

1 Phil. 475

[G.R. No. 885. November 11, 1902]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MARCELO DE GUZMAN, DEFENDANT AND APPELLANT.

D E C I S I O N

COOPER, J.:

Marcelo de Guzman is charged with the murder of Pelagio Bonifacio with *alevosia* and premeditation, and was convicted in the Court of First Instance of Pangasinan under article 403 of the Penal Code and sentenced to imprisonment at hard labor in the public prison of Pangasinan for the period of his natural life, and to pay to the widow of the deceased, Bonifacio, the sum of 1,000 pesos, and to pay the costs of this suit. An application has been made for the discharge of the accused under the provisions of the amnesty granted by the President of the United States by his proclamation of the 4th of July, 1902.

It is stated in the application that the accused is a Filipino and that the crime was committed by him while taking part in the insurrection against the Spanish Government in these Islands, and that the offense has the character of a political crime committed during the course of the insurrection, in obedience to orders given by the military authority of the insurrection, or, at least, the offense was committed as the result of internal political feuds and dissensions among the Filipinos; that the death of the deceased was not committed through any personal motive, and therefore the accused is comprehended in the proclamation of amnesty, and asks this court that he be placed at liberty after his taking and subscribing the oath of allegiance prescribed in the amnesty proclamation.

The testimony in the case shows that the defendant, Marcelo de Guzman, was a captain in the insurgent army and had many posts under his command, and often visited the pueblo of Binmaley during the time that the insurgents occupied that pueblo. That upon one occasion on one of his visits there, about the time the Spanish army surrendered at Dagupan, the deceased, Pelagio Bonifacio, was brought before Guzman, the defendant, charged as a spy

of the Spaniards; that deceased was interrogated by Guzman and admitted that he was a spy, whereupon the defendant, after assaulting and abusing him, ordered a couple of soldiers under his command to carry the deceased to the cemetery near by, there to be killed. The order was duly executed by the soldiers.

The defendant testified in the case and stated that his action was based on an order given by one Vicente Prado, his superior in command, who directed him to look out for a spy in the pueblo of Binmaley and when found to have him executed; that the deceased was captured and brought before him, and having been asked whether he was a spy or not answered in the affirmative, and thereupon he reported the circumstances back to Vicente Prado, who ordered the defendant to kill the deceased.

This statement as to the defendant having received direct orders from Vicente Prado for the execution of the deceased is not borne out by the testimony of the witnesses, who state that no sooner had the deceased been brought in the presence of the defendant than the deceased was struck by the defendant and ordered to be taken off and shot.

However, it appears beyond doubt that the commission of the offense was done by the defendant as an officer in the insurgent army, and that it grew out of internal political feuds and dissensions between Filipinos and Spaniards or out of the political feuds and dissensions among the Filipinos themselves during the Spanish insurrection.

Following the cases decided at the present term of this court of the United States *vs.* Vicente Villamor; United States *vs.* Ariastasio Carmona; United States *vs.* Jose Guzman et al., it must be held that the defendant brings himself within the amnesty proclamation of the President, and that he is entitled to be discharged upon his taking and subscribing the oath prescribed in the amnesty proclamation before any authority in the Philippine Archipelago authorized to administer oaths. Upon such oath being presented to this court the defendant will be ordered discharged from custody.

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

WILLARD, J., with whom concur Smith and Ladd, JJ., *concurring*:

We concur in the result in this case, inasmuch as the accused acted under orders from his superior, Vicente Prado. The testimony of the accused that Prado told him to watch for the deceased and to execute him when found has not been contradicted.

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