

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ILDEFONSO RODRIGUEZ, DEFENDANT AND APPELLANT.***G.R. No. 3756. October 28, 1907*

Ponente: TORRES, J.

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On the 27th of August, 1906, a complaint was filed by the provincial fiscal of Surigao with the district court accusing Ildefonso Rodriguez of the crime of parricide, in that, on the morning of Thursday, March 8 of said year, he did intentionally, and with premeditation, kill his father, (Florentine) Rodriguez, at the latter's own house, and without any provocation on the part of the deceased.

Proceedings having been instituted by reason of the foregoing complaint, the court, in view of the conclusions, entered judgment therein on the 26th of November, 1906, and sentenced the accused to the penalty of life imprisonment and the accessories thereof, to indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs. From the judgment the accused has appealed.

From the testimony of several witnesses in this case, it appears that on the morning of March 7 of said year, during a conversation had by the accused with Tomas Gereda at the house of Dominga Eslava, the former stated that if his father, Florentino Rodriguez, ever scolded him, he was prepared to oppose and resist him because his father had burned his clothes; the owner of the house was not present at the time. Although the accused lived with his father and stepmother, Gregoria Lantoria, he did not spend the night of the 7th in their company, but slept at the house of the said Dominga Eslava. On the morning of the 8th, for the reason that the accused had not summoned the laborers as his father had directed, he and his stepmother were scolded by the father, and the accused, Ildefonso, was ordered to leave the house, which he at once did, but shortly thereafter he returned to the house of his father armed with a bolo with which he immediately assaulted the same, and as the stepmother, Lantoria, tried to interfere, the accused threatened to kill her if she did not leave the house; she therefore, through fear, left the house at once while the accused and his father were engaged in a furious struggle.

A few moments afterwards, while the stepmother, Gregoria Lantoria, was at the house of Inocencio Nabalo, where she had gone after leaving the house of the deceased, the accused made his appearance and upon being questioned as to what he had done to his father, he replied that he had tied him up in the shape of a figure eight, and that a dried fish would have a better chance to live than his father; these statements were heard by Nabalo, the owner of the house, and he further added that he had heard the accused say, in the presence of the witness Mauricio Iligan, that he had killed his father a short time previously by strangling him with his hands, and that he refused to pardon his father because the latter also declined to forgive him, and for the further reason that his father had burned his clothes, a fact which he considered as if he himself had been burned; this is confirmed by Iligan. Shortly before the crime was committed Basilia Bitancol and Maria Cruces saw, from the house of Dominga Eslava, that the accused had gone down, and, as they were unable to stop him, he went in the direction of his father's house and immediately after he had gone upstairs they heard the father ask for forgiveness and call for assistance, and subsequently the accused appeared at the house of Maria Cruces, asking for his washed

clothes, and they then saw blood stains on one of the shoulders of his coat. Maria Lastima and Eustaquio Silos also testify to having heard the victim call for assistance from his own house from which the accused descended shortly after.

In the evening of the day when the affray occurred the accused requested Marcelino Ebor, Severino Legaspi, and Andres Bitancol, residents of the barrio, to take the body of his father to the pueblo to be buried, and, when in the house where the crime was committed, they saw that the deceased had a small wound in the right hand and another in the left temple, that the neck was discolored, and that the body was lying face downwards on the floor, on which they noticed stains of blood; the aforesaid witnesses, Silos and Lastima, testify that prior to the occurrence they saw the deceased burn the clothes of the accused.

The criminal act resulting from the statements contained in this case is fully proven by the testimony of competent witnesses, and from conclusions derived from other facts also proven, and because of the relationship existing between the accused and his victim, the crime committed is that of parricide, denned by and punished under article 402 of the Penal Code which reads:

"He who shall kill his father, mother, \* \* \* shall be punished as a parricide, with the penalty of cadena perpetua to death."

The accused, Ildefonso Rodriguez, pleaded not guilty. The facts in the case, however, and the incriminating details offered therein, taken as a whole and viewed according to the principles of sound criticism and common sense, produce in the mind a full certainty of the guilt of the accused as the only proven author of the violent death of his father, Florentino Rodriguez; his unjustified allegation that his father died in consequence of illness contracted on the day previous to his death is inadmissible, because, far from said allegation being confirmed, it has been denied by Hilaria Lastima, and by Gregoria Lantoria, the wife of the deceased, who both state that he was in good health and that he was not suffering from any malady up to the time when he was violently killed.

The above-named wife of the deceased was present at the latter's house when the accused entered carrying a bolo in his hand and assaulted his father with the same, and also at the time when the furious struggle ensued between father and son wherein she could not interfere because the accused, under threat of death, ordered her to leave the house. The fact that cries for help and the prayer for pardon from the deceased to his assailant, the accused, were heard by some neighbors shortly after; the fact that when the accused appeared at the house of Inocencio Nabalo where his stepmother, Gregoria Lantoria, had taken refuge, and that upon being questioned by her as to what he had done to his father, he replied that he had tied him up and that a dried fish would have a better chance to live than his unfortunate father; the fact that the accused affirmed in the presence of said Nabalo and of Mauricio Iligan that he had killed his father by strangling him with his hands, and also told Tomas Gereda, on the morning of the 7th of March, the day before the occurrence, that he was prepared to resist his father in case the latter scolded him, for the reason that the father had burned the clothes of the accused; the fact that the accused appeared at the house of Maria Cruces Avith blood stains on one of the shoulders of the coat he then wore, and asked for washed clothes shortly after the occurrence, and the fact that the body of the deceased was found lying face downwards on the floor, of the house, with a small wound in the right hand and another in the left temple, the front part of his throat being discolored, the floor of the house being stained with blood, all according to the testimony of the three individuals who were summoned by the accused for the burial of the body, all of which facts were closely related, and considering the uncontradicted testimony of the above-named witnesses, the culpability of Ildefonso Rodriguez as the slayer of his unfortunate father, Florentino Rodriguez, is proven beyond a doubt.

In the commission of the crime there were no aggravating circumstances and paragraph 20 of article 10 of the code can not be considered because the accused lived in the same house as his father, and it has not been shown

that he had his own and independent dwelling, and according to the well-established precedents of courts it is not proper to consider such circumstance when the house wherein the crime was committed is the dwelling of both the offender and of the injured party. The proven fact that, on the day before the occurrence, the deceased burned the clothes of the accused, and the dismissal of the latter from his house shortly before the assault because he did not fulfill an order given him by the deceased might, perhaps, be considered as a mitigating circumstance, as he was prompted to act under loss of self-control and without the respect and regard due to his father; for this reason, the penalty in its minimum grade would apply in this case. However, whether or not the said circumstance, which is the seventh of article 9 of the code, be considered, because no aggravating circumstance was present, it is only proper to impose on the accused the lower of the two indivisible penalties prescribed by said article 402, in accordance with rules 2 and 3 of article 80 of the Penal Code.

Therefore, in view of the foregoing and accepting the conclusions of the court below as stated in the judgment appealed from, the same should be affirmed, provided that the accessories 2 and 3 of article 54 of the Penal Code shall be imposed and that the indemnity shall be paid to the widow and other heirs of the deceased, with the costs against the accused. So ordered.

Arellano, C. J., Johnson, Willard, and Tracey, JJ., concur.

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