

4 Phil. 201

[G.R. No. 1568. February 10, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AQUILINO CALVO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

A complaint, filed October 8, 1903, by the provincial fiscal in the Court of First Instance of Zambales, charged Aquilino Calvo, a physician, with the crime of coercion with threats and attempt of illegal detention. It alleged that the accused did, on the evening of the 29th of August last, in the pueblo of Iba, order one Mariano Atienza out of the house of Feliciano Farrales, who was ill and whom the former wished to visit, and did put him out of said house, and did threaten to kill him with a revolver, and did order a policeman to take him to jail. This order, however, was not complied with by the said policeman.

The evidence in this case shows that on the evening of August 29, 1903, Mariano Atienza came to the house of Feliciano Farrales, who had a serious attack of cholera, to visit him; that when Atienza was warned by the attending physician, Aquilino Calvo, president of the board of health of Zambales, to go away, the former insisted on remaining there, alleging that the patient was his friend; whereupon the physician put him out of the house and threatened to kill him if he did not go, and immediately ordered a policeman who was in the neighborhood to take the intruder to jail, with which order, however, the said policeman did not comply.

Aside from the question whether or not there was any material error

in the trial below, this decision shall be confined to the evidence adduced in the case, drawing the necessary conclusions therefrom.

In the judgment rendered October 13, 1903, the defendant was sentenced to a term of imprisonment of two months of *arresto mayor*, to pay a fine of 250 pesetas, and the costs. The defendant as well as the provincial fiscal appealed from the said judgment. The Solicitor-General withdrew the appeal in this instance.

It appears from the record that Atienza was suffering from mental derangement, and that he persisted, with a club in his hand, in the attempt to enter the room, where there was a man with a serious attack of cholera whom he desired to see. The fact that the attending physician, who was also president of the board of health, at the request of the wife of the patient, had compelled him to leave the house and had even threatened to shoot him with a revolver, besides ordering a policeman who was passing in front of the house to arrest him, does not constitute coercion, threats, or attempt of illegal detention.

Agatona Medina, the wife of the patient, was opposed to the admittance of Mariano Atienza into her house because the latter was known in the town to be suffering from insanity; but as he persisted in entering the room to see the patient, with a club in his hand, she then requested the physician to expel the intruder from her house. Atienza was not an acquaintance of the family, and had come there for the first time to see Feliciano Farrales, who was not in a condition to receive anybody. The action of the said physician in compelling the intruder to leave the house was in compliance with the request of the wife of the patient, as well as with his duty to protect the owner of the house, who also denied admittance to the intruder.

The physician, being the president of the board of health, acted within the scope of his authority when he prevented Atienza from entering the room occupied by the patient, for the reason that it was contrary to sanitary regulations. His action was no less justified when he ordered a policeman to arrest Atienza on account of his persistence

to remain in the house. The owner of the house was excited by fear of the mental condition and attitude of the intruder, and was compelled to urge his expulsion from her house.

In view of the foregoing reasons there is no way in law to consider the existence of any of the crimes charged in the complaint; though threats are said to have been made, there is no evidence sufficiently conclusive to corroborate this assertion, considering the mental condition and the ill behavior of Atienza. Therefore the acts performed by the president of the board of health, who was the attending physician of a man suffering from a contagious disease, do not constitute the crime for which he is prosecuted.

It is the judgment of this court that the defendant be acquitted, with costs *de officio*. Let this case be remanded to the Court of First Instance with a certified copy of this decision and of the judgment which shall be rendered in accordance herewith. So ordered.

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