

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. GAUDENCIO ROBLE, DEFENDANT AND APPELLANT.

G.R. No. L-433. March 02, 1949

Ponente: TUASON, J.

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TUASON, J.:

Charged with treason on three counts, the defendant pleaded guilty and was sentenced to death by the First Division of the People's Court sitting in Tacloban, Leyte. The correctness of the penalty is the sole question put in issue in this appeal.

The information alleges:

"1. On or about March 20, 1944, in the municipality of Dalaguete, province of Cebu Philippines, with the purpose of giving and with the intent to give aid and comfort to the enemy and her military forces said accused being a member of the Philippine Constabulary did, then and there wilfully, unlawfully, feloniously and treasonably lead, guide and accompany 10 other members of the pro-Japanese constabulary all armed like the accused, and did apprehend and arrest Paulino Osorio for having helped the guerrillas and of being the father of two guerrilla men; that the herein accused after maltreating said Paulino Osorio did detain him in the municipal jail of Dalaguete; that in the same date the accused and his companions did apprehend Melchor Campomanes and 7 other persons who were also tortured for being guerrillas or guerrilla supporters and sympathizers and the accused herein with his firearm did shoot Melchor Campomanes, killing him instantly;

"2. Sometime during the month of March, 1944, in the municipality of Dalaguete, province of Cebu, Philippines, with the purpose of giving and with the intent to give aid and comfort to the enemy and her military forces said accused being a soldier of the Philippine Constabulary did, then and there wilfully, unlawfully, feloniously and treasonably lead, guide and accompany a patrol of 13 constabulary soldiers and did arrest and apprehend Fortunato Belandres, Antolin Rodriguez, Zoilo Verano and Constancio Linares for being guerrillas and/or guerrilla supporters; that said accused did tie and torture the aforesaid persons and cut a portion of their ears, the tortures being so severe especially with respect to Antolin Rodriguez who effectively died as a result of said tortures administered by the accused.

"3. On or about May 18, 1944, in Cebu City, Philippines, with the purpose of giving and with the intent to give aid and comfort to the enemy and her military forces, said accused being a soldier of the Philippine Constabulary did, then and there wilfully, unlawfully, feloniously and treasonably accompany a group of Constabulary soldiers, all armed, to Mambaling and other parts of Cebu City and did apprehend Eleuterio Padilla, a former USAFFE soldier, for being a guerrilla, and there herein accused and his companions did tie and torture said Eleuterio Padilla, detain him at the Constabulary Headquarters for several days, after which he was taken out and mercilessly killed on May 26, 1944, by said accused."

The court held that the facts alleged in the information is a complex crime of treason with murders, with the result that the penalty provided for the most serious offense was to be imposed on its maximum degree. Viewing the case from the standpoint of modifying circumstances, the court believed that the same result obtained. It opined that the killings were murders qualified by treachery and aggravated by the circumstances of evident

premeditation, superior strength, cruelty, and an armed band.

We think this is error. The tortures and murders set forth in the information are merged in and formed part of treason. They were in this case the overt acts which, besides traitorous intention, supplied a vital ingredient in the crime. Emotional or intellectual attachment and sympathy with the foe unaccompanied by the giving of aid and comfort is not treason. The defendant would not be guilty of treason if he had not committed the atrocities in question.

On the question of the applicability of the aggravating circumstances which impelled the court, against its sentiments, to give the defendant the extreme penalty, we only have to refer to *People vs. Racaza*, (82 Phil., 623), in which this question was discussed and decided. There we said:

"The trial court found the aggravating circumstances of evident premeditation, superior strength, treachery and employment of means for adding ignominy to the natural effects of the crime.

"The first three circumstances are, by their nature, inherent in the offense of treason and may not be taken to aggravate the penalty. Adherence and the giving of aid and comfort to the enemy is, in many cases, as in this, a long, continued process requiring, for the successful consummation of the traitor's purpose, fixed, reflective and persistent determination and planning.

"So are superior strength and treachery included in the crime of treason. Treachery is merged in superior strength; and to overcome the opposition and wipe out resistance movements, which was Racaza's purpose in collaborating with the enemy, the use of a large force and equipment was necessary. The enemy to whom the accused adhered was itself the personification of brute, superior force, and it was this superior force which enabled him to overrun the country and for a time subdue its inhabitants by his brutal rule. The law does not expect the enemy and its adherents to meet their foes only on even terms according to the romantic traditions of chivalry.

"But the law does abhor inhumanity and the abuse of strength to commit acts unnecessary to the commission of treason. There is no incompatibility between treason and decent, human treatment of prisoners. Rapes, wanton robbery for personal gain, and other forms of cruelties are condemned and the perpetration of these will be regarded as aggravating circumstances of ignominy and of deliberately augmenting unnecessary wrongs to the main criminal objective under paragraphs 17 and 21 of Article 14 of the Revised Penal Code. The atrocities above mentioned, of which the appellant is beyond doubt guilty, fall within the terms of the above paragraphs.

"For the very reason that premeditation, treachery and use of superior strength are absorbed in treason characterized by killings, the killings themselves and other accompanying crimes should be taken into consideration for measuring the degree and gravity of criminal responsibility irrespective of the manner in which they were committed. Were not this the rule, treason, the highest crime known to law, would confer on its perpetrators advantages that are denied simple murderers. To avoid such incongruity and injustice, the penalty in treason will be adapted, within the range provided in the Revised Penal Code, to the danger and harm to which the culprit has exposed his country and his people and to the wrongs and injuries that resulted from his deeds. The letter and pervading spirit of the Revised Penal Code adjust penalties to the perversity of the mind that conceived and carried the crime into execution. Where the system of graduating penalties by the prescribed standards is inapplicable, as in the case of homicides connected with treason, the method of analogies to fit the punishment with the enormity of the offense may be summoned to the service of justice and consistency and in furtherance of the law's aims."

Considering all the facts and circumstances of the case, we believe that the appellant's spontaneous plea of guilty is sufficient to entitle him to a penalty below the maximum. The appealed decision is therefore modified and the sentence reduced to reclusion perpetua with the legal accessories and costs.

Moran, C.J., Paras, Feria, Pablo, Perfecto, Bengzon, Briones, and Reyes, JJ., concur.

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