

3 Phil. 657

[G.R. No. 1620. April 12, 1904]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FAUSTINO GUILLERMO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

JOHNSON, J.:

These defendants were charged with the crime of *bandolerismo*. They were tried by the judge of the Court of First Instance of the Province of Rizal on the 24th day of October, 1903. During the trial Juan del Rosario and Cirilo Janto escaped from the custody of the law. After hearing the proof the court found the said defendants and each of them guilty of the crime charged, and sentenced Faustino Guillermo to the penalty of death, Anatalio Austria and Alejandro Santiago to life imprisonment, and Alejandro Hernandez, Antonio Galang, Pablo Tangco, Santiago Galagna, and Marcelino Flores each to be imprisoned for the term of twenty-five years, and to pay the costs. No appeal was¹ taken from this judgment by any of the defendants.

The cause of Faustino Guillermo comes to this court in consultation under the provisions of section 4 of Act No. 194 of the United States Philippine Commission. During the trial many witnesses were presented on behalf of the prosecution. The prosecution also offered in evidence the following confession, made by Faustino Guillermo, which was duly accepted without objection :

“DECLARATION OF FAUSTINO GUILLERMO,

” Manila, June 11, 1903.

” My name is Faustino Guillermo, 43 years of age, a native of Sampaloc, in the city of Manila, and a widower. My present rank in the field is that of colonel. I was appointed by General San Miguel, now deceased, in the beginning of 1892

(1902?) ; my appointment was confirmed in the month of January, 1903, by the said General San Miguel. I took the field to fight against the Spaniards in 1896, in company with the supreme president, Andres Bonifacio, and remained in the field until the year 1900, when I surrendered at Malabon to the American colonel commanding the garrison at that town, and took the oath of allegiance to the American Government.

“I subsequently established myself at San Francisco del Monte, and was there captured by the Filipino police of Sampaloc in 1901. They took possession of all my documents, including the oath of allegiance which I took in Malabon. I was a prisoner for about three months, and at the end of this time was liberated by Lieutenant Sweet, chief of the municipal secret police, who appointed me a spy. I was not willing to accept this employment, because it was repugnant to me, and I returned to the barrio of San Francisco del Monte, where I was again captured by the Constabulary, taken to San Mateo, and turned over to Inspector Licerio Geronimo, who compelled me to act as a spy for him, and set me at liberty by order of Captain Keythley. Finding myself free, I went to the mountains and commenced to recruit men, inviting my friends and acquaintances to join me.

“The first troops I got together were nine men, called Anatalio Austria, Ismael Austria, Andres Roque, Geronimo de Leon, Eleuterio Seyco, Captain Silverio, Vicente del Mundo, Liberato Sarmiento, and Sixto Macapagal, of whom the first three were my nephews. General San Miguel appointed me a lieutenant-colonel; Anatalio Austria, major; Andres Roque, captain; Eleuterio Seyco, lieutenant ; Silverio, captain; Vicente del Mundo, captain; Liberato Sarmiento, captain (this man is dead); and Sixto Macapagal, lieutenant. We then commenced to get arms together, looking for those which had been hidden by the revolutionists before surrendering, and succeeded in getting three guns and six or seven revolvers, which we captured from several detectives and municipal policemen. We were wandering about the woods, going from Rizal to Bulacan and *vice versa*, living upon food given us by the people of the barrios.

“The first fight I had was in Masambon, in the beginning of 1902, with the Constabulary secret police. In this fight one of the Constabulary men was killed and we took his revolver. The second fight was with Inspector Licerio Geronimo in Bagobantay, in which one of the Constabulary men was killed, and we took his gun. The others

ran away and we managed to pick up another gun. In this fight we also captured Hermogenes Bautista, known as General Menez, from whom we took his revolver. We also captured Aniceto, *alias* Goto, from whom we took a revolver. We also captured two policemen at San Juan del Monte, named Antonio Gatsalian and Pedro. We released all these men, but Antonio did not want to go away and remained with me until the tight at Pinguian on August 15, 1902, on which occasion he ran away with his gun. I recaptured him in April of this year, took his gun from him, and then released him. In this fight we also captured three horses from the Constabulary men, with their trappings and saddles, and also the uniform, hat, and shoes of Inspector Geronimo, who made his escape in his undershirt and drawers. The third fight we had was in the town of San Jose, Bulacan, which I entered at the head of sixteen men with fourteen guns. There we surprised the Constabulary garrison, composed of sixteen men, commanded by Sergeant Omano. We captured fourteen guns and two revolvers with their ammunition, which we carried away with us. The Constabulary men had no time to make resistance and there was no loss of life on either side. This fight took place on the night of the day in which I attacked Licerio Geronimo in Bagobantay, which was the 15th of June, 1902.

