

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. BERNARDO TURNO, DEFENDANT AND APPELLANT.*G.R. No. 22597. February 27, 1925*

Ponente: VILLAMOR, J.

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The appellant was found guilty of the crime of homicide with the aggravating circumstance of abuse of superior strength, and sentenced by the Court of First Instance of Zambales to suffer imprisonment for seventeen years, four months and one day of reclusion temporal, with the accessories provided by article 59 of the Penal Code, and to pay the costs.

From the record it appears that on March 15, 1924, the accused had a servant by the name of Guillermo Castrense, 13 years of age. The accused told him to gather firewood, and upon his return, one Catalina, with whom the accused apparently was living maritally, ordered him to get more firewood. The deceased answered that he did not know where to go to get more, and as Catalina insisted, the deceased grinned at her, which was seen by the accused. The latter, thereupon, said to the child, "make fun of me, but not of your aunt," and ordered him to come upstairs. As the child would not do so, through fear, the accused went downstairs with a piece of bojo cane, and taking him by the arm, beat him several times with the cane until it was broken into pieces. The accused continued maltreating the child, kicking and striking him on several parts of his body, and stamping him after he had fallen to the ground, crying "father, father."

The child Castrense escaped from the house of the accused and arrived at the home of his parents on the 16th of January. There he complained to his father Vitaliano and his stepmother Ines Ejaus of pains in the chest, the back and on the right side, saying that he was going to die. When asked about the cause of said pains, he answered that the accused Bernardo Turno had beat, illtreated, and trampled upon him. His body exhibited various black and blue spots, he vomited blood at noon and died on the following day. Doctor Castrillo, who made the autopsy of the body shortly thereafter, found two scratches on the right side of the frontal region; a scratch on the inner side of the right elbow; a superficial wound about 2 centimeters wide on the right foot between the tarsus and the phalanx; lineal scratches on both sides of the thorax at the level of the axillar line, some extending from the back to the front and others having a downward direction.

After the autopsy of the body, it was found, upon opening the chest, that the heart was normal, and the right lung exhibited blood flux on all the surface of the outer part, specially on the upper lobe. The left lung likewise exhibited hemorrhagic centers on the superior lobe, but not so pronounced, as compared with the other lung. These flux of blood and hemorrhagic centers show that the lungs had suffered a considerable traumatism. (Exhibit A, fol. 9.)

Explaining the probable causes and effects of the wounds found by him on the body of the deceased, Doctor Castrillo stated that the blood flux and hemorrhagic centers found by him on the lungs of the deceased must have been caused by the blows received by the deceased, and the lineal scratches appearing on the body indicate that he

had been whipped; and that in his opinion the pulmonary hemorrhage was the cause of his death.

We have studied the evidence introduced in this case, and are convinced that the guilt of the accused is proven beyond a reasonable doubt. (U. S. vs. Diaz, 15 Phil., 123.)

The defense alleges that the deceased was an epileptic. Supposing this to be true, still the symptoms and the conditions of the child previous to his death, and the testimony of Doctor Castrillo, together with that of the witnesses who saw the accused strike the child, clearly show that death was not due to epilepsy, but the result of the blows inflicted by the appellant on the person of the child Guillermo Castrense.

We find the judgment appealed from to be in accordance with the merits of the case and the law, and therefore the same must be, as is hereby, affirmed with the costs against the appellant. So ordered.

Johnson, Malcolm, Ostrand, Johns, and Romualdez, JJ., concur.

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