

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MARGARITO CAMPOS (ALIAS DODONG), DEFENDANT AND APPELLANT.

*G.R. No. L-1549. November 02, 1948*

Ponente: PERFECTO, J.

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### PERFECTO, J.:

The witnesses for the prosecution testified in substance as follows:

Jovito Soria, 36, roared, teacher, Clarin, Bohol, testified that in the early part of July, 1948, at about 4:00 o'clock at dawn, the witness was awakened in their evacuation place in Clarin by a shout not to move to avoid losses. Then Antonio Racaza, with the accused, "rushed to our door with one Japanese coming from the window" with a flashlight. Racaza had a flashlight. They were looking for Benito Soria and the witness answered that there was no Benito Soria there but only Jovito Soria. (1,2 ). A Filipino outside said, "That is the one." Racaza told the witness to stand up and tied him with rope at the back near the window. The witness was tied by Campos and other Filipino undercovers. The witness has asked: "Sondaro, sondaro?" to which he answered; "No, I, there is no single soldier." Campos boxed him in the stomach and he fainted. The witness had been inducted as civilian soldier and as signal officer in charge of the telephone. Arrested with the witness was Leonilo Mercado, Mayor of Sibonga. (3). Early in the morning he was brought to the chapel of Clarin. Leonilo Mercado was arrested in his house, but when the witness was brought there, Mercado was not there anymore. When Leonilo Mercado and the witness were inside the chapel, they were boxed by the accused and others, (4). From the chapel they were brought to Inabanga and confined in the municipal jail therein. After two or three days, the accused and one Japanese officer brought the witness to the Home Economics school building of Inabanga and he was forced to surrender arms, and because the witness had no arms he was boxed by the accused. (5) The accused whipped him also. The accused was in the Kempei-Tai, and used to go armed and with the Japanese to make arrests. (6). Yamaguchi brought the witness back to Clarin where he was detained for about two weeks. (7).

Abundia Soria, 34, married, Clarin, testified that the accused was among those who arrested her husband in their evacuation place in Catongan, Bonbon, Clarin, about the first of July, 1944. Her husband was tied by the accused Jesus Campos, Teofilo Labra, Ati Adlawan and Antonio Racaza, but the witness does not know where they brought him. The witness was left in the house. Leonilo Mercado was also arrested. Her husband was a soldier of the guerrilla. Perhaps he was maltreated because the witness heard shouts of pain. The witness saw her husband again in the chapel. (18). There she saw also Leonilo Mercado, with bruises and bleeding. The accused was armed. She saw her husband when he came back from Inabanga, he was one of the prisoners in the Kempei-Tai headquarters in Clarin. (19). One of the prisoners was Leonilo Mercado. (20). Her husband cried of pain because he was maltreated among others by the accused.

Donato Apricio, 44, married, policeman of Clarin, testified that on the morning of July 1, 1944, he saw in the chapel Jovito Soria and Leonilo Mercado who were tied, followed by two undercovers and Japanese. The "

accused was one of the undercovers. The witness saw the accused in the school building of Clarin. He was a member of the Tempei-Tai. (23). He was issuing passes to civilians. The witness was a policeman under the Japanese. He was trusted ;aan of the Mayor. The accused always joined the Japanese patrol for the purpose of apprehending guerrilla soldiers. Those arrestid were taken to the Tempei-Tai headquarters and investigated. (23). Mercado and Soria were brought to the chapel at 7:00 o'clock in the morning. (24).

Romualdo Tukib, 28, married, church clerk, Clarin, testified that in July, 1944, at about 10:00 o'clock in the evening, the accused and other undercovers investigated the witness concerning a telephone apparatus. They took him to the Tempei-Tai headquarters, where he saw Jovita Soria as prisoner together with undercovers and Japanese. The next day, he saw the accused whip Jovito Soria. The accused boxed and kicked the witness, blaming him for the telephone apparatus. (25,26). The witness was not a guerrilla. The accused was armed. He used a leather belt in whipping Jovito Soria, who was arrested ahead of the witness. The witness is blind on the left eye. (28).

