

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. NARCISO A. SIBLAG, DEFENDANT AND APPELLANT.*G.R. No. 13156. February 25, 1918*

Ponente: CARSON, J.

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Our conclusions as to the guilt or innocence of the defendant and appellant of the crime of homicide, of which he was convicted in the court below, necessarily turn upon the degree of credit which should be accorded the various witnesses for the prosecution. If we accept the findings of the trial judge as to the credibility of these witnesses, there can be no reasonable doubt as to the guilt of the accused of the crime of which he was convicted, and we find nothing in the record which would justify us in disturbing the conclusions of the trial judge in this regard.

The Acting Attorney-General suggests that the trial judge erred in failing to find that the commission of the crime was marked with the aggravating circumstance of *ensañamiento*. The evidence discloses that several wounds, each of which was sufficient to cause the death of the victim of the crime, were found upon the body of the victim, his throat having been hacked with a cutting instrument and almost severed from the body.

But aside from the inference to be drawn from the nature of these wounds as found upon the body of the deceased, there is no evidence as to the exact circumstances under which these wounds were inflicted, and in the case of *The United States vs. Palermo* (31 Phil. Rep., 425), we said:

"We are of opinion, however, that the record does not conclusively sustain the finding of the trial court that the crime was committed 'with cruelty, by deliberately and inhumanly increasing the sufferings of the offended party.' (Subsection 5, article 403.) The court below based its conclusions in this respect wholly upon the number and gravity of the wounds inflicted upon the person of the deceased. We have frequently held that the mere fact that a number of grave wounds are found upon the body of a murdered man can rarely be considered conclusive of the fact that they were inflicted with the deliberate and inhuman intention of unnecessarily increasing the sufferings of the offended party. It is, as a rule, the unnecessary mutilation of the body which constitutes the qualifying circumstance of *ensañamiento*,' and the mere fact that wounds far in excess of what would have been necessary to cause death were inflicted upon the body of the deceased does not necessarily imply that such wounds were inflicted with the intention of deliberately and inhumanly increasing the sufferings of the offended party. The object sought to be attained in such cases may well have been merely to make assurance doubly sure, and to make the recovery of the victim of the attack absolutely impossible."

We find no error in the proceeding had in the court below and we conclude that the judgment entered convicting and sentencing the defendant and appellant, should be affirmed with the costs of this instance against him. So ordered.

Arellano, C. J., Torres, Araullo, Street, Malcolm, Avanceña, and Fisher, JJ., concur.

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