

3 Phil. 732

[G.R. No. 1592. April 22, 1904]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. APOLONIO NATIVIDAD, DEFENDANT AND APPELLANT.

D E C I S I O N

JOHNSON, J.:

The defendant was charged with the crime of *bandolerismo* and was tried by the Court of First Instance of the Province of Bulacan on the 29th day of September, 1903, and was sentenced to be imprisoned for the term of twenty years and to pay the costs of the suit.

Various witnesses were sworn on behalf of the prosecution. Mr. Melville A. Hayes testified that he knew the accused and that he was a member of a band of ladrones. The defendant confessed to him voluntarily and without promise of reward that he, together with Valentin Avena, Emeterio Avendaña, Lorenzo de la Cruz, and others stole eight carabaos, the property of one Fabian Gallego, which carabaos were in a corral at Sapang-Palay, of the pueblo of San Jose, in the month of May, 1903.

Segundo Gallego testified that he was the son of Fabian Gallego and lived in Sapang-Palay, of the pueblo of San Jose; that he was in charge of the eight carabaos of his father, which were stolen; that the carabaos were stolen from his corral by five armed persons about the first of May, 1903.

Fabian Gallego testified that he was the father of Segundo Gallego; that he was the owner of eight carabaos that were in the possession of his son at Sapang-Palay; that the carabaos had been stolen in the latter part of the month of April or in the first part of the month of May, 1903; that he recovered the carabaos from the possession of the Philippine Scouts on or about the 5th day of May, 1903.

Leandro Santos testified that he was an Inspector of the Philippines Constabulary and knew the accused; that the accused at the time of his arrest had made a confession, freely and voluntarily and without the promise of a reward of any character whatever; that he and his companions had stolen the eight carabaos in question and that he and his companions were armed with two guns and a war bolo and other short bolos; that this confession was reduced to writing and was signed by the defendant, by himself, and one Luna. The confession was in the following language:

“My name is Apolonio Natividad. I am a Filipino, native of the town of Santa Maria, Bulacan, 19 years of age, married, a farmer, and live in the barrio of Halang of the town of Santa Maria. I swear before First Lieut. Chas. E. Dority, commanding officer of the Twenty-fourth Company of Ilocano Scouts, that I am a member of a band of brigands composed of my companions Valentin Avena, Lorenzo Concepcion, Emeterio Avendafia, Feliciano de la Cruz, and Prudencio Cristobal, residents of the same barrio of Halang of the towns of San Jose and Santa Maria, respectively.

“I also declare that I and my companions Valentin Avena, Lorenzo Concepcion, Feliciano de la Cruz, and Prudencio Cristobal stole eight carabaos at a place called Sapang-Palay of the town of San Jose (Bulacan) and after we took the said carabaos we invited one of our own companions called Emeterio Avendaña, resident of the barrio of Halang, San Jose, to accompany us to take the said carabaos to the town of Novaliches, Rizal, where we delivered them to the parties named Captain Cirilo and Cabeza Angel, both residents of the same town of Novaliches, Province of Rizal.

“I swear, and, being unable to sign, place a cross in the middle of my name.

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“Witnesses:

“URBANO C. LUNA.

“LEANDRO SANTOS.”

After the accused made the foregoing confession he told him (Santos) where the guns had been hidden in the middle of a cogon field to which place he conducted him.

Urbano Luna testified that he knew the defendant and was a prisoner in the same carcel with him in the month of May, 1903; that he heard the defendant make a confession that he in company with others stole eight carabaos at Sapang-Palay of the pueblo' of San Jose; that this confession was made to Leandro Santos, voluntarily and that Santos made no threats or promises of reward whatever; that he acted as interpreter; that after the confession was made and reduced to writing that the accused read it, or rather it was read to him, and he thereupon signed it; that he recognized the above-quoted confession as the document which was signed by the defendant after it had been read to him; that the defendant said his companions were Valentin Avena, Feliciano de la Cruz, Lorenzo

Concepcion and others whose names he did not remember.

The defendant was sworn in his own behalf and stated that he made the confession quoted above but that he was abused and maltreated by Leandro Santos and was threatened with death and that he made the confession on that account and that he told Leandro Santos where the guns were because of the same treatment.

The court below found as a fact, after hearing the evidence, that the confession made by the defendant that he, together with five others, had stolen the eight carabaos, had been made voluntarily and without any promise or hope of reward; this finding of fact was clearly justified on the proof adduced in the case.

The facts adduced in the case justify the following conclusions :

First. That the defendant was a member of a band that went out upon the highways armed with deadly weapons and roamed over the country for the purpose of stealing carabaos and other personal property.

Second. That the said band did go out upon the highways and roam over the country armed with deadly weapons and that in the latter part of the month of April or the first part of the month of May, 1903, stole eight carabaos of one Segundo Gallego.

Under the foregoing facts the court below found the defendant guilty of the crime of *bandolerismo*, under section 1 of Act No. 518 of the Civil Commission. This sentence was justified by the facts adduced in the case and the judgment of the court below is hereby affirmed and the said defendant is hereby sentenced to be imprisoned for the term of twenty years and to pay the costs of this suit.

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

