

[G.R. No. 1590. April 16, 1904]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. TELESFORO RORALDO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

October 3, 1903, the provincial fiscal of Bulacan filed a complaint in the Court of First instance of that province charging Telesforo Roraldo and Felix Adajar with the crime of insurrection, in that they, on or about the end of the year 1902, and until they were captured about the month of September of the year following, promoted and voluntarily and criminally abetted, within that province, an insurrection against the United States and the Government of these Islands, contrary to the statute in the case made and provided.

An amended complaint having been filed, the case went to trial. The court, in view of the evidence introduced, rendered a judgment finding the defendant Roraldo guilty of the crime of insurrection and condemned him to the penalty of eight years' imprisonment and to the payment of a fine of \$4,000 and the costs. He acquitted Felix Adajar, the evidence against him not being sufficient, without prejudice to a prosecution against him for the prohibited use of firearms. Against this decision the defendant Roraldo appealed to this court.

From the proceedings at the trial it appears that a number of witnesses were examined. Lieut. Lorenzo Ramos, of the Constabulary, testified that some months ago the two accused were sent to him at Meycauayan by Captain Warren, the charge being that Adajar was a lieutenant and Roraldo a sergeant of the band led by one Contreras, an

insurgent chief; that this statement was confirmed by Domingo Arellano and Rafael Rivero, his spies; that when Adajar was arrested a .45 caliber Colt's revolver was found in his possession, the weapon having been discovered in a clump of bamboo near his house; that the seizure of this weapon took place in the presence of the spy, Arellano, and the policeman, Fortunato Sulit; that as a result of the investigation made, Felix Adajar confessed to him spontaneously that he was appointed a lieutenant under Contreras and had been with the latter in the mountains for one week; that he subsequently returned to the town for the purpose of collecting contributions, and that on account of Governor Tecson's operations against the insurgents Adajar went to the Province of Bataan, where he was arrested; that the other accused, Telesforo Roraldo, also stated to him that he was a member of the police of the municipality of Meycauayan; that he deserted with his companions, taking with him his arms; that he joined the Contreras party. That when Contreras's band was dispersed, Roraldo went to the Province of Bataan, where he was employed by the parish priest of one of the towns of that province; that he had delivered his gun to one Capt. Jorge San Pedro, who subsequently surrendered in this city; these statements were made by Roraldo voluntarily, the witness adding that the accused joined the insurgents voluntarily and were not captured by them.

The two witnesses, Domingo Arellano and Rafael Rivero, affirm that on different occasions they were captured by Telesforo Roraldo; that he took them into the mountains, where they saw a number of persons, many of whom had firearms of different kinds. That these persons constituted the Katipunan under the command of Contreras; that their purpose was to invade the towns and attack the Constabulary for the purpose of seizing their guns; that a number of other individuals had been captured besides themselves. The witness Arellano stated that he had succeeded in returning to the town of Meycauayan some weeks afterwards with the permission of the chief, Oontreras; that while with the band of insurgents he saw the accused Roraldo. Rafael Rivero testified that when he was captured by Roraldo the latter was accompanied by another man armed with a gun, but that he did not see

Felix Adajar among the members of the band while he was in the mountains with them before his escape.

From the facts stated it appears that the case offers sufficient evidence of the existence of the crime, and of the guilt of Telesforo Roraldo. It is unquestionable that this man, in violation of his duty and of the oath taken by him as a municipal policeman of the town of Meycauayan, abandoned his post with a number of other persons, and joined the band commanded by Ciriaco Contreras, taking part in acts of insurrection or rebellion, and efficiently cooperating with that rebellious band against the Government established in these Islands, and against the laws which guarantee the peace and tranquillity of the inhabitants. Consequently he is the author of the crime by direct participation as a subaltern of the band, and as such is subject to the penalty prescribed in section 3 of Act No. 292, passed November 4, 1901.

Notwithstanding the denial of the accused and his excuse that while he was a municipal policeman he was captured by Contreras and his band, who took him into the mountains, where he acted for them as cook for one week, until he succeeded in making his escape, the fact is that the evidence of or the prosecution in the case, far from being overcome by the allegations of the accused, show beyond a doubt that he has committed the crime punished by the section cited of Act No. 292, he having abandoned his post with his arms and having taken part in the insurrection or rebellion against the established Government and its agents, voluntarily becoming a member of an organized band which frequently attacked and resisted the forces of the constituted authorities against the law, and by giving positive and efficient aid to the rebels in arms. The allegations of the defendant can not be admitted, there being no evidence to show that he was in fact captured, and that he only acted as cook, without having been an active member of the band. Furthermore, if it were true that he was the victim of a sequestration, and that he was held against his will by the members of the band, as soon as he recovered his liberty, he would have immediately presented himself to the authorities. This he did not do. Therefore his statements can not be regarded as worthy of belief more especially in view of the fact that they are in contradiction of the

testimony of the Constabulary lieutenant, Lorenzo Ramos.

For the reasons stated we are of the opinion that the judgment appealed must be confirmed in so far as it imposes upon the accused Telesforo Roraldo the penalty of eight years imprisonment and a fine of \$4,000, the accused to pay one-half of the costs of both instances. This case will be returned to the trial court with a certified copy of this decision, and judgment to be entered in accordance herewith for the execution thereof. So ordered.

Arellano, C.J., Mapa, McDonough, and Johnson, JJ., concur.

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