

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AMBROSIO GESMUNDO, DEFENDANT AND APPELLANT.

G.R. No. 3986. November 06, 1907

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Ambrosio Gesmundo was accused of having caused the death of Castor Esconde in a struggle commenced by the latter. Esconde kicked Gesmundo in the face and afterwards caught the latter by the neck and held him. Gesmundo, while being held as stated and in order to free himself from his assailant, drew a penknife from his pocket and wounded Esconde. Death resulted from the wounds inflicted. The characteristic elements of self-defense are here well defined, and anyone acting under such circumstances is relieved from criminal responsibility. The doctrine already laid down in a similar case is applicable to the present cause, (*U. S. vs. Sosa*, 4 Phil. Rep., 104.)

Therefore, in accordance with the motion of the prosecution, Ambrosio Gesmundo is hereby acquitted, and the costs in both instances are declared de oficio. So ordered.

Torres, Mapa, Johnson, Garson, Willard, and Tracey, JJ., concur.

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