

[G.R. No. 1959. March 29, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FELIX AGUILAR,
DEFENDANT AND APPELLANT.**

D E C I S I O N

MAPA, J.:

The defendant has been sentenced by the court below to ten years' imprisonment, in accordance with the provisions of section 4 of Act No. 518, for the reason that he had negotiated with a band of brigands commanded by Cornelio Felizardo, to which he sent provisions, and that on one occasion he had remained three days with the said band.

It is proven that the defendant negotiated with the band of Felizardo, but it does not appear clear as to just what the transactions were. Of course it can not be affirmed that he belonged to that band, because no witness asserts such a fact in his testimony. He was seen by witnesses for the prosecution to remain three days with the said band, and then left the same. They do not say, however, that he was there on that occasion as a member of the band or affiliated with the same. What he did during that time or what his object was in being there does not appear. Neither does it appear that the defendant carried a firearm during all that time, according to the witness who saw him there on that occasion. This perhaps prevents the court from considering that the defendant falls within section 1 of Act No. 518, since it could not be proven or established that this defendant formed part of a band of brigands. The proof adduced as regards the fact of his having given food to the band of Felizardo is likewise deficient. The only statement which the witnesses for the prosecution make as regards this particular is that Felizardo *frequently ordered him to collect contributions from*

the barrios for the use of the band,
but neither this witness nor any other affirms that the defendant
complied with such order, nor that he did, in fact, give to Felizardo's
band or any other band food or other supplies.

By virtue, then, of these reasons we reverse the judgment below and acquit the defendant,
with the costs in both instances *de oficio*. So ordered.

Arellano, C.J., Torres, Johnson, and Carson, JJ., concur.

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