



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPIDAN
 Division Clerk of Court
 Third Division

JAN 04 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 222965

Present:

VELASCO, J.,
Chairperson,
 BERSAMIN,*
 LEONEN,
 MARTIRES, and
 GESMUNDO,** JJ.

- versus -

USTADZ IBRAHIM ALI y KALIM,
ABDUL HASSAN AND TWO OTHER
COMPANIONS IDENTIFIED ONLY AS
“JUL” AND “AMAT,”
 Accused,

USTADZ IBRAHIM ALI y KALIM ,
 Accused-Appellant.

Promulgated:

December 6, 2017

X ----- ----- X

DECISION

MARTIRES, J.:

This is an appeal from the 30 April 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00473-MIN, which affirmed the 30 July 1999 Decision² of the Regional Trial Court, Branch 16, Zamboanga City (RTC), in Criminal Case No. 15599, finding accused Ustadz Ibrahim Ali y Kalim (*Ali*) guilty beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention, defined and penalized under Article 267 of the Revised Penal Code (RPC).

* On Official Leave.

** On Leave.

¹ *Rollo*, pp. 5-27; penned by Associate Justice Rafael Antonio M. Santos, and concurred in by Associate Justices Edgardo T. Lloren and Edward B. Contreras.

² Records, pp. 56-86; penned by Judge Jesus C. Carbon, Jr.

THE FACTS

In an Information dated 17 December 1998, Ali, together with Abdul Hassan (*Hassan*), and individuals identified as “Jul” and Amat,” were charged with the crime of kidnapping and serious illegal detention under Article 267 of the RPC. Only Ali was the subject of the criminal proceedings because his co-accused Hassan, Jul, and Amat remain at large. The accusatory portion of the information reads:

That on or about December 14, 1998, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being then armed with high powered firearm, conspiring and confederating together, mutually aiding and assisting with one another, by means of force and intimidation did then and there willfully, unlawfully and feloniously, KIDNAP the person of CHRISTIA OLIZ y EUCOGCO, a young woman, 19 years old, particularly on the occasion when she was together with her employer named Antonio Yu Lim Bo and the latter’s wife and daughter, on board a Blue Nissan Vehicle then driven by one Rene Igno who was ordered by the herein accused to stop said vehicle somewhere at the vicinity of EAAB at Sta. Maria Road, this City, and thereafter through intimidation, commandeered and drove said vehicle with all its occupants aboard towards San Roque and finally to the area of Pitogo beach with the clear intention on the part of the accused to extort ransom money from said victim or other person; however, when victim Christia Oliz alighted from the vehicle and was walking towards the direction of Pitogo beach she was able to run away and with the timely assistance of some residents thereat as well as the arrival of the police authorities, prompted all the accused to escape except accused Ustadz Ibrahim Ali y Kalim who was arrested thus briefly depriving the liberty of said victim against her will; furthermore, the commission of said crime has been attended by the aggravating circumstance of NIGHT TIME AND USE OF MOTOR VEHICLE.³

During his arraignment, Ali, duly assisted by counsel, pleaded “Not Guilty.”⁴

Evidence for the Prosecution

The prosecution presented six (6) witnesses, namely: Senior Police Officer 2 Salvador F. Arcillas, Police Inspector Jesus Belarga, private complainant Christia Oliz (*Oliz*), Police Inspector Jose Bayani Gucela, Mario C. Agarte, Police Officer 3 Bernardino Bayot. Their combined testimonies tended to establish the following:

On 14 December 1998, at around 7:30 P.M., Antonio Lim (*Antonio*), Mary Lim (*Mary*), and Cherry Lim (*Cherry*) left their family-owned grocery

³ Id. at 1.

