

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
NORBERTO E. BERNARDINO, DEFENDANT AND APPELLANT.***G.R. No. L-3607. August 27, 1953*

Ponente: REYES, J.

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Charged with treason on four counts in the Court of First Instance of Zambales, the accused Norberto E. Bernardino alias Monkey was, after a joint trial with the indictes in two other treason cases, found guilty on only one count and sentenced to 12 years and 1 day of reclusion temporal, a fine of P5,000, and the costs. The accused appealed to this Court.

The count on which appellant was convicted charges him with having, with intent to give aid and comfort to the enemy, ordered the apprehension of Adriano Valdez and Tranquilino de la Rosa, who were thereafter tortured by his men and investigated by himself for guerrilla activities.

The evidence shows that on February 15, 1944, Adriano Valdez, a captain in the intelligence division of the Subic guerrilla sector, was sent by his commanding officer to the barrio of Agosohin at that time known as "Little Tokyo," in the municipality of Subic, Zambales, to spy on the enemy defenses and size up the strength of the pro-Japanese elements there. Taking along with him Tranquilino de la Rosa, a private in the same guerilla outfit, Valdez proceeded to the said barrio and got there with his companion at about 11 o'clock in the morning of that day. To conceal his mission, Valdez went to a firewood dealer, his compadre Juan Fausto, alias Juan Taga, whom he found splitting wood near his house, and tried to impress him with the idea that he had come to buy firewood. While they were conversing, two armed men came, one of whom, Isidro Fausto alias Hitler, a son of Juan Fausto and accused in one of the treason cases above mentioned, told Valdez and De la Rosa that they were wanted by appellant and Jorge Lopera (the accused in the third treason case) and then escorted them to where the latter two were. There appellant asked Valdez and De la Rosa what business had brought them to Agosohin. Valdez explained that he and De la Rosa were there to buy firewood. But appellant was not convinced, and so he told them to go up the house of Juan Fausto and had them guarded. There the two remained until 10 o'clock at night, when a guard ordered them to come down, and once on the ground they were bound by Jorge Lopera, who together with appellant and other soldiers, thereafter took them to a place under a mango tree where Lopera, with appellant standing by, maltreated and tortured De la Rosa, hoisting him up the mango tree several times in an effort to make him admit that he and Valdez were guerrillas who had come to Agosohin to spy. As De la Rosa would not admit that fact, he was taken to the barracks for further investigation by the appellant, while Valdez was, on his part, taken to another place and also investigated. But the two would not confess, and so they were released the following day.

Appellant denied having had anything to do with the apprehension, investigation, and maltreatment of Valdez and De la Rosa and claimed that he could not be pro-Japanese, having been himself maltreated or tortured by the enemy during the occupation. But the trial court did not believe his story, and it does not appear that there is sufficient reason to impeach the declaration of those who testified to his treasonous acts.

While the evidence does not show that appellant had himself laid hands on either Valdez or De la Rosa, there is no denying the fact that he was present when they were maltreated, that he took active part in the investigation, and that it was he who had Valdez and De la Rosa apprehended and detained under guard in the house of Juan Fausto. These facts were established by the combined declaration of Valdez and De la Rosa, who testified to the same overt acts which took place before they were separated for further investigation. In addition there is also proof of appellant's adherence to the enemy, for he had been seen armed and dressed in Japanese military uniform and to be among those who surrounded and guarded the guerrillas when the latter surrendered in mass in 1943.

Our conclusion is that on the evidence of record appellant has been rightly convicted of the crime of treason. And the penalty imposed upon him by the lower court being adequate, the sentence below is affirmed, with costs.

Paras, C. J., Bengzon, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

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