“On August 15, 1902, I had the fourth fight with the Constabulary, commanded by Inspectors Reyes and Vicente, who were moving in two columns. In this fight the Constabulary lost one man whom I saw, and we captured Inspector Vicente and three soldiers, whom we disarmed, taking their three rifles and a revolver with ammunition. We then took them to our headquarters, whence they made their escape a few days afterwards. This fight was at a place called Bahay Toro, within the township of Novaliches, Province of Rizal. On the same night we went to a place called Pinguian, within the township of Novaliches, and there we had an encounter with the Constabulary commanded by Inspector Warren. On our side we had three men killed, and captured a revolver and a gun. The Constabulary also lost several men killed, and captured three rifles from us. After this fight I went into the woods for the purpose of allowing my wounds to heal, and left my troops in San Francisco del Monte in charge of Apolonio Samson and Anatolio Austria. I was there for two months, after which I was sent for by San Miguel and joined my troops at a place called Tanque, where I found San Miguel, who put me in command of all the troops commanded by Julian Santos, who had usurped the commands of Samson

and Austria.

“From Tanque we went to Piedad, in the township of Caloocan, and there we had an encounter with the Constabulary. In this fight we lost two men killed and one of our

men was taken prisoner. We lost two rifles and a revolver, and one of the Constabulary officers was killed. We then went to Bignay (Polo), and there had a fight with the

Constabulary under Inspector Lorenzo and an American. The Constabulary ran away, followed by us, and we captured four of their men and four guns. The men were

released after being disarmed. From this place we went directly to Cainta, after resting a couple of days in Payon near Mariquina. Upon arriving at Cainta we attacked the Scouts and volunteers under Captain Teong. The Scouts and the volunteers took to flight and we captured some of their men. Just at this time reinforcements arrived for the Scouts, and a new fight broke out. The Constabulary ran away and we followed them as far as Tay-tay. In these fights we captured eight guns and a revolver.

“Thence we went to Antipolo, which town we entered and had a fight with the Constabulary, in the course of which we lost two men killed, our bugler was taken prisoner, and

three guns were lost. Then we went to Boso-boso in the night and had a fight with the Constabulary, who took from us one carbine and one revolver. The Constabulary lost some men, but I did not see them. We were there some two weeks and had another encounter with the Constabulary, who, by reason of their superior numbers, compelled us to withdraw. From there we went to Piedad (Corral-na-bato) and the same night had an encounter with the Scouts, the fight being suspended on account of the darkness of the night. On the day following we again attacked them, but were defeated with a loss of two men killed and three wounded and a loss of five guns. The Scouts also lost some men killed. In our retreat we encountered the reinforcements sent us by San Miguel, with supplies and ammunition, and then returned to seek the Scouts and Constabulary, attacking them again. In the course of the fight they killed one of our men and we lost

a gun. The enemy had several men killed, and we captured three guns from them. The enemy fled in disorder. Subsequently further reinforcements of Scouts

arrived and they again attacked us, compelling us to take to flight. We went, toward Pugat-babuy and there encountered the Constabulary, whom we engaged, putting them to flight. We followed them as far as Polo and took four of their men prisoners and captured their guns. From there we went to Bignay, and other forces joined us under the command of Contreras and others. General San Miguel distributed troops, turning over to Vicente del Mundo 17 men, to Juan Alcantara, *alias* Castila, 19, to Captain Andres Roque 27, to Captain Geronimo de Leon 11, and to Captain Silverio 9. All these men were subject to my orders, under the direction of General San Miguel. Contreras commanded more than thirty men armed with guns, and was the chief of the Province of Bulacan.

“From Bignay we went to Piedad again, and there we were attacked by the Constabulary and Scouts, who surrounded and defeated us, killing General San Miguel and many men, and capturing a large quantity of our documents and arms. After this combat we dispersed, and I went to Mount Laniting, near Bosoboso, with seven men and Alejandro Santiago Halimene. While there I sent four soldiers to look for provisions and to ask the president of Cainta for money, he having offered it to me before. These men did not return. One of them was my nephew, Geronimo de Leon. In Lanati I was captured by the Constabulary commanded by Captain Teong. I commanded the troops in the three towns of Caloocan, Novaliches, and San Francisco del Monte, the people of which voluntarily contributed men and supplies. I am personally acquainted with Maria Gonzalez Leafio, and have sent several letters to her asking for money and provisions. On one of these occasions I received 50 pesos, which she sent me by Juan Castila, who was sent to see her. This was in the month of December, 1902.

