule in the United States that a conviction in any court within the jurisdiction of the United States based upon a confession illegally obtained must necessarily fall.<sup>55</sup> The Due Process theory, as opposed to the Reliability theory, is not concerned with the truth or falsity of the confession; if the confession is obtained through means that are fundamentally unfair or which interfere with the mental freedom<sup>56</sup> of the one confessing, it must be excluded.<sup>57</sup>

This doctrine was squarely applied in the case of *Fikes v. State of Alabama*.<sup>58</sup> Briefly, the case is as follows: The petitioner, a 27 year old negro, was arrested by private persons in Selma, Alabama. Two days later, he was served with a warrant charging burglary with intent to rape. In the Kilby State Prison, where he was questioned for nine days at the intermittent pleasure of the police and prison authorities, he made two confessions before he was allowed to see a lawyer. These confessions were admitted at the trial resulting to the conviction of the petitioner. After considering the condition of the accused and the surrounding circumstances the Supreme Court of the United States declared that the extraction of the confession was through physical and psychological force, which render its admission in evidence violative of due process of law.\* Earlier, the same Court said through Mr. Justice Frankfurter:

To turn the detention of an accused into a process of wrenching from him evidence which could not be extorted in open court with all its safeguards is so grave an abuse of the power of arrest as to offend the procedural standards of Due Process.<sup>59</sup>

In other words, the test is: If the means employed in obtaining the confession could not have been carried out in open court, then the confession so obtained becomes ipso facto inadmissible under the Due Process theory.<sup>60</sup>

In holding that no logical purpose could be served by inflicting physical violence and applying other illegal means with the end in view of extorting confessions, the United States Supreme Court, in *Watts v. State of Indiana*,<sup>61</sup> said:

<sup>54</sup> *Payne v. Arkansas*, 78 Sup. Ct. 844; *Fikes v. Alabama*, *supra*; *Leyra v. Denno*, *supra*; *Rochin v. California*, 342 U.S. 165; *Watts v. State of Indiana*, 338 U.S. 49; *Lee v. Mississippi*, *supra*; *Heale v. Ohio*, 332 U.S. 596; *Malinsky v. New York*, *supra*; *Ashcraft v. Tennessee*, 322 U.S. 143; *White v. Texas*, 310 U.S. 530; *Chambers v. Florida*, 309 U.S. 227; *Lisbena v. California*, 314 U.S. 219; *Brown v. Mississippi*, 299 US 278.

<sup>55</sup> W. P. RICHARDSON, *THE LAW ON EVIDENCE*, *supra*.

<sup>56</sup> Sparer, Edward V., *Some Problems Relating to the Admissibility of Drug Influenced Confessions*, *supra*.

<sup>57</sup> *Supra*.

<sup>58</sup> *Ibid*.

\* The Court, as in the *Malinsky* case, further declared that convictions rendered under similar circumstances will be reversed whether or not independent evidence of guilt was introduced.

<sup>59</sup> *Watts v. Indiana*, *supra*.

<sup>60</sup> 18 University of Pittsburgh Law Review, 823, 825.

<sup>61</sup> *Supra*.



But the history of the Criminal Law proves overwhelmingly that brutal methods of law enforcement are essentially self-defeating, whatever may be their effect in a particular case. Law triumphs when the natural impulses aroused by a shocking crime yield to the safeguards which our civilization has evolved for an administration of criminal justice at once rational and effective.

It is earlier stated that the Due Process Theory is not concerned with the truth or falsity of a confession. Consequently even if the extorted confession is known to be truthful, hence, trustworthy, the illegal means used to secure it will prevent its use against the confessor.<sup>62</sup> In *Rochin v. California*,<sup>63</sup> the police forced the defendant to submit to stomach pumping for the purpose of recovering narcotic capsules which they saw him swallow. The Supreme Court said that the force used "shocks the conscience, offends a sense of justice, runs counter to the decencies of civilized conduct, and as offensive to human dignity." In reversing the conviction, the Court condemned the coercive practices employed, without regard to the trustworthiness or untrustworthiness of the evidence obtained. Notwithstanding the fact that the capsules were trustworthy evidence of their contents, they were rejected as evidence, having been obtained by means violative of due process.

