

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. LORENZO SANTOS, DEFENDANT AND APPELLANT.

G.R. No. 26537. March 30, 1927

Ponente: MALCOLM, J.

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MALCOLM, J.:

This case has its origin in the Constabulary riot at San Fernando, Pampanga, on the night of May 23, 1926, in which five persons were killed and eleven others were wounded. Specifically, it relates to the charge of murder against the Constabulary soldier Lorenzo Santos for the death of the boy, Santiago Quiambao. The findings of fact made by trial Judge Reyes, with which the two assessors concurred, held the accused guilty as charged. He was sentenced to life imprisonment, cadena perpetua, with the accessory penalties provided by law, to indemnify the heirs of Santiago Quiambao in the sum of P1,000, and to pay the costs.

From the above-mentioned judgment, the accused has appealed. On his behalf, five errors are assigned and argued. They relate principally to the credibility of the witnesses and the sufficiency of the proof. Counsel asks us to acquit Lorenzo Santos.

Lorenzo Santos was one of the Constabulary soldiers who on May 23, 1926, secured his rifle and ammunition and used them for felonious purposes. On leaving the place where the dance hall was located, wherein the trouble had started, Lorenzo Santos went towards the railroad station at San Fernando, Pampanga. It was near that station that a Constabulary soldier, through threats and intimidation, forced Victorina Aguirre, the owner of a tienda, to hand him some money. It was not far from there also that the boy of Victorina Aguirre, 13 years of age, named Santiago Quiambao, was bayoneted to death by a Constabulary soldier, who, the prosecution claims, was the accused. At least, shortly after this occurred, Lorenzo Santos sought the house of Corporal Antonio Umali, and was admitted by the wife of Corporal Umali. On the return to his home about midnight of Corporal Umali, he found Lorenzo Santos there. Santos told Umali that he had killed a child near a tienda in front of the railroad station.

When Lieutenant Juban of the Constabulary practiced an investigation, one of the three soldiers who took one step forward as indicative of participation in the riot was Constabularyman Santos. When the weapons of the soldiers were examined, that of Lorenzo Santos was found to be lacking two cartridges. The bayonet of his gun was examined by the Bureau of Science, but blood stains were not revealed.

The accused denies having killed the boy, Santiago Quiambao. However, there stands against him incriminating evidence, including the testimony of Corporal Umali, corroborated in important details by other witnesses. The testimony of Felix Alfaro was rejected, and rightly, by the trial judge as unworthy of credence.

As to the defense made in this instance, it may be said that under the construction which this court has given to Act No. 2709, Antonio Umali was not improperly included as a witness for the Government. With the dissent of some of us, Act No. 2709 has been given a liberal and permissive meaning. (*U. S. vs. Abanzado* [1918], 37 Phil, 658 ; *U. S. vs. Enriquez* [1919], 40 Phil., 603; *U. S. vs. Bonete* [1920], 40 Phil., 958; *People vs. Velazco* [1921],

42 Phil., 75.) The other points made by the defense strike at the conclusions reached by the trial judge, as to which the appellate court must necessarily apply its rule that it will not set aside the findings made by the trial judge unless it be shown some fact or circumstance which has escaped attention, or unless the findings are clearly demonstrated to be wrong. In this instance, we cannot say that the decision is wrong.

The facts show that the accused is guilty of the crime of murder. Alevosia, is present. (U. S. vs. Baul [1919], 39 Phil., 846.) There are neither aggravating nor mitigating circumstances. The result, accordingly, is to concur with the appreciation of the case by Judge Reyes. .

Judgment is affirmed, with the costs of this instance against the appellant. So ordered.

Johnson, Street, Villamor, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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