

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ONOFRE ODRUÑA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 6614. February 14, 1912

Ponente: CARSON, J.

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CARSON, J.:

Appellants in this case were convicted in the court below of the crime of robbery in an armed band, committed on or about the 11th day of May, 1900. The trial court found, and the record clearly discloses:

"That on May 11, 1900, one Elias Oro, president of the municipality of Sapián, Province of Capiz, Philippine Islands, was engaged with a large number of other citizens of said town in the celebration of a religious festival at a place in said town known as Matavia and situated on the seashore; that some time during the forenoon of said day one Leocadio Pajarillo, accompanied by the accused and a number of other persons, appeared upon the scene, many of them armed with guns, revolvers, bolos, and other arms; that said Leocadio Pajarillo was chief of the band, the members of which acted under his orders in the commission of the depredations hereinafter mentioned; that Elias Oro attempted to escape, but was captured and brought back to the beach, where he was severely beaten by Pajanuo for the purpose of making him reveal his personal property; that because of said beating Elias Oro caused to be brought to the beach at Matavia a trunk containing the sum of \$700 Mexican currency, and certain jewelry of the value of \$150 Mexican currency, the property of Elias Oro, which property was, by intimidation and violence, taken from said Elias Oro by said Pajarillo and the accused; that said Pajarillo and the accused also, by force and intimidation, took from the store-house of said Elias Oro in Matavia 800 cavanés of rice, the property of said Elias Oro and of the value of \$2,500 Mexican currency; that said Pajarillo and the accused caused the said Elias Oro to be bound and detained on the beach at Matavia from shortly before noon on the morning of the 11th day of May, 1900, to about dawn of the following day, when he made his escape; that on the same occasion and at the same place said Pajarillo and the accused, by force and violence, took from the wife of Elias Oro the sum of \$300 Mexican currency, the property of Elias Oro; that after securing the above-described property, some of the accused, at the command of Leocadio Pajarillo, by force and violence, appropriated and took away from the agents of said Elias Oro, 36 carabaos, the property of Elias Oro, of the value of \$1,920 Mexican currency; also 2 carabaos valued at \$120 Mexican currency, clothing of the value of \$80 Mexican currency, and \$20 Mexican currency, in money, the property of Gregorio Nunez. The court finds that the value of the property of Elias Oro, taken as above mentioned, is P7,414.27 Philippine currency, and that the value of that taken from Gregorio Nunez is P235.95 Philippine currency; that the taking of all of the property heretofore mentioned was a part of the same raid or expedition of Leocadio Pajarillo, the accused, and other persons to the court unknown."

Appellants contend that they are entitled to the benefits of the Amnesty Proclamation of July 4, 1902, and we think that this claim must be sustained.

In our decision in the case of *U. S. vs. Pajarillo* (19 Phil. Rep., 288) filed April 5, 1911, we had occasion to consider a plea of amnesty entered on behalf of the appellants in that case who were convicted of the crime of assassination committed on the same day, and in the course of the very raid upon which the robbery now under consideration was committed.

In that opinion we held as follows:

"Accepting, as we do, the material testimony for the prosecution, and rejecting, as we do, the material testimony offered by the defense, the judgment of the court below, convicting and sentencing these defendants must be affirmed, with the costs of this instance against the appellants, unless they are entitled to the benefit of the Amnesty Proclamation by the President of the United States, dated July 4, 1902. In the court below the protection afforded by the plea of amnesty was claimed on behalf of Leocadio Pajarillo; and in this court, counsel urges on behalf of all the appellants that even if the court be of opinion that the evidence sustains the contention of the prosecution that these defendants and appellants are the four individuals who fired upon and killed Goriaco Occepio, deceased, as charged in the information, nevertheless, upon the facts developed by the whole record, they are entitled to the benefits of the Amnesty Proclamation.