⁴ Id. at 16.

and were on their way to their house in Pasonanca, Zamboanga City, on board a Nissan vehicle. With them were their driver Rene Igno (*Igno*) and Oliz, their helper.⁵

When they were near Edwin Andrews Airbase (*EAAB*) along Sta. Maria Road, Igno stopped the car to avoid bumping into a motorcycle with three persons on board. The three men, later identified as Ali, Hassan, and Amat, approached the Nissan vehicle and told the passengers that they were policemen.⁶ They ordered Antonio and Igno to transfer to the back of the vehicle and sit with Oliz, Mary, and Cherry. The passengers were told that they would be brought to the police station on a tip that they were transporting contraband goods. Thereafter, the three armed men boarded the Nissan vehicle with Amat in the driver's seat, Ali beside him, and Hassan at the back with the other passengers. Once inside, Ali instructed Hassan to handcuff Igno and Antonio.⁷

Amat did not stop when they reached the Sta. Maria police station but kept on driving. Due to the buildup of traffic at the intersection after the Sta. Maria police station, Mary was able to escape her captors by jumping out of the vehicle.⁸

Amat continued to drive towards Pitogo and then veered towards the beach. There, the occupants were ordered to alight from the vehicle. Oliz was able to escape when she saw a woman walking nearby because only Antonio, Cherry, and Igno were guarded. She then told the woman that her employer was being kidnapped.⁹

Oliz was then accompanied to a nearby house where they contacted the authorities. Before the police arrived, Oliz heard a commotion outside and saw bystanders mauling Ali. Oliz told the people around that he was their abductor. When the police arrived, Ali was turned over to the authorities who brought him to the police station together with Oliz.¹⁰

Evidence for the Defense

The defense presented four (4) witnesses, namely: Ali's sister Nauda Ali (*Nauda*), Ali's wife Rahima Saulan (*Rahima*), Ali's cousin Siddik Alfad Abubakar (*Siddik*), and the accused himself. Their testimonies sought to prove the following:



⁵ TSN, 6 May 1999, pp. 6-7; testimony of Oliz.

⁶ Id. at 9-10 and 33.

⁷ Id. at 8-15.

⁸ Id. at 16-17; TSN, 17 May 1999, pp. 18-19; testimony of Mario C. Agarte.

⁹ TSN, 6 May 1999, pp. 18-20; testimony of Oliz.

¹⁰ Id. at 20-22.

On 14 December 1998, Ali, Rahima, and Nauda left Manalipa to proceed to Sinunuc and stay in Siddik's house before going home to Pagadian City. On their way to Sinunuc, they parted ways in Zamboanga City because Ali wanted to pray at the Sta. Barbara Mosque; Rahima and Nauda went ahead to Siddik's place.¹¹

At around 7:00 P.M., while Ali was waiting outside the Mosque for a ride to Sinunuc, he met Hassan, who was riding a motorcycle with Amat. Hassan told him to ride with them as they would be going somewhere in Recodo. When they were near the EAAB, Hassan overtook a motor vehicle and almost collided with it. Amat approached the driver of the motor vehicle while Hassan went to the other side. Amat and Hassan eventually boarded the vehicle with the latter forcing Ali to do the same. Hassan pushed Ali inside while he was holding a gun and told him to follow or he would be in trouble. Meanwhile, Hassan ordered a certain Jun¹² to ride the motorcycle and follow them.¹³

As Amat was driving, Ali asked what they were doing but was told to stop talking and just follow. Upon reaching Sinunuc, Ali asked Amat to stop the vehicle so he could get off but he was ignored. Eventually, they stopped at the seashore of Pitogo.¹⁴

There, all the occupants alighted with Hassan and Amat escorting and guarding Antonio, Cherry, Igno, and Oliz further down the seashore. Ali remained by the vehicle. Later, Jun arrived on Hassan's motorcycle. After sensing something suspicious with his companions, Ali decided to walk away and proceed to the main road to catch a ride to Sinunuc. While he was waiting for transportation, several persons suddenly held him and beat him up, accusing him of being a thief. Ali was eventually brought to a house where the beatings continued.¹⁵

After a few minutes, policemen arrived at the house where Ali was held. He was made to board the police vehicle where he was blindfolded and beaten again. Ali was detained at the police station where he was forced to admit to the kidnapping.¹⁶



¹¹ TSN, 13 May 1999, pp. 7-8; cross-examination of Ali; TSN, 12 May 1999, pp. 14-16; direct-examination of Ali

¹² Identified as "Jul" in the Information.

