

2 Phil. 227

[G.R. No. 1015. May 14, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CANDIDO REPOLLO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

COOPER, J.:

The defendants, Candido Repollo, Manuel Repollo, Julian Repollo, and Bruno Dolor, are charged with the murder of Proceso Vallesteros, committed on the night of the 16th of May, 1902, and each has been sentenced to the penalty of death. From this sentence they have appealed.

On the 23d day of December, 1902, after the cause had been transferred to this court, the defendants presented a motion for a new trial, alleging that they were entitled to the benefits of the amnesty proclamation issued by the President of the United States on the 4th day of July, 1902, and in support of their application presented this covirt certain affidavits made by each of them.

The affidavits of Manuel Repollo states that on the date of the killing of the deceased lie was a member of the Katipunan, and also one of the councilors of the barrio of Han Manuel; that the defendants Candido Repollo, Julian Repollo, and Bruno Dolor also accompanied him on the night in question, as well as several individuals and soldiers armed with bolos under the command of one Agustin Alejo.

That on the night of the 17th of December, upon the arrival of the American troops, Agustin Alejo, captain of insurrectos, came to his house and told him to call the soldiers together for the purpose of seizing Proceso Vallesteros; that in view of Alejo's rank in the insurgent forces he was obliged to obey his orders. That the captain said, "Let us go," and he followed with his soldiers and eight individuals armed with bolos, going to the house of Proceso Vallesteros; that when they arrived at the foot of the staircase of the house of the deceased,

the captain, who remained outside of the lot, commanded them to order Proceso Vallesteros to come down stairs; that he came down, and the captain then ordered him to take Vallesteros outside, but that the deceased refused to follow. That they informed the captain, and he said, "Kill him," and the three¹ soldiers and the eight individuals armed with bolos killed him. That they killed the deceased because the captain (Alejo) said he was a spy of the Americans, and was the party who had indicated the place of the barrio where the insurrectos were located. That by order of Captain Alejo the body was dragged out into the street, and that the captain then said, "Now you can go, but take care that nobody hears of what's happened, because if it reaches my knowledge that I'm prosecuted for having killed this individual I'll kill you also."

The affidavits of the defendants Candido Repollo and Bruno Dolor are substantially to the same effect, each of them stating that he was a member of the Katipunan Society and admitting their connection with the murder of the deceased and stating the killing as mentioned by Manuel Repollo. Candido Repollo stated that he is a brother of Manuel Repollo, and Bruno Dolor declared that Agustin Alejo, the captain, was executed by the Americans in the pueblo of Binalonan,

It was shown at the trial below that the defendants came to the house of the deceased and commanded him to come down stairs, and that upon doing so they stabbed him with their bolos at the foot of the ladder, after which they dragged the body into the street where they left it. It does not appear from the record that any ill feeling was known to exist between them, nor is there any motive for the killing of the deceased other than the fact that it is stated he was a spy of the Americans. 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.

While this motion for a new trial is not based upon strictly newly discovered evidence, yet it is based upon testimony which was not material at the time of the trial in the court below, but has become of vital importance to the defendants by reason of the amnesty proclamation of the President.

This case is very similar to the case of the United States vs. Manuel Repollo, Candido Repollo, Bruno Dolor, and Florencio Nicolas,[1] in which we have decided that the defendants, under the provisions of section 42 of General Orders, No. 58, should be granted a new trial, and for the reasons stated'in the opinion in that case we set aside the judgment, grant a new trial to the defendants, and remand the case to the Court of First Instance for a

new trial, with costs *de officio*.

Torres, Mapa, and Ladd, JJ., concur.

^[1] Page 195, *supra*.

DISSENTING

WILLARD, J., with whom concurs **ARELLANO, C. J.**:

For the reasons stated in the case of *The United States vs. Manuel Repollo I* dissent.

McDonough, J., did not sit in this case.

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