"The declarative portion of the Amnesty Proclamation is as follows:

" 'Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, by virtue of the power and authority vested in me by the Constitution, do hereby proclaim and declare, without reservation or condition, except as hereinafter provided, a full and complete pardon and amnesty to all persons in the Philippine Archipelago who have participated in the insurrections aforesaid or who have given aid and comfort to persons participating in said insurrections, for the offenses of treason or sedition and for all offenses political in their character committed in the course of such insurrections pursuant to orders issued by the civil or military insurrectionary authorities or which grew out of internal political feuds or dissensions between Filipinos and Spaniards or the Spanish authorities or which resulted from internal political feuds or dissensions among the Filipinos themselves during either of said insurrections.

" 'Provided, however, That the pardon and amnesty hereby granted shall not include such persons committing crimes since May first, nineteen hundred and two, in any province of the Archipelago in which at the time civil government was established, nor shall it include such persons as have been heretofore finally convicted of the crimes of murder, rape, arson, or robbery by any military or civil tribunal organized under the authority of Spain or of the United States of America, but special application may be made to the proper authority for pardon by any person belonging to the exempted classes, and such clemency as is consistent with humanity and justice will be liberally extended.' "

"In the case of the United States vs. Luzon (2 Phil. Rep., 380), this court laid down the following proposition (p. 381) :

" 'To entitle a person to the benefits of this proclamation two things, at least, must concur: (1) He must have participated in the insurrections against Spain or the United States. (2) The crime with which he is charged must be political in its nature. Common crimes, such as murder and robbery, are not included within the amnesty unless they were committed under circumstances which clothe them with a political character. This court has constantly adhered to this doctrine.' "

"While we are of opinion that the crime of murder committed by these appellants is not one of those included in the Amnesty Proclamation, we are not entirely agreed with the judge of the trial court as to the precise grounds upon which the claims of its benefits should be denied.

"We base our denial of the benefits of the Amnesty Proclamation strictly upon the proposition that not only is there nothing in the record which would sustain a finding that the crime of murder of which these appellants are convicted was political in character, but that on the contrary the evidence strongly tends to disclose a motive for the slaying of the deceased wholly inconsistent with such a characterization of the offense.

"The trial judge seems to have laid considerable stress on his finding of a failure of proof that at the time when the crime was committed these appellants were participating in an insurrection or in a seditious uprising against Spain or the United States. He was of opinion that the movement headed by Leocadio Pajarillo, which

resulted in the overthrow of the local municipal officers on the day of the murder was directed rather against the government set up by the leaders of the insurrection than against the sovereignty of the United States, and that it had for its object merely his own material profit, selfish aggrandizement, and political advancement in the municipality where he resided. From these premises the trial judge concluded that whatever political character the offenses committed on that occasion may have had, it did not bring them within the terms of the Amnesty Proclamation.

"We think, however, that under the liberal construction which should be given that instrument, the offenses committed by Leocadio Pajarillo and his partisans, which were incident to their attempt to seize control of the municipal insurrectionary government, must fairly be held to have 'resulted from internal political feuds or dissensions among the Filipinos themselves' during the insurrection then pending, and that the participants in the overthrow of the local municipal insurrectionary governments were at the same time participants in one of the insurrectionary movements against the United States contemplated in the proclamation. In applying the provisions of the Amnesty Proclamation we have never stopped to inquire to what degree particular leaders of the various insurrectionary movements may have been impelled by the lust of personal aggrandizement and political advancement, nor have we sought to discover the reasons for the 'internal political feuds or dissensions among the Filipinos themselves' to which reference is made in the proclamation, provided it affirmatively appears that such feuds or dissensions could fairly be characterized as political. We are of opinion, therefore, that all that was done by Leocadio Pajarillo and his partisans on the day of the murder, which under the most liberal construction of the evidence of record can be said to have been an incident to the movement to seize the local municipal officials and set up a new municipal government must fairly be held to be included within the provisions of the Amnesty Proclamation.