¹³ TSN, 12 May 1999, pp. 20-22, 25-28 and 31-32.

¹⁴ Id. at 35-37.

¹⁵ Id. at 39-43.

¹⁶ Id. at 46-51.

The RTC Ruling

In its 30 July 1999 decision, the RTC found Ali guilty of violating Article 267 of the RPC, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused **IBRAHIM ALI y KALIM GUILTY BEYOND REASONABLE DOUBT** as principal of the crime of Kidnapping and Serious Illegal Detention defined and penalized under Article 267, paragraphs 2 and of the Revised Penal Code as amended by Section 8 of Republic Act No. 7659, and **SENTENCES** said accused to suffer the penalty of **RECLUSION PERPETUA** with the accessory penalties provided by law and to pay the costs.¹⁷

Aggrieved, Ali appealed before the CA.

The CA Ruling

In its assailed 30 April 2015 decision, the CA affirmed the RTC decision, the dispositive portion of which reads:

WHEREFORE, the instant Appeal is hereby DENIED for lack of merit. The assailed Decision dated 30 July 1999 of the trial court is AFFIRMED in toto.¹⁸

Hence, this appeal, anchored on the following:

ISSUES

I

WHETHER THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF SERIOUS ILLEGAL DETENTION; AND

II

WHETHER THE ACCUSED WAS IDENTIFIED WITH MORAL CERTAINTY.

THE COURT'S RULING

The appeal has no merit.



¹⁷ Records, p. 86.

¹⁸ Rollo, p. 27.

Period of detention immaterial if victim is a female

Ali argues that he could not be guilty of the crime of Serious Illegal Detention because the alleged deprivation of liberty did not last for more than three (3) days as the incident only lasted for about an hour or two. In order for the accused to be guilty of serious illegal detention, the following elements must concur: (a) the offender is a private individual; (b) he or she kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping must be illegal; and (d) in the commission of the offense any of the following circumstances is present: (1) the kidnapping or detention lasts for more than three days; (2) it is committed by simulating public authority; (3) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill the victim are made; or (4) the person kidnapped or detained is a minor, female, or a public officer.¹⁹

In other words, deprivation of liberty is qualified to serious illegal detention if **at least one** of the following circumstances exists: (a) detention lasts for more than three (3) days; (b) accused simulated public authority; (c) victim suffers serious physical injuries or is threatened to be killed; or (d) the victim is a minor, female or public officer.

In the case at bar, the elements of serious illegal detention were duly proven by the prosecution. *First*, Ali and his cohorts were clearly private individuals. *Second*, they deprived Oliz of her liberty. This was manifested by the fact that they forcibly boarded the vehicle and placed Igno and Antonio in handcuffs evincing their intent to detain the occupants of the motor vehicle. *Third*, Oliz was a female victim. The CA was correct in ruling that the period of detention became immaterial in view of the victim's circumstances. If, during the deprivation of liberty, any of the circumstances under Article 267(4) of the RPC occurs, i.e, the victim was a female, the crime of serious illegal detention is consummated.²⁰

Intent to detain or restrain the victim's movement is tantamount to illegal detention.

Ali likewise assails that there was insufficient evidence to hold that he forcefully transported, locked up or restrained Oliz and her companions especially considering that the alleged handcuffs were never presented in court. The essence of serious illegal detention is the actual deprivation of the victim's liberty, coupled with the indubitable proof of intent of the accused

¹⁹ *People v. Niegas*, 722 Phil. 301, 310 (2013).

²⁰ *People v. De Guzman*, 773 Phil. 662, 671 (2015).

to effect such deprivation—it is enough that the victim is restrained from going home.²¹ It contemplates situations where the victim is restricted or impeded in one's liberty to move.²² Oliz's testimony clearly demonstrates the intent of the accused to deprive her and her companions of their liberty, to wit:

FISCAL NUVAL:

Q: Aside from asking the license of the driver, what else did they tell you?

