

[G.R. No. 1650. April 28, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. LINO LITONJUA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

ARELLANO, C.J.:

The cause of the complaint in this suit was the forgery of the signature of "Jean M. Poizat" on a check which was a part of a genuine check book kept by a person so called. This signature was so perfectly imitated that on its presentation in the offices of the Guaranty Trust Company of New York in the city of Manila it "might have passed in the rush of business," as stated by the assistant cashier of said office, Mr. John Martin, who also affirms that "it is a good imitation of the signature of Mr. Poizat, although the handwriting is a little bit different, for which reason the check was suspected."

Accompanying the check was found a note subscribed, it seems, by the same maker of the check, in which note was requested sixty bank notes of fifteen dollars each, there being no issue of bank notes of that denomination. The one who presented the check for collection and the note regarding the bank notes was the defendant Lino Litonjua, an employee of the house of Mr. Poizat. The latter, having been notified by the bank, did not acknowledge the signature on the check or that of the note. When Litonjua was placed in the hands of the police there was found on him a paper with the signature of Mr. Poizat traced on same, inverted, and a certificate of good conduct, apparently issued and signed by Mr. Poizat in favor of the defendant, and in the desk of Litonjua, in Mr. Poizat's office; several documents were found, among them the stub of the check presented for payment and another note

similar to that which was presented, together with the check to obtain the bank notes of the denomination of fifteen dollars.

The charges are fully proven against Lino Litonjua. Against Cirilo Santiago the evidence which has been taken into consideration is the imputation of his codefendant, Litonjua, when he tried to excuse himself, saying that the former had given him the check; and "the style of the hand writing and shape of the figures on the falsified check are similar to the handwriting and shape of the figures on the stubs of the check, written previously by Santiago." The statement of the codefendant, which is not only incriminating but also exculpatory of the very fact, does not deserve any credit in itself. It could have been taken into consideration if it had been really corroborated by the other data taken into consideration in the judgment, but, even though there is resemblance in the character and form of the authentic handwriting of Cirilo Santiago with the handwriting and figures in the falsified check, this does not permit of the affirmation that the figures and the hand-writing in the check are the work of the same person who wrote the authentic notes in the stubs which served as a means of comparison.

Therefore we affirm the judgment appealed from as regards Lino Litonjua, sentencing him to ten years *depresidio* and a fine of 2,000 pesetas, with one-half of the costs in both instances, and we reverse the sentence as regards Cirilo Santiago, whom we acquit with the other half of the costs *de oficio*. So ordered.

Torres, Mapa, Johnson, and Carson, JJ., concur.
