

5 Phil. 619

[G.R. No. 1311. February 17, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO GIRON,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

Pedro Giron, the appellant in this case, was found guilty of the crime of murder and sentenced to imprisonment for life (*cadena perpetua*) and to pay the costs of the trial.

But two witnesses were offered by the prosecution, Valentina Manalad, the widow of Estaban de la Rama, who stated that she last saw her husband when he left his home at or about 4 o'clock on the afternoon of December 31, 1899, in company with the accused and some revolutionary soldiers, all of whom were unknown to her except one Paningit; and Luis Manalad, who testified that early in the afternoon of the same day he was captured by the accused and three soldiers and taken to the barrio of Liciaba, where he was tied to a tree and left under guard of the said Paningit and one of the other soldiers; that some time afterwards the accused returned in company with Captain Esteban de la Rama, the deceased; that at a short distance from the place where he was tied the accused and de la Rama entered into a discussion which lasted about an hour and a half or two hours, and that finally the accused drew his revolver and shot de la Rama in the stomach, killing him instantly, and that immediately thereafter, in the confusion and darkness, the witness made his escape. He said further that de la Rama as well as the accused, were officers in the revolutionary army; that during the whole period of the dispute the participants remained on foot, and that the shooting took place at a distance of about 30 *brazas* (60 yards) from the witness, and at about half past 6 o'clock on the evening of the 31st day of December, 1899.

The accused, testifying in his own behalf, said that on the evening in question he was at a house in the barrio of Liciaba, where he had gone in company with another officer and some

soldiers of the revolutionary army, under orders from General Pio del Pilar; that while there Captain Esteban de la Rama, with a number of soldiers, surrounded the house and opened fire upon them; that a number of shots were exchanged between the soldiers of both parties, and that de la Rama was mortally wounded during the fight and died immediately thereafter. He said further that as captain and adjutant of the revolutionary troops it became his duty to arrest a number of soldiers of the command of de la Rama who had been charged with robbery, and that the attack upon himself and his soldiers was the result of the factional feelings aroused by these proceedings, and that Manalad, the witness for the prosecution, was one of the soldiers who had been punished by him for misconduct.

One witness, Mariano Bulaong, was called by the defense, and stated that at about the hour indicated by the accused he saw a party of revolutionary soldiers firing at the house in which the encounter described by the accused is alleged to have occurred.

We are of opinion that the statement of the accused is more worthy of credence than the testimony of the witnesses for the prosecution, and we think that the evidence adduced at the trial was not sufficient to establish the guilt of the defendant of the crime with which he is charged.

The testimony of Luis Manalad, the principal witness for the Government, is not convincing. He attempts to describe with great particularity of detail all the incidents leading up to and connected with the alleged shooting of the deceased, which appears from his own statement to have occurred on a dark night, at a distance of some 60 yards from the point where he was tied to a tree. Furthermore, his testimony is contradicted in an important detail by the testimony of the widow of the deceased; he swore positively that the soldier Paningit was standing guard over him at the very moment when, according to the equally positive statement of the widow, this soldier was at her house in company with her husband, the deceased. The judgment and sentence appealed from should be reversed, and the accused acquitted and set at liberty forthwith. Let judgment be entered in accordance herewith, with the costs *de officio* in both instances, and the record be returned to the trial court immediately on the filing of this opinion. So ordered.

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