A: They told us there was a tip that we were bringing contraband goods.

Q: Did they identify themselves?

A: Yes.

Q: What did they tell you?

A: They said that they are policemen.

Q: Then, what happen (sic) after that?

A: They went inside our vehicle and they asked the driver and this Boa to transfer at the back seat, together with us.

x x x x

Q: You said three persons approached your vehicle two of them went inside the front seat, one on the behind the steering wheel (sic) and other one sitting beside him and the other one went at the back of that vehicle, now, tell us where did this accused sat (sic)?

A: At the front seat also.

Q: Was he behind the steering wheel?

A: No, he was sitting at the side of the driver.

Q: And after he sat beside the driver's seat, what did this person do?

A: He instructed that Rene will be handcuffed.

Q: To whom did he instruct to handcuffed (sic) this Rene?

A: His companion, the one sitted (sic) at the back.

Q: What did this person at the back do, after this accused instructed him to handcuffed (sic) Rene Egno?

A: Then his companion handcuffed Egno.

x x x x

COURT:

Then after Sta. Maria, road, where did you proceed?

A: Then they said we will brought (sic) to the police station.

[FISCAL NUVAL:]



²¹ *People v. Pepino*, G.R. No. 174471, 12 January 2016, 779 SCRA 170, 671.

²² *People v. Baluya*, 664 Phil. 141, 150 (2011).

Q: Were you able to go the police station?
A: None, (sic) we just passed by.²³

Oliz's testimony clearly shows the intent of Ali and his cohorts to deprive the liberty and restrain the movement of the occupants of the motor vehicle. They misrepresented themselves as policemen and claimed they would bring Oliz and her companions to the police station; but they never got there and were let go only when they arrived at Pitogo. Further, Oliz categorically stated that Ali ordered his companions to handcuff Antonio and Igno. As pointed out by the CA, Oliz's testimony demonstrates that her freedom of movement was effectively restrained by the abductors who exercised complete control and dominion over the person of the victims.

Oliz identified Ali as the accused in a categorical and straightforward manner.

Ali also challenges Oliz's identification of him claiming that her testimony was marred with inconsistencies and that she was only able to identify him after reading the newspapers two days after the incident. We have held that inconsistencies on immaterial details do not negate the probative value of the testimony of a witness regarding the very act of the accused.²⁴ In fact, minor inconsistencies tend to strengthen the credibility of the witness because it shows that the testimony was not rehearsed.²⁵

In the case at bar, the inconsistencies, e.g., the position of the occupants inside the vehicle, assailed by Ali, pertain to trivial matters. On the contrary, Oliz remained consistent in identifying Ali as one of those involved in the kidnapping, viz:

FISCAL NUVAL:

x x x x

Q: Now, madam witness, can you recognize those three persons who approached you and identified themselves as policemen and that person who went inside that car, can you identify those three persons?

A: Yes.

Q: Are they inside this courtroom, will you please look around and tell us if they are inside this courtroom?

A: There is one here.



²³ TSN, 6 May 1999, pp. 10-16.

²⁴ *Avelino v. People*, 714 Phil. 323, 334 (2013).

²⁵ *People v. Alipio*, 618 Phil. 38, 48 (2009).

COURT:

Go down and touch him

A: (Witness went down from the witness stand and approached the accused and at the same time holding his hand, and when the accused was asked, identified himself as Ibrahim Ali).

x x x x

[Cross-Examination]

ATTY. PAKAM: x x x

Q: Madam witness, how far were you sitted (sic) to the rear of the car from accused Ibrahim Ali? From where you were sitted (sic) to the rear of the car, how far were you to Ibrahim Ali?

A: Ten inches in distance.

Q: You were sitted (sic) ten inches according to you, from Ibrahim Ali, correct?

A: Yes.

Q: Is there a bar that separates you from Ibrahim Ali?

A: Yes.

Q: What is this?

