

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEGUNDO FIRMO, DEFENDANT AND APPELLANT.

G.R. No. 12648. November 12, 1917

Ponente: MALCOLM, J.

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MALCOLM, J.:

The facts of this case may be briefly stated as follows:

Luis Antonio is the name of the deceased. Leoncia Arana is the name of his Widow (or former querida). Segundo Firmo is the name of the accused, the son of Leoncia Arana. The husband and wife on the evening of December 26, 1915, went to the barrio of Julita, leaving: Segundo Firmo to attend to the errands of the house. On the trip Antonio became intoxicated. In this condition, on returning to his home, he found Segundo Firmo lying down without having made any preparation for the evening meal. This so angered Antonio that he abused Firmo by kicking and cursing him. A struggle ensued, during which, Firmo stabbed Antonio with a penknife in the left side near the armpit, Luis Antonio died on the 13th of January, 1916.

On behalf of the accused, there are presented three lines of defense. Thus, it is contended that Luis Antonio died not as a result of the wound but from a fever. The answer is that the sanitary inspector, the only medical expert called as a witness, testified that Luis Antonio died as a result of the stab wound. Again, it is contended that the accused is exempted from criminal responsibility because of having acted in defense of his person. The answer is that at least one essential prerequisite to this defense is lacking, namely, reasonable necessity for the means employed to prevent or repel unlawful aggression. The wound was inflicted not in self-defense, properly speaking, but rather in retaliation of the abuses inflicted on the person of the accused.

"When an aggression is in retaliation for an insult, injury, or threat it can not be considered as a defense but as a punishment inflicted on the author of the provocation, and in such a case the most that courts could do would be to consider the same as an extenuating circumstance, but never as a cause of complete exemption from liability." (U. S. vs. Carrero [1908], 9 Phil., 544.)

Again it is contended that the wound was inflicted by the deceased upon himself. The answer is that this is an improbable supposition and is not borne out by the proof. Viewed from every standpoint, we reach the same conclusion that the defendant is guilty as charged in the information.

No aggravating circumstances exist. One mitigating circumstance can properly be considered, namely, that sufficient provocation or threat on the part of the offended party immediately preceded the act. In accordance with the foregoing, the defendant and appellant is sentenced to twelve years and one day of reclusion temporal, with the accessory penalties provided by law, to indemnify the heirs of the deceased, Luis Antonio, in the amount of P1,000, and to pay the costs of both instances. So ordered.

Arellano, C. J., Torres, Johnson, Carson, Araullo, and Street, JJ., concur.

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