This distinguishes the Due Process Theory from the Reliability Theory.

#### OBSERVATIONS ON THE DE LOS SANTOS AND VILLANUEVA CASES

The declaration of our Supreme Court in the *De los Santos*<sup>64</sup> and *Villanueva*<sup>65</sup> cases to the effect that involuntary confession are admissible unless proven false taken vis-a-vis the above-discussed theories is a new doctrine in itself, having its own peculiarity. Whereas coerced or involuntary confessions are excluded by the Reliability Theory unless they are proven trustworthy and by the Due Process Theory, absolutely, the declaration, in the above cases, will admit the same class of confessions unless proven false. Did our Supreme Court err somewhere in making this statement? With all due respect, we believe it did. There was an evident confusion between books, documents, and papers illegally seized, on the one hand and confessions forcefully extorted from the defendant's mouth, on the other.<sup>66</sup> Thus it could be observed that the Supreme Court in the *De los Santos* and *Villanueva* cases reference had been made to the case of *Moncado v. People's Court, et al.*<sup>67</sup> in support of its theory. It must not be forgotten that the question involved in the *Moncado* case was not the admissibility of involuntary confessions but rather the admissibility of books, documents, and papers seized in violation of the fundamental protection against illegal search and seizure, in evidence. Strong reasons exist why we should distinguish the two kinds of illegally obtained evidence.<sup>68</sup> In the first place, the illegality accompanying the means by which documents are seized does not alter their trustworthiness as evidence; whereas confessions by "third degree" contain infirmities which go to the very substance of the evidence.<sup>69</sup> A prisoner may be willing to confess to a known falsehood in exchange for temporary relief from the tortures inherent in the "third degree" method. In the second place, "in the case of illegally seized articles, the prisoner is not forced

<sup>62</sup> Association of American Law Schools—Selected Writings on Evidence and Trial, p. 851.

<sup>63</sup> *Supra*.

<sup>64</sup> *Supra*.

<sup>65</sup> *Supra*.

<sup>66</sup> SALONGA, PHILIPPINE LAW ON EVIDENCE, 1958 Ed., 205.

<sup>67</sup> G.R. No. L-824, January 14, 1948.

<sup>68</sup> G.R. No. L-824, January 14, 1948.

<sup>69</sup> SALONGA, PHILIPPINE LAW ON EVIDENCE, *supra*.

<sup>70</sup> *Ibid.*, p. 207.

to convict himself by his own lips; whereas in an involuntary confession, he is and this is what makes it particularly detestable.”<sup>70</sup>

#### PRESENT RULING

But it must be borne in mind that the Supreme Court had not, in the De los Santos and Villanueva cases, definitely laid down a new ruling. At most the declarations we have just considered are judicial dicta. The issue as to whether an involuntary confession is admissible unless proven false was not squarely laid before the court in both cases. There the confessions were admitted because they were clearly found to be voluntary. Whatever will be the effect of the said judicial dicta in the future cases to be decided by our Supreme Court will be anybody's guess. To repeat, the ratio decidendi in the De los Santos and Villanueva cases did not overrule the doctrine laid down by the cases decided before them viz., that involuntary confessions are not admissible in evidence. In view of this, we believe that notwithstanding the De los Santos and Villanueva cases, we are still under the doctrine that coerced or involuntary confessions are not admissible against the confessor.

By way of recapitulation, the state of the law in the Philippines with respect to involuntary or coerced confessions is that: (1) It is sufficient for the defendant to prove that the confession made by him is involuntary to render it inadmissible without forgetting however, that in the De los Santos and Villanueva cases, the Supreme Court signified an inclination to burden the defendant with an additional task of proving the falsity of his confession; and (2) if the involuntary confession is confirmed by other facts, it becomes admissible because the presumption that it is untrustworthy is overcome.

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<sup>70</sup> *Ibid.*, p. 208.