

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICENTE GARCIA GAVIERES, DEFENDANT AND APPELLANT.*G. R. No. 13788. October 08, 1918*

Ponente: MALCOLM, J.

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Section 26 of Act No. 1780 provides that "it shall be unlawful for any person to carry concealed about his person any bowie knife, dirk, dagger, kris, or other deadly weapon * * *." The last mentioned term, "deadly weapon," has been defined as "any weapon which is likely, from the use made of it at the time, to produce death or do great bodily harm." (1 Words and Phrases, Second Series, p. 1219, citing *demons vs. State* [1904], 48 Fla. 9, quoting 2 Bish. New Cr. Law, par. 680, and Bish., St. Crimes, par. 320.) Some statutes mention "brass knuckles" as a weapon which shall not be carried. This Court has decided that the phrase "or other deadly weapon" in Act No. 1780 includes arms which are of a different class from those particularly specified in the law. (*U. S. vs. Santo Nino* [1909], 13 Phil. Rep., 141.) This is the law.

When a certain club was raided, the police discovered brass knuckles (*llave inglesa*) secreted in the pocket of the accused. Brass knuckles is defined as "a weapon worn on the hand for the purposes of offence or defence, so made that in hitting with the fist considerable damage is inflicted. It is called 'brass knuckles' because it was originally made of brass. The term is now used without reference to the metal of which it is made." (*Rawle's Revision of Bouvier's Law Dictionary*, quoting *Patterson vs. The State* [1879], 3 Lea, 575.) These are the facts.

The question arises—Is "brass knuckles" a "deadly weapon?" An inspection of the brass knuckles in question with reference to the meaning of deadly weapon leads us to conclude that such an implement could be used to produce great bodily injury. The weapon can be carried for no good purpose and could only be used for an evil purpose. The intention of the Legislature was to suppress the habit of persons going around ready for combat. We answer the question with the statement—brass knuckles is a deadly weapon. (*State vs. Hall*, 20 Mo. App., 397, can be noted as corroborative authority.)

Counsel for appellant further relies on the following rule: "Intent is an essential element of the offense of carrying a weapon. As the intent necessary is generally considered to be that of going armed and of having the weapon ready for use in case of conflict, no offense is committed where accused has no knowledge that the weapon is on his person, or is carrying it for a harmless purpose, such as to take it home from the place of purchase or repair." (40 Cyc, 854.) Counsel should have continued with the next succeeding sentence of the quotation—"The requisite intent, however, is not one to violate the law but to do the prohibited act, as every person is presumed to know the law"—and then should have turned the pages to read this—"In prosecutions for carrying concealed weapons, the burden of proving the fact of concealment is upon the state; while on the other hand, it is incumbent upon defendant to show that the case is within one of the statutory exceptions as well as to overcome by proof the presumptions arising from the commission of the act." (40 Cyc, 867.) The prosecution having proved the fact of concealment about his person of a deadly weapon, the burden of establishing justification was on the defendant.

The judgment of the Court of First Instance of Manila sentencing the accused to pay a fine of P10, or to suffer subsidiary imprisonment in case of insolvency, and to pay the costs, is affirmed with the costs of this instance against the appellant. So ordered.

Torres, Johnson, Street, Avanceña, and Fisher, JJ., concur.

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