“In February, 1903, I went to Caloocan with thirteen men and established myself on the railroad line. From that place I sent Lieut. Juan Castila with two soldiers and a letter to Maria asking for money and provisions, and she promised to send them to me on the following day, but I did not receive them because I found it necessary to leave that place. I am also acquainted with Marcelino Estrella, who was inspector of Constabulary and a member of the secret police, when I was under the orders of Lieutenant Sweet. I have heard of Dominador Gomez and know that he is the president of the Democratic Labor Union. I have been a member of the Nationalist Party since

its first

organization, but have not had direct relations with it. It was Apolonio Samson who directly communicated with the Nationalists. In Boso-boso we took money from the municipality amounting to \$69.90 in the month of August, 1902.

“I think that there are quite a number of guns still in the hands of my companions who remain in the field, but I can not state the exact number. The officers still in the

field are Contreras, Apolonio Samson, Geronimo de Leon, Juan Castila, Basilio Mateo, and Mauricio. General San Miguel received a great deal of money from Manila for the support of the troops, but I can not say who sent it. He had an agent who came to Manila to get the moneys and whose name I do not remember. Everything I have said is the truth, which I affirm and ratify, and I sign this declaration voluntarily, without having been compelled thereto by threats or promises on the part of the employees of the division of information or any other officer.

” FAUSTINO GUILLERMO.

” Witnesses:

” R. CRAME, *Lieutenant Philippines Constabulary*.

” E. CALDERON.”

Rafael Crame testified as a witness on behalf of the Government, and stated that he was a first lieutenant of the Constabulary, and had been connected with said organization for three years; that he had known Faustino Guillermo since June, 1903; that Faustino Guillermo made the confession which was reduced to writing and admitted in evidence; that this confession was made voluntarily and without the promise of reward; that after the confession was reduced to writing it was read to the accused, and he then signed it.

Benancio Bartolome testified that he had been in the mountains with the band of San Miguel; that San Miguel was known by his followers as a captain-general; that there were many men in his band armed; that Faustino Guillermo was a member of said band; that Faustino Guillermo was known as a chief; that there were about 300 men who belonged to

said band; that he took part with the other members of the said band in the fights between the Constabulary and the said band in the following pueblos or barrios: Bacbanquin, Pinquin, Piedad, Corral-na-Bato, and Navotas; that the said band took from the treasury of the pueblo of Navotas 195 pesos and seven revolvers; that said band robbed an American at Malabon of \$200, one revolver, one diamond, a gold ring, and a gold watch; that he was also with the band when it entered the barrio of Bahaypari; that the band was then under the command of Faustino Guillermo; that Faustino Guillermo was in command of the band at the fight which took place between the Constabulary and the said band at Piedad; that at this fight the band captured some guns and revolvers; that Faustino Guillermo frequently ordered the band to go out into the barrios and obtain food from the people, and that if the people refused to give it to them, they should take it by force; that the band was armed with guns.

Marcelo Magsalin testified that he had been a member of the band of ladrones in the mountains, which band was under the general command of San Miguel; that he was a member of the said band from the time it entered the pueblo of Pasig, on the night of the 24th of December, 1902, until about a month and a half after San Miguel was killed; that the band went from place to place, armed with revolvers, and at times was under the command of Faustino Guillermo; that he was present at the fight of Corral-na-Bato, and was then and there under the command of Faustino Guillermo; that he was also present at the fight of Piedad, under the command of Faustino Guillermo, and that at said last fight the band obtained some guns and revolvers; that he was present at the fight of Bago Bantay, which took place between the said band and the Constabulary, and that Faustino Guillermo was in command; that during the fight they took two revolvers, two rifles, some ammunition, and one horse; that these guns and revolvers and ammunition and the horse belonged to the Constabulary; that he was with the band at the time it entered the town of San Jose, in the Province of Bulacan; that on said occasion the band captured sixteen guns, one revolver, and many uniforms and blankets belonging to the Constabulary; that they compelled the members of the Constabulary to take off their uniforms and give them to the said band; that on one occasion Bolanas, a member of said band, stole four carabaos of Ramon Gonzales and Ciriaco Samson.

Enrique Pacion testified that he had been a member of ladrones in the mountains under the command of Faustino Guillermo; that while he was with said band he took part in the following fights between the said band and the Constabulary: Pasig, Meycauayan, Piedad, San Mateo, Santa Maria, and Corral-na-Bato; that the members of the band always went

armed; that at Pasig the band stole some guns, a cavan of rice, some cigarettes, and a cow; that at San Mateo the band stole three carabaos; that at Santa Maria the band stole a horse and 100 pesos; that the money was taken from a dwelling house.

