

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FELIX SORIA, DEFENDANT AND APPELLANT.

G.R. No. 29474. November 17, 1928

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an appeal from a judgment of the Court of First Instance of Ilocos Sur finding the defendant, Felix Soria, guilty of homicide and sentencing him to suffer fourteen years, eight months and one day of reclusion temporal with the accessory penalties and usual indemnity.

It appears from the evidence that on the evening of October 22, 1926, some boys or young men were practising boxing on the bank of the River Narvacan in Ilocos Sur. While the boxing was going on, the now deceased Rosendo Abiang appeared on the scene. He was apparently under the influence of liquor, and, after criticising the style of the boxers, offered to teach them the art. One of the boys, Magno Pascua, accepted the challenge and put on the gloves with Abiang. There is some dispute as to the result of the boxing between the two, but it seems evident that Abiang was not in condition to do any damage to his opponent, and the evidence to the effect that he himself received several heavy blows does not seem unreasonable.

The gloves used belonged to one Telesforo Soria. He had lent them to his young nephew, Amparo Soria, who in turn allowed the other boys to use them. After the bout between Abiang and Magno Pascua was over, Abiang refused to return the gloves and threatening to cut them to pieces with his bolo, left the place and took the gloves with him. Amparo complained to his uncle, Telesforo Soria, who in company with Felix Soria and with one Dominador Pimentel set out to find Abiang and recover the gloves. When they found Abiang, it appeared that he had already turned the gloves over to Amparo. The evidence for the prosecution is to the effect that, notwithstanding the fact that Abiang no longer had the gloves, Telesforo took away his bolo, and Felix Soria first struck him in the left eye with his fist and thereafter struck him on the neck with an iron bar about one-half inch thick, and also struck him on the throat with a brass knuckle; that Abiang fell down, and his attackers went away, but that Felix Soria returned and again struck Abiang on the thigh with the iron bar. Upon this point the evidence for the defense is in direct conflict with that of the prosecution and is to the effect that upon meeting Abiang, they were informed that he had already returned the gloves and no violence was offered him.

The following day Abiang was examined by Dr. Antonio Nolasco, who found that he was suffering from soreness in the larynx and the esophagus. There were no external marks on the throat or neck except a slight swelling of the latter.

The condition of Abiang became gradually worse, and he finally died on November 18, 1926. In the following autopsy Doctor Nolasco found that the death was due to septicaemia caused by an abscess formed in the esophagus; that the abscess might have been produced by a blow on the throat but that that blow could not have been inflicted with a brass knuckle or an iron bar a half an inch thick without leaving external marks. Upon this point the testimony of Doctor Nolasco is supported by that of Dr. Eufemio Domingo, a witness for the defense.

In our opinion, the guilt of the defendant has not been proven beyond a reasonable doubt. It is possible that he illtreated the deceased on the occasion above referred to, but we find it difficult to believe that he in rapid succession struck the deceased first with the fist, thereafter with an iron bar, and finally with a brass knuckle; there could hardly have been any necessity for such an inconvenient shifting of weapons. Neither do we believe that heavy blows on the neck and throat with a slender iron rod and with brass knuckles would not have left marks on the skin. It seems more likely that such injuries as there may have been, were received in the boxing contest. The abscess in the esophagus could have been caused in various ways, and it is to be observed that the death of the deceased did not occur until nearly a month after the alleged illtreatment. It is also significant that nothing appears to have been said to Doctor Nolasco, the physician of the deceased, about such illtreatment, though the doctor almost daily visited his patient during the latter's sickness.

For the reasons stated, the appealed judgment is reversed, and the appellant will stand acquitted of the crime charged with the costs de oficio. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Romualdez, and Villa-Real, JJ., concur.

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