



Jurisprudence Section - 2016

F1 The Principle of Guilt (Beyond All Reasonable Doubt) and the Presumption of Innocence in Italy: Juridical, Forensic, and Investigative Reflections on the Gallo Case

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After attending this presentation, attendees will better understand an Italian case, covering a period from 1954 to 1961, which resulted in a sentence for murder even though no body was ever found.

This presentation will impact the forensic science community by describing a singular juridical error that took place in an Italian court. A study of the details of the case emphasize the requirement to integrate and coordinate investigations performed by various specialists attending crime scenes, in the hope that such integration and coordination will always take place, especially in cases of presumed homicide without a body.

The Case: Paolo Gallo, a farm worker, disappeared from a village in Sicily on the morning of October 6, 1954.¹ Bloodstains, his cap, two bloodstained stones, and a helmet with blood in it were found near the farmhouse where he worked. Crime scene investigators at the time calculated that approximately two liters of blood were found at the presumed crime scene. In spite of searching, no body was ever found.

Paolo's brothers Salvatore and Sebastiano were suspected of and subsequently condemned for the crime, although the trial was based only on circumstantial evidence: forensic evaluations of the blood turned out to be ambiguous; witnesses' statements were not checked and those statements which were believed to be reliable were, in fact, unreliable; and, a sufficient cause for the crime (i.e., motive) was not discovered. Above all, there was no body.

On October 7, 1961, Paolo Gallo was traced to the house where he lived, a few miles from the site of his "disappearance."

An analysis of the case revealed three critical points: (1) a poorly executed scientific test (hematology); (2) the intrinsic weakness of the circumstantial evidence; and, (3) the lack of any formulation or consideration of an alternative hypotheses. Italian law (Art. 533, Penal Procedure Code) states: "The judge shall pronounce a sentence of condemnation if the accused person turns out to be guilty of the crime in question, beyond all reasonable doubt." This disposition embodies a fundamental principle in the structure of juridical order: the need to seek the truth — not *of* the trial, but *within* the trial — by means of scientific methods.

How can the phrase "all reasonable doubt" be overcome in the case of a presumed homicide without a body? From the viewpoint of correct investigative techniques in cases of suspected homicide without a body, this study indicates the need to follow operating procedures, which comprise not only the continual involvement of expert teams (in particular, criminal profilers) but also mantracking dogs, and to be decided upon according to *preliminary* forensic and investigative presumptions, *sensu strictu*.

Reference(s):

7. Ruggieri R. I fallimenti della giustizia. *Diritto e Scienza* 2012:5:1-22.
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Reasonable Doubt, Scientific Proof, Crime Scene Investigation