Juan Zorilla testified that he had been a policeman in the pueblo of Meycauayan; that he was captured by a band of Katipunans at about 2 o'clock one night, because, as the band told him, he was a detective for the Americans; that they tied him and then robbed stores in said pueblo; that the band stole shoes, clothing, rice, tobacco, cigarettes, dry goods, shirts, and many other things; that the band at that time, was armed; that there were twenty-seven members of the same; that after they had stolen the said articles they compelled him to carry the same- to the mountains; that they told him that they would kill him in fifteen days thereafter because he was a secret detective; that while he was with the band, it entered the town of Marilao, in the Province of Bulacan, and robbed the house of the president of a watch, a revolver, clothes, some money, and tobacco; that they divided these things among the members of the said band; that on the same occasion the said band broke into several stores and carried away shoes, clothing, slippers, and seven watches; that in order to enter the said stores they broke down the doors. That while he was with the said band he took part in the fights between the Constabulary and the said band at the pueblos of Santo Rosario and Corral-na-Bato; that at the fight of Santa Rosa Faustino Guillermo was in command, and that there were about 100 armed men; that at the fight of Santa Rosa one Constabulary soldier was killed and five were captured, and that the said band obtained six guns, two revolvers, and six belts filled with ammunition; the band also took bread, canned meats, and canned salmon from the Constabulary quarters; that at the fight of Rosario

Faustino Guillermo was in command, and that at that time there were about 200 men in the band; that the band captured five Constabulary soldiers, five guns, five cartridge belts with cartridges; that the band entered the stores in the said pueblo and took shoes and clothing; that the band stripped the members of the Constabulary of their uniforms and gave them Chinese shirts; that the band was composed of some members of the Constabulary that had deserted; that in said fight one American was killed, and the band took the horse of the said American; that Faustino Guillermo was in command, and was called colonel by the members of the band.

Isabela de los Reyes said that a band of ladrones came to her house on one occasion composed of eight men; that they abused her; that they threw her upon the floor and tried to rape her; that they cut off both her ears and her hair with a bolo and took from her \$1.50 and some of her clothing; the band also took her earrings and two rings.

Domingo de los Reyes testified that he was the husband of Isabela de los Reyes; that he was present and manacled at the time the band entered his house and cut off the ears and hair of his wife, and at the time they carried away his wife's jewelry and clothing.

Alfonso Cavang testified that he had been captured by a band of ladrones and had been taken to the mountains; that he was present with said band at the fight of Bagbag; that he saw Faustino Guillermo with the band in the mountains.

Leon de Gula testified that he had been in the mountains with the band of San Miguel; that he knew Faustino Guillermo; that he was present at the battle of Santa Rosa, and was wounded by a bullet in said fight; that the band stole horses and carabaos.

Francisco Callao testified that he had been a soldier of San Miguel, and that Faustino Guillermo was his commander; that he always carried arms, as well as did each member of the band; that he saw San Miguel and Faustino Guillermo in the mountains with the band.

Miguel Pascual testified that he was with the band of ladrones in the mountains; that this band was constantly resisting the Government; that San Miguel was its chief; that the band always went armed; that he was with the band at the time it entered the pueblo of Navotas; that Faustino Guillermo was also present; that in the pueblo of Navotas the band took seven revolvers and the sum of 195 pesos from the municipal treasury; that the band compelled the treasurer to give it the money; that the band always went armed.

Gervasio Gimenez testified that he had been a member of a band of ladrones in the mountains commanded by Julian Santos; that he joined the band on December 9, 1902, at the pueblo of Bagbag; that he was with the band about sixty days; that the band captured a horse from the Constabulary at the fight of Bagbag.

Gervasio Domingo testified that he had been in the mountains with the band of ladrones; that the band was under command of Faustino Guillermo; that he had been with the band about six months; that the band was armed with guns.

The defendant, Faustino Guillermo, offered no proof in his defense.

The evidence in this case Justifies the following conclusions :

First. That Faustino Guillermo was a member of a band of ladrones composed of more than three men.

Second. That said band was armed with deadly weapons and went out upon the highways and roamed over the country for the purpose of stealing carabaos and other personal property.

Third. That said band entered many pueblos in the Provinces of Rizal and Bulacan during the months of the early part of the year 1903, and by force and violence did rob from the people carabaos and other personal property.

Fourth. That the said defendant organized the said band for the purpose of stealing carabaos and other personal property, and was one of the chiefs of the said band.

We therefore find the defendant guilty of the crime charged in the complaint in said cause, and do hereby affirm the judgment of the court below, with costs. So ordered.

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

DISSENTING

MCDONOUGH, J.:

I am of the opinion that the ends of justice will be satisfied in this case by imposing the penalty of life imprisonment on the defendant, Faustino Guillermo, and therefore favor a modification of the judgment of the court below accordingly.