

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANASTASIO REDION, DEFENDANT AND APPELLANT.

G.R. No. 1998. April 29, 1905

Ponente: CARSON, J.

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CARSON, J.:

Anastasio Redion, the appellant in this case, was found guilty of the crime of frustrated homicide in the Court of First Instance of Manila, and sentenced to two years' imprisonment and to the payment of the costs of the trial.

It was proven beyond a reasonable doubt that on the 16th of November, 1903, in the city of Manila, the accused inflicted a wound on one Gertrudis Sanchez, by cutting her in the face with a knife, but in view of all the circumstances we are of opinion that it was not the intention of the accused to kill the said Sanchez, and, therefore, that he is not guilty of the crime of frustrated homicide as charged, and that the sentence appealed from should be reversed.

It appearing that though the said wound healed in fifteen days it permanently scarred and disfigured the face of the complaining witness, we find the accused "guilty" of the crime of lesiones (injuries) as defined and penalized in paragraph 3, article 416 of the Penal Code.

We are of opinion that he is not entitled to the benefit of the provisions of article 423 of said code, because it was not proven, as alleged by the defense, that the said Gertrudis Sanchez was the wife of the accused, nor that he had discovered her in flagrante in the commission of adultery.

The said crime of lesiones is one necessarily included in the offense with which the accused was charged, and we therefore sentence the said Anastasio Redion to two years' prison correccional, to the accessory penalties prescribed by law, and to the payment of the costs in both instances. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.

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