

3 Phil. 318

[G.R. No. 1368. February 12, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FRED FREIMUTH,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

The defendant is charged with having falsified a public document by counterfeiting and feigning the signatures of Charles Bruggert, W.F. Farrow, and other persons to a pay roll. At the time in question the defendant was a clerk in the office of one Behan, the disbursing officer of the Board of Health of the city of Manila. The evidence shows that he did not sign the names of any of the persons mentioned in the complaint to the pay roll, but it does show that the witness Kennedy signed the name of Charles Bruggert at the request of the defendant and that the witness Davis signed the name of W. F. Farrow. There was no attempt whatever by either Kennedy or Davis to imitate the signatures of Bruggert and Farrow. The signatures made by the witnesses are entirely unlike the genuine signatures of these persons. The case is fully covered by former decisions of this court. (United States vs. Buenaventura, 1 Off. Gaz., 446;^[1] United States vs. Balmori, 1 Off. Gaz., 182;^[2] United States vs. Paraiso, Nov. 13, 1901,^[3] United States vs. Roque, 1 Off. Gaz., 350.^[4])

The judgment is reversed and the defendant acquitted with the costs of both instances *de officio*.

Arellano, C. J., and Mapa, J., concur.

Torres, J., concurs in the result.

^[1]1 Phil. Rep., 428.

^[2]1 Phil. Rep., 660.

^[3]1 Phil. Rep., 66.

^[4]1 Phil. Rep., 372.

COOPER, J., dissenting, with whom concurs **McDonough, J.**:

The decision in this case has been made to turn upon the question whether there was an imitation of the signature of the parties whose names were placed on the pay roll, and former decisions of this court have been cited.

We do not think that the question of imitation of signatures is involved in the case. While it is alleged in the complaint that there was a counterfeiting and feigning of the signatures of certain-named persons to the pay roll, and perhaps the complaint in this respect would have been sufficient to have sustained the conviction, still, under the complaint, the offense charged was not only the counterfeiting and feigning of the signatures, but it was for falsifying an official document “by including in the act of making said pay roll the participation of the said last named persons, when in truth and in fact said last-named persons had no participation in the act of making said payroll.” The indictment perhaps was demurrable as comprising two distinct offenses, but was clearly sufficient to sustain a conviction for the falsification of a public document under clause 2 of article 300 of the Penal Code, which makes a public official guilty who, taking advantage of his official authority, shall commit a falsification:

“2. By including in any act the participation of persons who had no such participation.”

The testimony shows that the defendant, Freimuth, was employed as clerk and chief timekeeper for the Board of Health of the Philippine Islands; that on the 25th day of June, 1902, in the city of Manila, he took advantage of his authority and position as such official, his duty being to see that the pay rolls of the department were properly signed and certified, and made out a second pay roll several weeks subsequent to the making of the original pay roll and procured others in the office to make the signatures in different handwritings of the men whose names were contained on the original pay roll, and this second pay roll, after it had been signed up with the names of the persons who had signed the original pay roll, was attempted to be used by one James Behan, disbursing officer of the sanitary department, to defraud the Government by using it as a voucher and obtaining credit a second time for the amount for which he had received credit on the original pay roll.

We think the proof fully sustains the charge and that the defendant is guilty of the falsification of a public document under clause 2 of article 300 of the Penal Code.

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