

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. THE ILONGOTS
PALIDAT ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 5620. March 21, 1910*

Ponente: MORELAND, J.

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The defendants in this case were convicted of the crime of murder by the Court of First Instance of the Province of Nueva Vizcaya and sentenced to death, to indemnify the heirs of Doctor Jones in the sum of P3,000, and to pay the costs of the action. This case comes to us en consulta.

All three accused are Igorots belonging to the tribe known as Ilongotes, living in the mountain districts of northern Luzon. They are accused of having murdered Dr. William Jones on the 29th of March, 1909, in the Province of Nueva Vizcaya. It appears that Doctor Jones was a naturalist and scientist engaged in original research in the district inhabited by the Ilongotes. During his stay among them he had received their constant aid in the prosecution of his investigations and every consideration at their hands which their simple and primitive condition could afford. The facts upon which the charge of murder is based are best stated by the only witness for the prosecution. He said:

"We reached the sitio of Pinapagan and Doctor Jones called the captain of the Ilongotes. The captain came there where Doctor Jones was at the sitio of Pinapagan, and he was ordered by Doctor Jones to bring the balsas (rafts) there; the captain answered Doctor Jones, saying that he would bring the balsas, but that his polistas were still looking for some of them and that they were not all prepared yet. Then the doctor asked him why he had not prepared the balsas as he had ordered him to prepare the balsas many days beforehand. Then the doctor told the captain that he would have to sleep there with us and get the balsas the following day. On the following morning Doctor Jones, in company with the captain, went to the river and there he said to the captain that as the balsas had not yet arrived we would all go to the place called Pung-gu and there wait for the arrival of the balsas which the captain's people were to bring for him. And then we at once went to Pung-gu, the doctor, myself, and the captain of the Ilongotes. Here at this place we waited for one-half of the day and at about 1 o'clock the Ilongotes arrived with only four balsas. The Ilongotes prepared chow for Doctor Jones and he ate, and after I had eaten I told the doctor that it would be better for us to go back to Dumabato, but the doctor answered me, saying that we would wait a little longer and see if the Ilongotes would arrive with the other balsas. As the other balsas did not arrive, the doctor said that we would all have to leave for Dumabato and that we would have to take the captain of the Ilongotes along with us. And the doctor told the Ilongotes there that we would wait for the other balsas in the sitio called Dumabato. After this we went to the place where the balsas were with another Ilongote, who was our companion in our trip up to this place of Pung-gu. Doctor Jones took hold of the arm of the captain and said that he would have to come along with us to Dumabato to make sure that your people will bring the other balsas. He carried the captain of the Ilongotes to the bank of the river and tried to force him onto the balsa, but the captain of these Ilongotes did not want to go and resisted. Then the doctor told the other Ilongotes to take the balsas and leave, and then it was when Palidat came near the doctor as though to tell him good-bye and promising to bring the other balsas the following day, and all at once he drew his bolo and hit the doctor in the head with it and then the other Ilongotes arose and

took their bolos from their sheaths and began to attack the doctor. The Ilongotes Gacad and Maguen were the ones nearest to Doctor Jones and were the ones who attacked him after Palidat. Gacad was the one who struck the doctor in the stomach with his lance. When I saw this I ran toward the doctor and that was when I saw the other Ilongote, and he wished to strike the doctor also. After the Ilongote Magueng had succeeded in hitting the doctor, I went at once to the doctor's side and picked him up, because I saw that he was very gravely wounded and I placed him on the bank. And then the doctor gave me his revolver and I began to discharge the same at the Ilongotes and succeeded in driving them away. And then we went off to Dumabato."

It does not appear that any ill feeling had existed between the Ilongotes and the doctor prior to the assault. On the contrary, a species of friendship apparently subsisted between them down to the moment of the attack.

The evidence produced by the prosecution for the conviction of the defendants was the testimony of the witness whose evidence is above quoted and the confessions of the defendants themselves, who, freely and voluntarily and without any attempt at concealment, told exactly what happened. It is significant to note that, in the confessions which they made of the acts committed in accomplishing the death of the doctor, the dominant feature appears to be that "we attacked the doctor because he was guilty." It is not evident from the proofs what the motive was, that is, what the doctor was guilty of, which actuated the defendants in attacking him unless it was the protection of their chief, whom the doctor had seized and was attempting forcibly to abduct. It was just about the time when the doctor was struggling with the chief, who was vigorously resisting the attempt to remove him from the midst of his tribe, that he was attacked by the defendants and killed. While this act of the doctor did not warrant the defendants in killing him, we are of the opinion that justice requires that it be used in their behalf in extenuating the punishment which should be imposed, as provided in article 9, subdivision 4 of the Penal Code.

We are convinced, upon the whole case, that justice and humanity require the application of article 11 of the Penal Code to the prisoners at bar. They were all members of an uncivilized tribe. They were reared in absolute ignorance of law and order. They were impregnated with superstitions of a degrading character, under the influence of which it frequently became the duty of one to take the life of another. They had not a single element of civilization, as that term is generally understood, and had no adequate conception of the value of human life. There is enough in the evidence to indicate that, if the facts in their favor had been fully brought out in the court below, it might have been possible to demonstrate that the act of Doctor Jones in attempting forcibly to remove their chief from their midst aroused among the tribe the highest form of resentment and required on their part the most vigorous action; and that they, laboring under such strong provocation and excitement, committed the fatal act from what was to them a high sense of duty and obligation, that of the protection of their chief, and not from cruelty and malice.

For these reasons, we are constrained to give the accused the benefit of article 11 of the Penal Code.

The judgment of the court below is, therefore, modified and the defendants are hereby sentenced to seventeen years four months and one day of cadena temporal, to indemnify the heirs of Doctor Jones in the sum of P1,000, and to pay the costs of this instance.

Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.

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