

IN THE DISTRICT COURT IN AND FOR GRAND COUNTY, UTAH.

THE STATE OF UTAH,

Plaintiff,

vs.

STATEMENT TO BOARD OF PARDONS.

CATARINO MARTINEZ,

Defendant.

THE HONORABLE STATE BOARD OF PARDONS,

Salt Lake City, Utah.

Gentlemen:

I have the honor to report that the defendant, Catarino Martinez, was sentenced in the district court of Grand county, Utah, on April 9, A. D. 1923, to a term of from one year to ten years in the state prison upon a charge of voluntary manslaughter, to which he entered a plea of guilty, the offense having occurred on October 1, 1922, at a sheep camp in that county, when he killed a fellow herder named Miguel Romero.

The facts surrounding the homicide are known only from circumstantial evidence and from statements made by the defendant to his attorney and by the attorney reported to the court. He was bound over to the district court upon a charge of murder in the first degree; but when the case was called for trial, and the court had appointed an attorney, Senator O. W. McConkie, of Monticello, Utah, to defend him, the district attorney, after investigating the facts and conferring with a witness who was in sheep camp some distance away from the camp of the defendant and of the deceased at the time the killing occurred, asked leave, which was granted, to file an amended information charging voluntary manslaughter, to which defendant then entered a plea of guilty.

It was made to appear to the court that the deceased and the defendant had engaged in a fight, provoked by the deceased, at sheep camp on the afternoon of the killing; that the deceased, who was somewhat of a bully, had seriously beaten the defendant; that in the evening of the killing the deceased again made an attack upon the defendant, rushed for his gun, that the deceased seized the rifle first, and shot the deceased and then hit him upon the head with the gun, the shot and the wound on the head causing the death. The defendant then went from the camp down to Thompson and surrendered himself to the officers.

The district attorney and the county attorney were in some doubt as to whether the defendant was not justified, under the circumstances, upon the ground of self defense in slaying his opponent; and at any rate, they were of the opinion that the crime, if any, was only voluntary manslaughter. They recommended that the term of imprisonment be for a period of one year, in which recommendation I most respectfully concur.

Very respectfully submitted,

Richard H. Volley
District Judge.

Dated at Manti, Utah, this 2nd day of May, A. D. 1923.