Jose do la Cerna, married, customs inspector, Cebu City, testified that on July 29, 1944, there was a bloody struggle which culminated in the mass arrests of people in the vicinity of Doljo, Mambaling, Basak, up to Talisay. The witness was arrested in his house in Basak by two Japanese soldiers. He was told by the Japanese soldiers to proceed to the schoolhouse immediately as there was a meeting there. The two Japanese soldiers left his house and immediately went to the other houses. When the witness arrived at the Basak school he saw many persons already sitting. The newcomers were segregated from the group. Filemon Delgado, an undercover, went with a boy to the witness' group and asked him. to tell who are those connected with the guerrilla and those who contributed money. The boy pointed to the witness as one of the suppliers of the guerrilla and indicated the person who was the messenger of Governor Abellana connected with the guerrilla. Delgado dragged the witness from the group and brought him to Watanabe who boxed him. The witness fell to the ground, and Antonio Racaza stepped on his throat. He became unconscious, and when he recovered consciousness he was brought to the school with his hands tied behind his back. Roberto Bautista, another undercover, started investigating about Governor Abellana and the witness brought Domingo. Roberto Bautista beat him with a wooden stick. Other undercovers, unknown to the witness, told Bautista that the witness was connected with the Cebu customs house and had firearms. There were many who were investigated and were later killed in Toong. (28-31).

Guillermo Cañizares, 56, married, farmer, Sibonga, Cebu, testified that he knows the accused who is also known as Dodong. On May 7, 1942, the accused, with Jesus Campos and Olando confiscated witness' shotgun to be surrendered to the Japanese. The accused and companions said that the confiscation was on orders of the Japanese. (36) Jesus Campos stated that he was working under the Japanese intelligence division and that his companions were under him. (39, 40).

Roberto Lariosa, 1946, single, public school teacher, Sibonga, Cebu, testified that on May 5, 1942, on the way to barrio Taloot, Jesus Campos accompanied by the accused snatched his revolver. Showing something written in Japanese characters, Jesus Campos said that it was the authority given to him by the Japanese to confiscate all firearms for the Japanese. (44). And that the accused was his subordinate and that both were working for the Japanese. At that time the accused did nothing. (45). The incident happened at 4:00 o'clock in the afternoon. (46).

Kong Niko, 47, married, merchant, Sibonga, Cebu, testified that he knew the accused since he came to the Philippines in 1915. On May 7, 1942, Jesus Campos and the accused went to Toong, where the witness was harvesting his corn at the time and told him to surrender his revolver, otherwise the Japanese general would bring two carloads of Japanese soldiers to the place. Jesus Calapos and the accused were both carrying a pistol. 0+9,50). The witness delivered his firearm to Jesus Campos. The accused said that the Japanese ordered him to confiscate the firearm. ( On cross-examination the witness testified that, although he arrived from China since 1915 he came

to know the accused in 1925- (52).

Tereso Sanchez, 26, married, laborer, Mambaling, Cebu City, testified that on July 29, 1944 the civilians in Mambaling were apprehended and grouped together and whoever was pointed as a soldier by an undercover named Boy was tied. The accused was present and gave blows to the soldiers. Jose de la Cerna was in the school building of Basak where he was tied and beaten with an iron pipe by the accused. The witness slept in the school building of Basak. The next morning, July 30, those who were apprehended were made to go down from the school building. Tsuriyama, the head of the Kempel-Tai, ordered them to be brought to the mountain of Toong, where they were killed. Among the undercovers present were Antonio Hacaza, Julio Nolasco, Vicente Cobarrubias, Filemon Delgado, (56-59), Perfecto Labra, and others. When they reached the mountain, all those apprehended were ordered to sit down. Ten minutes later, the witness heard the report of a pistol. Then the Kempel-Tai leader ordered them to go to the firing line and upon arriving there the witness saw one of his companions who was killed, not knowing by who. Before the witness was shot, he saw the accused kill Dodong Martinez. Dodong Martinez was made to turn his back. The undercovers took their pistols and asked Dodong where his arms were. Dodong could not tell because he was not a soldier. He was shot. (60). The accused used a revolver. There were about 17 who were killed. What they did to the witness was similar to what they did to Dodong Martinez. He was shot by Filemon Delgado. "I was hit on the back of my neck on the left side and the bullet went out on my cheek under the left eye." As a result, the witness lost the sight of his left eye. The witness showed a scar on the left side of the neck but no scar was found below the left eye. (61). The bullet hit him on the nape of the neck and went out below his left eye. (65). Below the left eye the witness showed an elongated scar, about, two centimeters just on the rim of the lobe of the eye. (67).

