

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BENITO FENIX, DEFENDANT AND APPELLANT.

G.R. No. 4330. August 15, 1908

Ponente: TRACEY, J.

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TRACEY, J.:

The accused, who was foreman of the hacienda of San Jose in Hamamaylan, Occidental Negros, was convicted of homicide in killing one Tomas Linares by blows with a stick. It appears that the two men had an altercation in the course of which, the prosecution proved, the blows were given, while the defense claimed that it ended in words only and that the injuries which lead to his death were subsequently received by Linares while in custody of One Tomas Castanero, who, at the order of the owner of the hacienda, was conducting him home,

Linares was intoxicated and the defense has failed to make clear that the falls he suffered while under the charge of Castanero were the result of force used by the latter, rather than of his own intoxication. We think it established beyond a reasonable doubt that his injuries were caused by the blows given him by the accused, and that his death resulted from these, rather than from either the roughness of Castanero, or some unknown internal disorder. There was no autopsy of his body, which was buried early the next morning under direction of his employer.

During the hearing the defense moved for a new trial, founded on newly discovered evidence consisting of declarations of neighbors to the effect that Tomas Linares was suffering from pains about his heart, indicating an infirmity of which he may have died.

This motion was properly denied because not supported by the proper technical requirements of General Orders, No. 58 (U.S. vs. Luzon, 4 Phil. Rep., 343), and because the facts sought to be established would tend to show only a peculiarly sensitive and critical condition of health in which the blows received by Linares were the more likely to prove fatal. The efficient cause of the death would remain unchanged.

The trial judge found two extenuating circumstances in favor of the accused—the first, drunkenness, and the second, an absence of intention to kill—and imposed a sentence of imprisonment for eight years and one day, with the costs and accessories, and an indemnity of P500. It is impossible to allow the second of the two extenuating circumstances, but, accepting the first, we revoke the sentence of the lower court and sentence the accused to reclusion temporal, in its minimum degree, for the term of twelve years and one flay, with the costs and accessories, and an indemnity of P500 to the heirs of Tomas Linares. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Willard, JJ., concur.

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