

2 Phil. 380

[G.R. No. 1332. July 31, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. GERONIMO LUZON,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

The motion that the defendant be included in the amnesty of July 4, 1902, must be denied.

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. In the present case, while it appears that the offense was committed by insurrectionary soldiers, there is no evidence that it was of a political nature. (United States vs. Villamor, 1 Off. Gaz., Dec. 31, 1902.^[1]) The charge is illegal detention. The defendant and an armed band of six persons, of which he was the leader, presented themselves at the house of Gregorio Mistica, compelled him and his wife, Caledonia Santos, to leave it, robbed it, and then carried the man and wife into a neighboring barrio. The husband was separated from the wife, who was guarded by the defendant. The rest of the band carried the husband into the woods and soon returned with the statement that he had been killed. The wife was kept by the defendant and his companions for nine days, when she escaped, her guards having been frightened by the approach of some American soldiers. The woman testified that the persons attacking the house were soldiers of Morales. The customary evidence that the person killed was believed by the defendants to be a spy of the Americans is entirely wanting in this case. There is nothing in it to indicate that he was not as friendly to the Filipinos as to the Americans. But it is said that, the offense having been committed by soldiers, it must be presumed, in the absence of any evidence as to motive,

that it was to further the purposes of the insurrection, and therefore political in its nature. The event took place in November, 1900, in the Province of Bulacan. Malolos had been captured by the Americans more than a year and a half before, and for a long time this province had been garrisoned by the forces of that Government. While at the time here in question there may have existed in this locality small bands of former insurrectionary soldiers, like the one led by this defendant, there was nothing that could in any sense be called an organized, disciplined, fighting force—nothing that could in any respect be called an army.

It is to be noted that in this case there was evidence to prove the crime of robbery, and that of probable murder, punished by article 483 of the Penal Code. To apply the presumption suggested would be to release in large numbers the members of those bands of outlaws who, up to May 1, 1902, committed so many murders and robberies throughout the provinces. If it appeared that they had been soldiers in the insurrection, and the motive for the crime did not appear, they would have to be discharged. The Government could avoid this result only by proving affirmatively that the motive for the crime was not political. A construction that leads to such results ought not to be given to the proclamation.

Whatever may have been the motive in this case, whether robbery or the abduction of the woman, or something else, its political character has not been made to appear. The motion is therefore denied.

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

[1]
1 Phil. Rep., 345.

DISSENTING

MCDONOUGH J., with whom concurs COOPER, J.:

The defendants are charged with the crime of illegal detention in that, in November, 1900, in the town of Marilao, Province of Bulacan, they broke into the house of one Gregorio Mistica, robbed him, and took him and his wife prisoners. The band who committed this crime consisted of eight persons, all of whom were soldiers except one. After plundering the

house they took Mistica and his wife, in a banca, to Tagalag, and while there the husband was taken away by six of the soldiers, the wife remaining in the custody of the defendant Luzon; and soon after the departure of the husband these soldiers returned, saying that the husband was dead. The wife, after being in the custody of said defendant about nine days, made her escape, taking advantage of the fact that two soldiers who guarded her had relaxed their vigilance because of the approach of the Americans. She testified that she knew Luzon, that he was a friend of her husband, and had been at her house twice before this occurrence.

One of the witnesses testified that he himself had been taken prisoner by this band of soldiers on the night in question and placed under the house of Mistica, from which place he escaped while the men were upstairs. It was shown by another witness that Luzon was one of Morales's soldiers.

The defendant Luzon at the trial attempted to prove an alibi, but did not succeed in doing so to the satisfaction of the court below.

He was found guilty and sentenced to imprisonment for a term of seventeen years four months and one day.

He now makes application for leave to take the oath and for his discharge, under the amnesty proclamation of the President of the United States issued July 4, 1902.

This proclamation recites the fact of the existence of insurrection in these Islands against Spanish sovereignty, and of the resistance to the authority and sovereignty of the United States, since the cession of the Archipelago, and that during the course of said insurrection persons engaged therein, or in sympathy with and abetting them, committed many acts in violation of the laws of civilized warfare; and recites the further fact that it is deemed to be wise and humane and conducive to peace, order, and loyalty among them that the doers of such acts shall not be held criminally responsible, but shall be relieved from punishment for participation in these insurrections *and for unlawful acts* committed during the course thereof.

Therefore, upon their taking a prescribed oath, the President granted a full and complete pardon and amnesty :

(1) To all persons in the Philippine Archipelago who have participated in the insurrections aforesaid; or

(2) 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

(3) Which grew out of internal political feuds or dissensions between Filipinos and Spaniards; or

(4) Which resulted from internal political feuds or dissensions among the Filipinos themselves during either of said insurrections.