"The question then presents itself, whether the shooting of Occeño was or was not an incident of the political movement participated in by Leocadio Pajarillo and his partisans on the day the shooting took place. This question, we think, must be answered in the negative, and in this conclusion we are agreed with the trial judge who rested his denial of the plea of amnesty not only on the ground that the political movement led by Leocadio Pajarillo was not such a movement as was contemplated in the Amnesty Proclamation, but that the shooting of Occeno had no political significance whatever, and was merely the outcome of a personal difference with the deceased.

"Accepting as true all the evidence of record, including the testimony of the witnesses for the defense, which tends to disclose that, on the day of the murder, Leocadio Pajarillo was at the head of a movement looking to the capture of the local municipal officers and the seizure of control of the local municipal government, and accepting as true his claim that at that time he was a member of the branch of the insurrectionary forces known as macheteros, and that he joined in the movement against the local officials because he had heard that the acting president of the town was contemplating a surrender to the American forces, we still do not think the evidence is sufficient to maintain a finding that the cold-blooded murder of Occeño was committed in furtherance of that movement. None of the other officials were killed and it does not appear that any attempt was made to kill them. Even the president, against whom it is alleged the suspicion of disloyalty was especially directed, was merely captured, apparently for the purpose of bringing him before higher authority for discipline, or at least to hold him in detention until his captors had secured control of the town. Aside from the personal motive attributed to Leocadio Pajarillo by the witnesses for the prosecution, no reason suggests itself or has been suggested for the adoption of extreme measures in the case of Occeño. Navarra, whose soldiers were placed at the disposition of Pajarillo on that occasion, testified that Pajarillo reported to him that Occeño had been shot while attempting to escape, thus indicating that no excuse could be found at that time for the deliberate shooting of the deceased. The shooting did not take place under the strain of excitement incident to the movement, or in the heat of an altercation arising out of the unusual incidents of the day. Occeño was shot unarmed at the cold, gray dawn of the day, in his own house, through his partially opened door, without being given an opportunity to recognize his assailants, much less to enter into a discussion with them, or to learn their object in attacking him. The attacking party did not contain any of the revolutionary soldiers who were

operating under the orders of Leocadio Pajarillo, but consisted only of Pajarillo himself, his two brothers and his brother-in-law, and it is manifest that they had agreed upon his death before they sought him out at his home. The evidence strongly tends to disclose, if it does not conclusively establish, the fact that the leader of that party was the paramour of the wife of the victim of the tragedy. It is fair to assume that he had reason to fear the enmity of the man he had wronged on the discovery of his illicit relations with his wife. In any event the personal motive for the commission of the crime stands out strongly from the pages of the record, and nothing that is contained therein justifies the conclusion that it was induced by any demand of political necessity or expediency.

"We are of opinion, therefore, that the defendants and appellants have not shown that the crime which they committed was political in character; that, while it is true that it was committed on the occasion of an internal dissension among Filipinos during the course of an insurrection, it did not result from such dissension, and that these defendants and appellants are not, therefore, entitled to the benefits of the President's Proclamation of Amnesty."

The facts proven in the present case are very similar to those proven in the Pajarillo case; in this case, however, there is a total lack of evidence of "the personal motive for the commission of the crime" which was developed in the record in the former case. Upon the evidence submitted in this case, and giving the defendants the benefit of any doubt which may arise as to the political character of the raid described in the opinion of the court below, we are of opinion that they must be held to be entitled to the benefit of the Amnesty Proclamation. There is evidence in the record which at least tends to prove that some if not all of the property seized during the raid was ostensibly intended for the use and support of the soldiers and other adherents of the revolutionary movement.

The sentence imposed by the trial court should therefore be and is hereby reversed, and the information filed in this case should be and is hereby dismissed with the costs of this instance de officio. The defendants and appellants will be set at liberty forthwith.

Mapa, Moreland, and Trent, JJ., concur.

DISSENTING

TORRES, J.:

The undersigned is of the opinion that the accused should be convicted, and that the penalty indicated by the Attorney-General should be imposed.

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