

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. EDUARDO TOLENTINO, DEFENDANT AND APPELLANT.

G.R. No. 31479, November 29, 1929

Ponente: JOHNS, J.

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JOHNS, J.:

The record is conclusive that Espiridion Candelaria died from the wound inflicted on him by the defendant who admits that he killed the deceased, but claims that he acted in self-defense. The defendant is the only eye-witness to the commission of the crime. Soon after it was committed, the deceased was found lying with his back on the floor in his room with his body and, in particular, his head bathed with blood. Dr. Sixto A. Francisco, who made the personal examination of the deceased, testified that the body "showed one big, clean cut wound in the head."

"The direction of the wound is horizontal; its size is six and a half (6 1/2) inches long; three-fourth (3/4) inch wide, and one and a half (1 1/2) inches deep. It is on the right side, just about half an inch above the right ear, extending from the temporal region to the dorsal region of the neck."

" 'CAUSE OF DEATH

" 'Due to the extensive hemorrhage from this wound in the head' "

The doctor also testified that the wound on the back of the head must have been inflicted with a sharp instrument by some person standing behind the victim. But upon cross-examination, stated that the wound could have been inflicted by a person standing in front of Candelaria if the deceased "stooped about 45 degrees."

The defendant in his own behalf testified:

"That on the morning of November 1, 1928, he was studying at the same table with Espkidion Candelaria; that the latter told him to stop studying because he (the accused) 'already had a tomb to which he replied, 'Mind your own business;' that upon hearing these words, Candelaria threw a book at him, which he caught and placed on the table; that thereupon, Candelaria opened a knife and said: 'I will open your stomach*' and at the same time stood up and ran towards him in the attitude of stabbing him; that he (the accused) ran away towards the other end of the room where he kept his bolo, unsheathed it, and ran with said instrument in his right hand towards the door, passing in front of Candelaria but that Candelaria chased him towards the door, and, believing that Candelaria was going to stab him and having no time to escape, he attempted to disable with his bolo the hand of Candelaria which was holding the knife, but that, instead its blade hit Candelaria on the head, the accused not knowing at the time on what particular part of the head Candelaria was struck; that in the belief that he was still being pursued by Candelaria, the accused opened the door, went out and ran away, and never returned until the time that he surrendered himself to the authorities on December 13, 1928; and that Candelaria's attempt to stab him produced a wound near the wtfst of his right arm, leaving a scar on that spot" (s. n. pp. 28, 30-34).

The evidence for the defense tends to show that the deceased was very quarrelsome, aggressive, overbearing and

violent, and that the defendant was of a meek, submissive and peaceful character. The defendant also exhibited a wound on his forearm, which he claims was inflicted upon him by the deceased, and Dr. Calupitan testified that the scar exhibited by the defendant was from three weeks to three months old. The defendant and the deceased were living together in the same room in a house near the School of Forestry in Los Banos, and were both students of that school.

Ciriaco Arriola, a witness for the prosecution, testified that on that day it was his turn to sweep the house, and at that time and for that purpose, he went to the porch of the house, and while there heard some noise from the room and later saw the defendant running out of it with an unsheathed bolo in his left hand, which he lifted against the witness and chased him. That he ran as fast as he could to the nearest house, and later came back to the room and found Candelaria lying on the floor dead with his clothes saturated with blood and a wound on the back of his head.

If, as the defendant claims, the deceased inflicted the injury upon his forearm, it must have been done with some kind of a weapon. Yet there is no claim or pretense that a weapon or instrument of any kind was found in the room with the body of the deceased. The trial court who saw the wound and heard the defendant testify, did not believe that the wound was inflicted by the deceased. Again, the doctor's testimony as to the location, nature and extent of the blow that killed the deceased flatly contradicts the evidence of the defendant that he acted in self-defense.

That is to say, the actual undisputed, physical facts flatly contradict the whole theory of self-defense. First, because no weapon of any kind was found in the room of the deceased with which he could have inflicted the scar on the forearm of the defendant; and, second, the nature, character, location and extent of the wound, as testified to by the doctor, clearly show that the deceased was either struck from behind or while his body was in a reclining position. From which it must follow that the defendant did not act in self-defense. Assuming that the deceased was quarrelsome and the defendant was a quiet and peaceable man, as the evidence tends to show, it may be that the deceased said something which provoked the defendant, and that by reason thereof he should have that as a mitigating circumstance. The lower court sentenced the defendant to fourteen years, eight months and one day of reclusion temporal.

For the reasons above stated, that judgment is modified and reduced, and the defendant is sentenced to twelve years and one day of reclusion temporal, and in all other respects affirmed, with costs. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, and Romualdez, JJ., concur.

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