

2 Phil. 426

[G.R. No. 1280. August 19, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ISIDORO
MADLANGBAYAN ET AL., DEFENDANTS AND APPELLANTS.**

D E C I S I O N

WILLARD, J.:

The complaint alleges that one Cusi was killed by the defendant Blas Panaligan, and that the other defendant, Isidoro Madlangbayan, ordered him to do so.

The defendant Bias admitted the killing, but denied that it was done by order of his codefendant. He testified that at the time (August 5, 1900) he was an insurgent, and that he was ordered by his captain, Juan Tosing, to seize Cusi as a spy and to kill him if he resisted. This captain was a witness at the trial, and testified that he gave such orders, and that on the following day the defendant Bias reported to him what he had done. Notwithstanding the criticism by the private prosecutors in their brief of the testimony of the defense, we think that the evidence is overwhelming that Bias was at the time in question a soldier in the company of Juan Tosing. The defendant Isidoro testified that he had nothing to do with the murder.

The only evidence in the case which in any way indicates that the defendant Isidoro ordered the defendant Blas to commit the murder is the testimony of Benito Cusi, a cousin of the deceased, and also of the defendant Isidoro. He says that the day after the event the two defendants were in his camp, and Isidoro told him that the Americans were pursuing him on account of personal resentment, and that he ordered Blas to kill Cusi. The testimony of Jacinto Dimaculangan proves nothing against the defendant Isidoro. That witness simply says that the defendant told him that the Americans considered him, Isidoro, morally responsible for the death of Cusi. This falls far short of a confession by the defendant that he was in fact so responsible. The testimony of Donato Aranas, that Blas told him that he had killed Cusi at the order of Isidoro, might be evidence against Bias, but it can not be

evidence against Isidoro.

After the evidence was in and written arguments had been presented by the fiscal, the private prosecutor, and the defendants, the court, on March 17, made an order that the parties might present more witnesses on the next day, and he especially called upon the Government to furnish proof as to the bad feeling existing between the deceased and Isidoro. Notwithstanding this order, and the fact that early in March subpoenas for witnesses were taken out, returnable on March 17, no other evidence was introduced, and the decision of the court was made on March 19.

The evidence, in our judgment, requires the acquittal of the defendant Isidoro. We can not allow the testimony of Benito Cusi as to the alleged confession to outweigh the denial of both defendants, and the positive testimony of other witnesses, that the murder was committed by order of the defendant's superior officer.

As to the defendant Bias, the judgment giving him the benefit of the amnesty of July 4, 1902, should be affirmed. The evidence that he killed the deceased by order of his captain, to our mind far outweighs the evidence as to the two alleged confessions, one made to Benito Cusi in his presence, and the other to the witness Donato Aranas.

The evidence shows that Cusi was killed because he was believed to be a spy of the Americans. This gives a political character to the offense, and, as the defendant acted under orders of his superior officer, he comes directly within that part' of the proclamation which pardons insurrectionists "for all offenses political in their character committed in the course of such insurrections pursuant to orders." (United States vs. Miguel Monton, 1 Off. Gaz., No. 2.)^[1]

Considerable evidence was introduced at the trial by the defense to show that Cusi was a spy. It was not necessary to prove that he was in fact such. It was sufficient to show that the defendant believed him to be so. There was a political motive for the crime if the defendant supposed that he was advancing the cause of the insurrection by committing it. That he was wrong in this belief is not important, if the belief was sincere.

The court below in its decision held that both defendants were entitled to the benefits of the amnesty, but allowed an indemnity of 2,000 pesos against each of them for the benefit of the heirs of the deceased.

The case having been dismissed, no judgment for indemnity was proper in this proceeding.

But the dismissal of this criminal action did not extinguish the civil responsibility. (Compilation de Disposiciones sobre el Enjuiciamiento Criminal en Filipinas, art. 248.)

The idea that amnesty wipes out the crime can not be carried to the extent of saying, for the purpose of depriving a person of a legal civil right to which he was entitled, that the criminal act never existed.

The judgment of the court below is reversed, and the defendant Isidoro Madlangbayan is acquitted, with costs *de officio*.

The defendant Blas Panaligan is declared to be entitled to the benefits of the amnesty of July 4, 1902, and upon filing in this court the oath required thereby, an order will be entered dismissing the case, with costs *de officio*.

The dismissal of the case will be without prejudice to the right of the widow and heirs of the deceased to enforce the civil responsibility of Blas Panaligan.

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

^[1] 1 Phil. Rep., 363.