A: Just after the seat from the driver there is a sort of bar, a wall or bar, it is an iron bar.

x x x x

Q: You said accused Ibrahim Ali instructed that Rene be handcuffed, who did he give the instruction?

A: He instructed his companion to handcuffed (sic) Rene.²⁶

Positive identification pertains essentially to proof of identity.²⁷ In order that identification be deemed with moral certainty enough to overcome the presumption of innocence, it must be impervious to skepticism on account of its distinctiveness.²⁸ Such distinctiveness is achieved through identification evidence which encompass unique physical features or characteristics like the face, voice or any other physical facts that set the individual apart from the rest of humanity.²⁹ In the case at bar, it is unquestionable that Ali was identified with moral certainty. Oliz was able to distinguish and identify accused considering their proximity inside the vehicle and the duration of the captivity. Thus, she was intimately familiar with Ali's facial features and voice—enough to lend credibility to her identification of the accused.



²⁶ TSN, 6 May 1999, pp. 11-12 and 44-45.

²⁷ *People v. Gallarde*, 382 Phil. 718, 736 (2000).

²⁸ *People v. Caliso*, 675 Phil. 742, 756 (2011).

²⁹ Id.

Ali's contention that Oliz was only able to identify him after reading the newspaper is erroneous. During cross-examination, she merely stated that she became aware of Ali's name after reading the dailies. To wit:

ATTY. PAKAM:

Q: Now, specifically you mentioned the name Ali Ibrahim, by the way, do you know Ali Ibrahim before?

A: No.

Q: When did you come to know the name Ali Ibrahim?

A: At the police station and in the newspaper.

Q: You come to know the name Ali Ibrahim thru newspaper and police station, where?

A: Southcom.

Q: So, not at the police station?

A: At Southcom.

Q: Who told you that his person's name is Ali Ibrahim?

A: When I read the newspaper.

Q: When did you read the newspaper?

A: Last December 16.³⁰

Clearly, the only information Oliz derived from newspapers or third-party sources is the name of the accused. It was reasonably expected that she would be oblivious of Ali's name because the latter was a stranger to her prior to the abduction. Nevertheless, Oliz was able to sufficiently and consistently identify Ali as her abductor even if she did not know his name.

Further, Ali challenging his identification is absurd considering that he himself admits his presence during the abduction. In his cross-examination, he narrated:

PROSECUTOR NUVAL:

x x x x

Q: Now, you said you overtook a jeep. What kind of a jeep was this, will you please describe?

A: Well, I do not know what kind of a jeep is this.

Q: Is that the color blue?

A: Yes.

Q: Is it a pick up type?

A: Well, I do not know. I did not examine.

³⁰ TSN, 6 May 1999, pp. 46-47.

COURT:

Q: Is it not a fact that you were following this jeep while it was travelling in front of you before you overtook it?

A: Yes, Your Honor, but, I do not know, I was not thinking that it will happen like that Your Honor.

Q: Since when did you notice that you were following this blue jeep?

A: When we were already near the gate of that Air Base Your Honor.

Q: But, before you overtook this jeep you already noticed that this jeep was travelling ahead of you?

A: I do not know, Your Honor. I was not thinking about that jeep Your Honor.

x x x x

PROSECUTOR NUVAL:

Q: And this Hassan, when you overtook this jeep almost bumped this jeep?

A: Yes.

Q: And he purposely stopped this motorcycle?

A: Yes.

Q: And, he also make the motorcycle fell on the ground (sic), correct?

A: No. Well, it was not the motorcycle, he was just about to fall down.

Q: Were you able to fall down?

A: No.

Q: So, what did he do with his motorcycle?

A: It was on a stop, standing.

Q: And then, what happened next?

A: All of us alighted.

Q: What about the motorcycle?

A: It was just in front of the jeep.

COURT:

Q: You blocked the jeep?

A: Yes, Your Honor.

Q: So, the jeep had no choice but to stop otherwise, it will run over your motorcycle?

A: Yes.

Q: Did the driver of the jeep apply the break so as to avoid running over the motorcycle which stopped in front?