Persons committing such crimes since May 1, 1902, when the civil government was established, and persons theretofore finally convicted of the crimes of murder, rape, arson, or robbery by a military or civil tribunal organized under the authority of Spain or the United States, were excluded from the benefits of the amnesty.

The application of Luzon is resisted on the ground that the offense of which he was convicted is not included in the amnesty proclamation, in that it is not of a political character and was not committed pursuant to orders of the civil or military authorities.

This court held in the *Abad* case (1 Off. Gaz., 357)^[1] that in construing an executive act of the character of this proclamation, as in construing a remedial statute, a court is justified in applying a more liberal rule of construction in order to effectuate, if possible, the beneficial purposes intended.

This rule of construction seems to have been strictly followed in the many cases passed upon by this court since the proclamation was issued, and by which the punishment for many horrible crimes and cruelties—acts contrary to the rules of civilized warfare—was remitted. A reference to some of these cases may throw light on the present question.

In the case of *United States vs. Manuel Repollo et al.* (1 Off. Gaz., 291)^[1] the defendant was charged with murder under the following circumstances: He was a member of the Katipunan Society, and one of the town council of the barrio of San Juan. In November, 1899, two insurgent soldiers told him there was a spy in the barrio, and that he was ordered by his superiors to seize this man, named Limon, who, it was alleged, informed the Americans where the insurrectos were stationed. Thereupon the defendant, accompanied by four soldiers with guns and fifteen men with bolos, seized Limon and carried him to the two insurrectos, who, without waiting for judge, council, or verdict, immediately decapitated

the prisoner, throwing his head on the roadway 300 feet away from his body.

This defendant claimed, and the court decided, that his case came within the provisions of the proclamation, his crime being of a political character and committed, as was alleged, pursuant to orders. Stress was laid upon the fact that the defendant and the murdered man were neighbors who knew each other many years and between whom no ill feeling existed, and hence the strong probability that the motive for the killing was political.

In the case of Maximo Abad (1 Off. Gaz., 357)^[2] the defendant had been convicted of a violation of his oath of loyalty to the United States, in that he denied to an officer of the Army the existence of certain rifles which had been concealed by his orders when he surrendered, he well knowing the place of concealment. It was held in this case that the violation of his oath by the defendant was included in the words "treason and sedition," as used in the amnesty proclamation, and that the defendant was entitled to the benefits of the proclamation, although it does not appear in the report of the case that in violating his oath he acted pursuant to orders issued by civil or military insurrectionary authorities.

In *United States vs. Santillana et al.* (1 Off. Gaz., 379)^[1] it appeared that the defendant, Santillana, acted as judge-advocate of a so-called council of war held in the Province of Occidental Negros in September, 1899, by which council it was ordered that one Juan Carballo be brought before that body for trial, on a charge of being an American spy and guide, and in case he resisted it was ordered that he should be killed. The defendant delivered this order to those charged with its execution. There was no attempt made to arrest and try Juan. He was killed on his own hacienda by a band of riflemen and bolomen; his head was cut off, wrapped in a sack, and suspended from a bridge in the pueblo of Silay, and on it was inscribed "Juan Carballo, hombre pernicioso a la revolucion."

It was held that the defendant was pardoned by virtue of the proclamation.

In the Guzman case (1 Off. Gaz., 380)^[2] the conviction was for murdering one Bonifacio, who was suspected of being a spy of the Spaniards. He was apprehended and taken before Guzman, who interrogated him, brutally assaulted him, and then directed that he be taken to a near-by cemetery, where he was killed. Guzman claimed he acted under orders of his superior in command. He received the benefits of the proclamation and was set at liberty. In the case of Candido Repollo (1 Off. Gaz., 435),^[3] who killed one Vallesteros with bolos and dragged his body along the highway because one of the insurgents said he was a spy of the Americans and had indicated the barrios where the insurrectos were located, defendant was

convicted and applied for pardon.

In favoring the application for discharge, under the provisions of the proclamation, the learned judge who wrote the opinion stated that “there is a strong probability of the killing being of a political character, resulting from internal political feuds or dissensions among the Filipinos during the insurrection,” and for this reason the application was granted.

