

[G.R. No. 1683. April 05, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ANTONIO VIZQUERA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

There is no doubt that the appellants committed the crime of homicide, but as this crime was committed on the 4th day of February, 1899, the appellants claim that by reason of its political character they are entitled to the benefits of the amnesty granted by the President of the United States on July 4, 1902.

There was some evidence in the case to the effect that these men belonged to a band of insurgents or revolutionists, but the great weight of the evidence is in favor of the proposition that they belonged to neither party in the contest between the Filipinos and the United States, but were a part of a band of highway robbers who were pursued by both sides during that time. Several witnesses testified that the Filipino authorities who were then in control of this part of the Province of Zambales sent out troops for the purpose of apprehending these appellants and their companions. We hold that they are not entitled to the benefits of the amnesty.

The court, after hearing the evidence in regard to the commission of the offense, declared the testimony closed. Afterwards, not being entirely satisfied on the subject of amnesty, he gave permission to the parties to summon other witnesses upon that point. This was done, their testimony was taken, and final judgment afterwards rendered. The appellants claim in this court that this was error, and that a new trial can only be granted upon the motion of the defendants. This opening of the case, however, before a judgment is rendered was not a new trial of the case, and such action was clearly within the discretion of the trial court.

After some evidence had been submitted by the parties the fiscal made a motion that the defendants be declared entitled to the benefits of the amnesty. It is claimed in this court

that that amounted to a termination of the proceedings and to a withdrawal of the complaint by the fiscal. This point is covered adversely to the appellants, by the decision of *United States vs. Regino Valencia* (1 Phil. Rep., 642).

The crime which the appellants committed was homicide, and the judge below imposed the penalty for that crime. His judgment is affirmed, with the costs of this instance against the appellants.

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

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