

4 Phil. 716

[G.R. No. 2738. September 01, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. THE MORO SARIHUL,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

On the 20th day of May, 1905, the assistant prosecuting attorney of the Moro Province presented a complaint against the defendant, which complaint was in the following language:

“The undersigned accuses the Moro Sarihul of the crime of assassination, committed as follows: The said accused, being a member of the Philippines Constabulary, at one o’clock a. m. of the 11th day of May, 1905, in the municipality of Siasi, Island of Siasi, in the district of Sulu, Moro Province, then and there acting as a sentinel on a post near the house where lived Captain T. R. Hayson in said Constabulary, went to the sleeping room of the said Hayson armed with a rifle, and killed the said captain while he was sleeping in his bed, by shooting the said captain with the gun which he, the accused, then carried, which shot took effect in the back of the said captain, producing instantaneous death, which acts were committed with treachery and known premeditation; which fact constitutes the crime of assassination defined and punished in article 403 of the Penal Code, executed within the jurisdiction of the Court of First Instance of the said province, and with infraction of the law. Dated 20th day of May, 1905. (Signed) William M. Connar, jr., assistant prosecuting attorney of the Moro Province.

The defendant having theretofore been arrested, the Court of First Instance of said province proceeded with the trial, and found the defendant guilty of the crime charged in said complaint, and sentenced him to the penalty of death. The defendant did not appeal from said decision. The cause comes to this court *en consulta* under the provisions of section 4 of Act No. 194 of the United States Philippine Commission.

The evidence adduced during the trial proves beyond peradventure of doubt the following facts:

1. That Captain T. R. Hayson was a captain in the Constabulary of the Philippine Islands;
2. That the defendant, Sarihul, was a member of the Constabulary of the Philippine Islands;
3. That the defendant, Sarihul, on the night of the 10th of May, 1905, was placed, as a sentinel, or guard, near the house in which the said Captain T. R. Hayson lived;
4. That while the said defendant was acting as guard he carried a rifle;
5. That at about 1 o'clock a. m. of the 11th day of May, 1905, the said defendant entered the room of the house in which the said Captain T. R. Hayson was sleeping, and did then and there, with treachery and known premeditation, and by means of the gun which he was then and there carrying as such sentinel, shoot and mortally wound the said Captain Hayson, from which wounds the said Hayson did then and there die;
6. The treachery of the defendant is clearly proven by the fact that he shot the said Hayson in the back while he (the said Hayson) was sleeping;
7. The known premeditation is proven by the fact that the defendant and another Moro called Abdulah had, two days before the commission of the offense, mutually agreed to kill the said Hayson at the very earliest moment when an opportunity should present itself.

When the foregoing complaint was read to the defendant and he was asked to plead whether he was guilty or not guilty of the crime

charged, he replied by saying that it was he who had killed Captain Hayson, and that he had explained all concerning the crime, and that he had nothing more to add. After hearing this reply of the accused, the trial judge explained to him the gravity of the offense with which he was charged, and said to the accused that if he had anything to say in his own favor, he then had an opportunity so to do. No further statement was then and there made by the accused.

The court appointed counsel to represent the defendant, and proceeded to an investigation of the facts charged in said complaint. At the close of the trial the court again asked the defendant if he had anything to say in his defense, or desired to present any proof. The defendant again replied that he had nothing more to say, but that his disgrace had been occasioned by his listening to his companions. The court thereupon asked the defendant if he had heard the accusations and declarations made against him, and asked him if he desired to present any proof justifying his acts, to which the defendant replied that he agreed with all the declarations presented by the witnesses, and with the accusations, and only desired to add that the only reason that moved him in the commission of the act was the counsel given by his companions.

The attorney representing the defendant in this court in his brief admitted that the defendant was guilty of the crime in manner and form as charged in the complaint, but urged that this court apply the provisions of article 11 of the Penal Code, and thereby modify and change the decision of the inferior court to life imprisonment (*cadena perpetua*.) We do not believe that the provisions of article 11 should be applied to the defendant here. He had sufficient intelligence to accept the responsibility of becoming a member of the Philippines Constabulary for the purpose of maintaining law and order, and this was his special duty while acting as a member of such body.

For the reasons above stated the sentence of the inferior court is hereby affirmed, and it is ordered that the defenant, the Moro Sarihul, be executed in the manner provided for by Act No. 451 of the United States Philippine Commission, in the pueblo of Siasi, at a time to be

fixed by the judge of the Court of First Instance of the Moro Province,
by the persons prescribed by the existing law. The sentence of the
inferior court in all other respects is hereby affirmed. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Willard, JJ., concur.

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