The Lardizabal case (1 Off. Gaz., 183)¹ shows an extraordinary case of cold-blooded murder and a total disregard of the laws of war. The defendant in that case, while in command of Filipino forces operating in the Island of Marinduque, being hard pressed by the United States soldiers, ordered a retreat of his men. He held an American soldier prisoner, who was sick and weak and unable to keep up with the insurgents in their retreat. Lardizabal, fearing that if the soldier were left behind he would give information of the whereabouts of the retreating forces, caused this unfortunate prisoner to be murdered.

It was held that, inasmuch as this crime was committed during the insurrection and was a measure, whether necessary or not, inherent in the military operations for the preservation of the troops commanded by him, the applicant was entitled to the benefits of the amnesty proclamation.

In the case of Samson (1 Off. Gaz., 184)^[2] the defendant was charged with a violation of section 9 of Act No. 292, in that he was concerned in prohibited secret meetings, and it was held that he was entitled to amnesty, as all violations of the whole of that act were covered by the proclamation.

In the Monton case (1 Off. Gaz., No. 2, p. 2)^[3] a Filipino named Afable was taken by insurrectos to the mountains and an order was issued that he be killed, as he was said to be a spy of the Americans. Six soldiers, including the defendant, after giving their victim time to pray, decapitated the prisoner, cut open his stomach, cut out his heart and placed it in his stomach, and cut out and burned his tongue. The defendant was adjudged to be entitled to the benefit of the amnesty proclamation.

An extraordinary case, showing savagery, hate, and revenge, was that of Guzman et al. (1 Off. Gaz., No. 15, p. 4.)^[4]

Lieut. Salvador Piera, of the Spanish army, was captured and held by the revolutionary forces. While a prisoner he was sent from one post to another, from Aparri to Ilagan, by order of Simeon Villa, a major in the revolutionary army, who stated that he desired the

presence of the lieutenant in order to have him make a deposition. This transfer was made at the instigation of the defendant, Guzman, in order that he might take revenge on the lieutenant, who was a judge in a military prosecution against Guzman in 1897. On the arrival of the lieutenant the defendants attacked him with guns, tied his arms behind his back, hung him from the roof of the parochial residence, and from time to time let him fall to the ground until death came to his relief.

Held, defendants were entitled to be set at liberty, pursuant to the provisions of the amnesty proclamation. In the Carmona case (1 Off. Gaz., No. 17, p. 3)^[1] the defendant was charged with assassination. As a captain in the insurrecto forces he issued an order to four soldiers to lie in wait for a tailor named Bias, in the district of Malate, Manila, and to arrest him, as he was said to be a spy of the Americans.

These soldiers waited at a designated place until Bias, accompanied by his wife and another person, passed by, when they accosted him, telling him that their superior officer, the defendant, wanted to have his measure taken for a suit of clothes. Bias said it was too late and refused to go, whereupon two of the soldiers threw themselves upon him, stabbed him to death, and left his body in the roadway.

The court held that this crime was covered by the proclamation. In the Villamor case (1 Off. Gaz., No. 17, p. 5)^[2] the defendant acted as secretary to a council of insurrectos which determined that one Dumasal, having bought cows for the Americans, was therefore a traitor to his country. He was seized and executed.

It was held that this execution was an offense of a political character and that the defendant was entitled to the benefits of the pardon.

In the case of Ortiz et al. (1 Off. Gaz., 451)^[3] the defendants were charged with the murder of one Mariano de Maza. The victim was tied to a telegraph pole and could not defend himself, while he was slashed with knives on the head, chin, and side until he died.

The defendants claimed amnesty, and received it, on the ground that they acted under orders of Major Reus, of the insurgent troops. Inasmuch as it did not appear that the crime was due to any personal resentment, but simply to the belief that Maza was a spy of the Americans and an enemy of the revolution, it was held that the defendants were entitled to the benefits of the amnesty proclamation.

In the case of Colocar et al. (1 Off. Gaz., 453)^[1] the defendant, Colocar, was an officer in

the insurrectionary movement in Mindoro. He killed one Finohermoso, who was regarded as a spy of the Americans. The defendant claimed that he received orders from Major Cayton, of the insurgent forces, directing him to execute Finohermoso.

The court, considering the offense a political one, it appearing that there could have been no other motive for the killing, held that the defendant's case came within the rules of the amnesty proclamation.

In the case of Berry, decided by this court July 24, 1903,^[2] the Solicitor-General and the Attorney-General joined in a petition asking that the defendant be included in the amnesty.

The defendant was participating against the United States in the insurrection in December, 1900, and claimed that he had been ordered by his chief to kill *all* spies of the Americans.

The defendant and the deceased met on the highway and got into an altercation which resulted in the drawing of knives and in the killing in question. The defendant contended that he killed this man because he considered him a spy of the Americans.

