

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MARCIANO H. FLORES, DEFENDANT AND APPELLANT.***G.R. No. L-1623. May 29, 1950*

Ponente: TUASON, J.

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Marciano H. Flores was prosecuted for treason on four counts and tried before a division of the People's Court sitting in Davao City. In the first count the defendant was charged with having acted and served as agent and informer for the Japanese military police in the City of Davao in March, 1945. In Counts 2, 3 and if he was charged with arresting on March 19, 1945, in the City of Davao, Faustino Tito, Jose Lopez and Rufino Sagun for being guerrillas.

It appears from the testimony of six eye-witnesses for the prosecution that, as charged and' on the date alleged in the complaint, Tito, Lopez and Sagun, all of whom lived not far from each other outside the poblacion but within the jurisdiction of the City of Davao, were suspected of being guerrillas and were apprehended, tied and taken to the city by the accused and three companions named Ben Belais, Gener and Cesar. Tito, Lopez and Sagun were never seen or heard from after their arrest. It has been shown also by the oaths of these witnesses that Flores and his companions wore arm bands with Japanese characters.

For the defense, three witnesses, including the defendant, testified. The gist of their testimony is that when Tito, Lopez and Sagun were apprehended, the accused was a prisoner and not a member of the group of undercover who made the above arrests; that far from being an undercover for the Japanese, he was forced to work on a Japanese landing field. However, the prosecution witnesses stated positively that Flores was not only with that group but was armed with a blackjack besides having an arm band. Moreover, according to Tito's widow, it was he who asked her where her husband was, and who told her to call for him when she told this accused that Faustino was not at home. It was also the accused, she said, who told her husband that the latter was wanted by the mayor regarding price control; who told her to shut up when she inquired why her husband was being taken, etc. Other witnesses attributed to the accused similar actions and utterances in connection with the apprehension of Lopez and Sagun.

The attorney himself for the appellant states in his brief that, after having carefully read the testimonies of the witnesses for the prosecution as well as those for the defense, and after having compared them with the findings of the People's Court in its decision, he "is convinced that the said accused has in fact served as undercover for the Japanese forces and has arrested the persons mentioned in the complaint for their guerrilla activities and is therefore guilty of treason in having given the enemy aid and comfort as charged in Counts Nos. I to IV inclusive."

The lower court sentenced the accused to reclusion temporal and a fine of P2,000.00. There being no mitigating circumstances, and considering the gravity of the consequences of the defendant's deeds, the prescribed imprisonment should be raised to the medium degree, which is reclusion perpetua, and the fine to P10,000.00. The

appealed judgment is modified accordingly with costs against the appellant.

Ozaeta, Actg. C.J., Pablo, Bengzon, Montemayor, and Reyes, JJ., concur.

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