

3 Phil. 620

[G.R. No. 1587. April 08, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MAXIMO DALAWAN,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant was charged with the crime of *bandolerismo*.

The complaint charged that he was a member of the band of Julian Santos, composed of more than three persons, which band was dedicated to the robbery of carabaos and other personal property by means of force and violence; that said band went out upon the highways and roamed over the country, armed with deadly weapons, within the Province of Bulacan, Philippine Islands, during the last months of the year 1902, and the first months of 1903.

The defendant was tried in the Court of First Instance of the Province of Bulacan in the month of October, 1903, was found guilty of the crime charged, and was sentenced to be imprisoned for the period of twenty-four years and to pay the costs of the suit.

The evidence of Ricardo Aquino shows that he had been sequestered by the band of Julian Santos, which was then composed of about fifty armed men; that he was detained by said band for the period of about one month, and that he escaped from said band during an encounter which took place between the members of said band and the Philippines Constabulary in the pueblo of Bagbag; that the said defendant was, during that period, a member of said band, and that he had seen the said defendant frequently consulting with the chief of said band, Julian Santos.

The testimony of Gervasio Gimenez shows that he was a detective, and lived in the city of Manila; that he knew the accused, and had seen him in the mountains near Bagbag with the band of Julian Santos; that said band was then composed of about seventy armed men; that the accused was nearly always seen with Julian Santos; that he, the said witness, had been with the said band for about two months, and that the said band lived by robbing carabaos and other personal property.

The testimony of Venancio Bartolome shows that he had known the accused and had seen him on various occasions armed, with about one hundred others, and that Faustino Guillermo and General San Miguel were the chiefs of said band; that he had seen the said band near the pueblo of Caloocan; that the band was then waiting for an opportunity to attack the Philippines Constabulary; that while the said band was near the pueblo of Caloocan they attacked and robbed an American of his money and a watch.

Enrique Pasion testified that he had been a soldier of Faustino Guillermo; that Guillermo was a colonel of the Katipunan Society; that he had seen the accused with Guillermo's band, which band was armed, as well as the defendant; that said band had attacked several pueblos in the Provinces of Bulacan and Kizal; that in the month of December the said band entered the pueblo of Pasig for the purpose of attacking the Philippines Constabulary and robbing them of their guns; that at the time of this attack upon the pueblo of Pasig there were about one hundred armed men in the band; that Faustino Guillermo and Julian Santos were chiefs of the said band; that on the occasion when said band entered the pueblo of Pasig they stole a *vacuno* and some cavanese of rice; that the said band entered the pueblo of San Mateo, and on that occasion stole three carabaos; that the band on this latter occasion was composed of about twenty armed men; that on another date the said band entered the pueblo of Navotas; that the said band was armed, and that Guillermo was its chief; on this latter occasion the said band stole one horse and about 100 pesos; that the said accused was with the said band for about one month.

The defense introduced three witnesses in addition to the testimony of the defendant. Two of these witnesses were prisoners in the public jail, and admitted that they had been soldiers and members of the said band of General San Miguel and Faustino Guillermo, and that they had not seen the defendant in such band.

Jose Tupas was introduced as a witness, presumably for the purpose of showing that the time stated by the witnesses for the prosecution, when the said band entered the different pueblos, were not the correct dates. Upon examination of the witnesses for the prosecution it will be noted that no date was fixed by the several witnesses when these various entrances into the pueblos were made. No effort was made to disprove the statements that the said bands did, on or about the dates mentioned by the witnesses for the prosecution, enter the various pueblos.

The defendant gave testimony in his own behalf, and his testimony was in the nature of a general denial of the facts proven by the witnesses on behalf of the prosecution.

The evidence in this case justifies the following conclusions:

First. That in the month of December, 1902, and the months of January, February, and March, 1903, there existed in the Provinces of Bulacan and Pasig, in the Philippine Islands, an armed band composed of more than three persons, commanded by General San Miguel, Faustino Guillermo, and Julian Santos.

Second. That said band was organized for the purpose of stealing carabaos and other personal property.

Third. That said band did on several occasions enter various pueblos in the said provinces, and did then and there steal carabaos, money, and other personal property.

Fourth. That said band went out upon the highways and roamed over the country, armed with deadly weapons.

Therefore, we find the defendant guilty of the crime of bandolerismo, in manner and form as charged in the said complaint, and do hereby affirm the judgment of the Court of First Instance of the Province of Bulacan and sentence the said defendant to be imprisoned for the period of twenty-four years and to pay the costs of both instances.

Arellano, C. J., Torres, Mapa, Cooper, and McDonough, JJ., concur.

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