This court held that, although the evidence was conflicting and not entirely satisfactory, the story of the defendant was probably true, and accordingly granted the prayer of the petitioner.

In the case of Pacheco et al., decided July 24, 1903,^[3] it appeared that an old man and a boy left their home to go to Dagupan in April, 1900, to sell books from which the natives could learn English. On the way they were attacked by ten men, including the defendant Pacheco, who ordered the old man to be taken into a wood, where he was killed. On the return of the band Pacheco ordered the boy to be stabbed, and this was done and his body was thrown into a river. It appears that while in the river the boy showed signs of life and he was again stabbed until he died. Two of the defendants were convicted of murder and asked for amnesty under the proclamation. At the trial they denied their guilt and that they were insurgents. Now they introduce evidence to show that they were insurgents, and that the man and boy were killed because they were spies of the Americans. *Held*, entitled to amnesty under the proclamation.

An examination of all these cases, and of the decisions of this court, leads to the conclusion that the amnesty proclamation has been and should be liberally construed with a view of bringing about peace, order, and good will. It is to be borne in mind that during the trying and turbulent times when the revolution was on against Spanish power, later when the

soldiers of the United States and armed Filipinos united to overthrow Spanish arms, and finally when the insurrectos defied and attempted to overthrow the lawful authority of the United States in these Islands, and when mandates of courts could not be enforced, many crimes of a heinous nature were committed—crimes that were revolting in the eyes of a law-abiding people—and the criminals could not be apprehended or punished because “*inter arma silent leges*”

The crime with which the defendant in the case at bar is charged was committed by a band of soldiers. The defendant himself was on good terms with the husband of the woman for the imprisonment of whom he was convicted and had no ill feeling against her. Evidently this body of soldiers was out plundering and gathering in objectionable prisoners—a not uncommon occurrence in revolutionary times. One of the witnesses in this case was a prisoner of the same armed body and at the same time. Nor were such crimes unusual in the struggles in these Islands. In a proclamation which General MacArthur issued in December, 1900, protesting against the frequent violation of the laws of war by the insurrectos, and threatening severe punishment for the same, he enumerated, among such violations, the kidnaping and assassinating of residents of occupied towns, and stated that mandates had been issued by the insurgent officers directing that such violations should be carried on.

It may be said that the offense charged here is not an offense of a political character, but rather one having for its object private plunder. A crime of a political character has been defined to be one which “is incidental to and forms a part of political disturbances.”

In view of the fact that for many years political disturbances were quite prevalent and quite violent in these Islands; that in furtherance of the views of one party or the other organized and unorganized bands roved about killing and plundering and confiscating (for when such men needed meat or drink or clothing or money they took, as is usual in such cases, what was nearest to hand or most easily obtained), and did all this as an incident to and part of the insurrection. The facts and circumstances of this case justify the reasonable presumption that the band of armed men in question, including the defendant, acted under orders, especially when the statement of General MacArthur that such orders were issued is given consideration. Actual, legal proof that the offenses were political in their character has not been required in other cases. It has been held sufficient if the defendants *claimed* that their motives were political. For instance, in the numerous cases where men were killed because they were supposed to be spies, there was in no one of these cases actual and legal proof that the victim was a spy of the Americans. The mere say-so of some one was held to be sufficient when followed by an order to kill. As an example let us take the Berry case

above. The excuse given by the defendant was that he was ordered to kill *all* spies, that he considered his victim a spy and therefore he killed him, and claimed amnesty and received it. Under this same order to kill all spies he might have killed every man, woman, and child he met on the highway and claimed immunity on the ground that he heard they were spies and he killed them for that reason. Under such a liberal construction it would seem that in the case at bar the defendant Luzon, who is not charged with murder, but with illegal detention and robbery, should have the benefit of the proclamation.

^[1] 1 Phil. Rep., 437.

^[1] Page 195, *supra*.

^[2] 1 Phil. Rep., 437.

^[1] 1 Phil. Rep., 473.

^[2] 1 Phil. Rep., 475.

^[3] Page 227, *supra*.

^[1] 1 Phil. Rep., 729.

^[2] Page 20, *supra*.

^[3] 1 Phil. Rep., 303.

^[4] 1 Phil. Rep., 385.

^[1] 1 Phil. Rep., 326,

^[2] 1 Phil. Rep., 345.

^[3] 1 Phil. Rep., 466.

^[1] 1 Phil. Rep., 516.

^[2] Page 352, *supra*.

^[3] Page 345, *supra*.

Date created: April 15, 2014