A: Yes, Your Honor.

x x x x

PROSECUTOR NUVAL:



Q: And then, you said the three of you approached the driver?

A: No.

Q: So, when you stopped, was it parked purposely in front of the jeep, this motorcycle?

A: Yes.

Q: With its stand?

A: Yes.

Q: And, you alighted from the motorcycle?

A: Yes.

Q: Who alighted first from the motorcycle?

A: It was Ahmad, the one driving.

Q: And followed by you?

A: Then we were together with Hassan who alighted from the motorcycle.

Q: And then, when you alighted from that motorcycle, what did you do?

A: I was just there at the side of the motorcycle.

Q: And, what did this Ahmad do?

A: I approached the driver.

Q: What about Abduhassan, what did he do?

A: Abduhassan, went to the right side of the jeep and I was called by him.

Q: How did he call you?

A: You (sic) said, "you come with me".

Q: Did you approach him?

A: Well, I was following him from behind.

Q: And what happened Mr. Witness?

A: Then, he instructed me to go up immediately in that jeep so that we will not be in trouble.

Q: You went immediately? Okey (sic). Who was the driver of that jeep at that time?

A: When I boarded already the jeep, I saw Ahmad was already in the place of the driver.

x x x x

Q: Okey (sic), from the Air Base, you said, this Abduhassan called you. And voluntarily, you approached him?

A: I was just behind.

Q: And, he asked you to go inside the vehicle?

A: Yes, I was instructed to go up in fact, he was pushing me.

Q: He just pushed you, no more no less?

A: Yes, I was being pushed.



Q: Did he not poke his gun to you and threatened you to go inside?

A: No. I was just pushed.

Q: He did not also utter any words which threatened you if you will not go with them, Mr. Witness?

A: No, but what he said was just to hurry up in going up that vehicle so that there will be no trouble.

Q: So you just followed his command, you also hurriedly went up inside that jeep?

A: Well, I did not hurry but, I just went up the jeep. And according to him, to avoid trouble.³¹

Instead of refuting the version of Oliz, Ali's testimony in fact corroborates its material points. He admitted that he was with Hassan and Amat when their motorcycle stopped in front of the Nissan vehicle; and that the three decided to board the vehicle and take control. Ali merely denied his participation feigning that Hassan coerced him.

This, however, is refuted by the categorical and straightforward testimony of Oliz that it was Ali who was giving commands to his companions. Thus, he could not have been an unwilling participant as he was in fact the one calling the shots. Further, even if Ali were to be believed, nothing in his testimony shows that Hassan exerted such force or coercion or uttered threats that would have deprived Ali with the free exercise of his will. Absent any showing that Oliz was motivated by ill will to falsely testify against Ali, her testimony should be granted credence³² especially since it was candid, straightforward, and devoid of any material inconsistencies.

WHEREFORE, the appeal is **DENIED**. The 30 April 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00473-MIN is **AFFIRMED**.

SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice

³¹ TSN, 13 May 1999, pp. 15-22.

³² *People v. Jalbonian*, 713 Phil. 93, 104 (2013).

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

(On Official Leave)
LUCAS P. BERSAMIN
Associate Justice

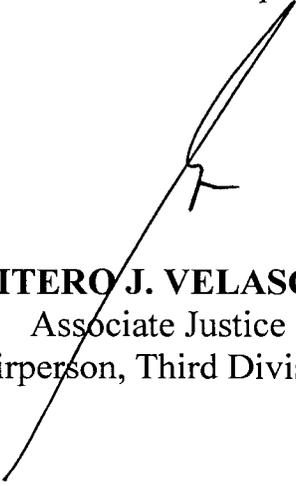


MARVIC M.V.F. LEONEN
Associate Justice

(On Leave)
ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

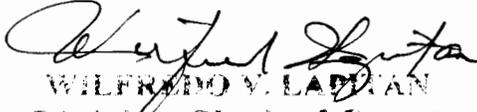
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LADITAN
Division Clerk of Court
Third Division

JAN 04 2019