Dionisio M. Flores, 51, married, physician, Cebu City, testified that he finished medicine in Santo Tomas University in 1921 and has practiced medicine since then. He practiced surgery for three years in the hospital. The scar on the left lower nape of Tereso Sanchez is probably due to a bullet wound. It is hard to determine whether the scar below the left eye is due to a bullet wound or some other weapon. It is possible that a bullet could have made its exit from the left eye, and that it is possible for a man to live after having been hit by a bullet, entering his lower left nape, and making an egress below the left eye if it did not touch any important vessel. (69, 70, 71). The witness said that it is quite hard to determine whether the scar below the left eye of Tereso Sanchez is due to a bullet wound or to a surface wound. He did not examine Sanchez at the time he received the wound. It is hard to determine if the scar is due to a wound which was the egress of a bullet. (78).

Antonio de la Cerna, 28, married, laborer, Cebu City, testified that at 7 o'clock in the morning of July 29, 1944, he was arrested by undercovers in Mambaling. He was ordered to group together with others in Mambaling and he saw several undercovers, including the accused, who was one of those who boxed him. He also maltreated others. (80). The leader of the Japanese Subitai arrived. He went to a house at the plaza in front of the chapel of Mambaling and ordered the arrested persons to form a line one by one, and then ordered them to walk with their face turned to the left. Behind the Japanese leader there were two persons placed in concealment in the house, named Boy and Tirzo, who indicated who were soldiers and who were not. Boy told the Japanese that the witness was a soldier. Then Campos tied him and asked him where his arms were. Because the witness did not reveal his arms and said that he was a civilian, Campos "boxed and kicked him. The witness was brought with others to the schoolhouse of Basak, where he was tied and linked together with others. (80). At 7:00 o'clock the next morning, the witness and others were made to walk towards Sandayong "barrio. There they found a man "bathing. He was arrested and asked where his soldiers were. Because the man did not tell where the soldiers were, he was tied, hanged and beaten. Then they were brought to Toong. (81). The Japanese were making sketches of the place where the arrested persons were going to be killed. They were asked for their arras and those who did not reveal theirs were killed by the undercovers and the Japanese. The accused killed Dodong Martinez. (82). He tied a

revolver. (83).

Before the evidence for the defense, the accused admitted that he is a Filipino citizen. (85, 86).

The witnesses for the defense testified in substance as follows:

Bernarda Regodon, 28, married, Sibonga, Cebu testified that she heard that the accused was captured by the Japanese together with Jesus Campos. (87).

Mariano T. Jaucian, 35, married, testified that the first time he saw the accused he was being held by the Japanese as a military prisoner, the same as Jesus Campos and Silvino Centeno. That was way back in 1942 At that time the witness was in the Cebu police attached to the Japanese military police. After two or three months, the prisoners were forwarded to Manila.(90) The accused was investigated by Sergeant Tagashi Yoshida at the Snead dormitory. He was severely maltreated with a baseball bat, required to stand with a can full of water on his head, and for every drop he allowed to fall he was beaten, or maltreated. (91). The accused fell unconscious three of four times. A Japanese doctor gave him injections to revive him. (93).

Antonio Racaza, 25, single, testified that he knew the accused in Bohol, when he was sent there by the Japanese. Yoshida entrusted him to Watanabe as a prisoner in Clarin on July 25, 1944. The witness was the chauffeur of Watanabe. (95). The accused was assigned to the Vuchen and slept in a room used as a prison cell. He helped in the cooking of food and taking of water. He remained there from the month of June to July 25, 1944 when he went to Cebu. (97).

Margarito Campos, 29, single, the accused, testified that on July 7, 1912, he was arrested by the Japanese imputing to him the making of anti-Japanese propaganda and espionage. He was arrested with Jesus Campos. They were taken to Snead dormitory, served as a Japanese prisoner. Yoshida investigated them as to the arms taken by Jesus Campos. (100). The accused was beaten with an indoor baseball bat and was forced to lift a can full of water. Whenever he lacked enough strength to hold the can, he was beaten. The operation took place for two or three hours. The accused said that he took no part in the collection of arms. He was confined in the Snead dormitory for more than three months. (101). On September 26, 1942, the accused escaped, but three days later, September 29, he was recaptured by the Japanese. He was again maltreated On September 29, 1944, he was brought to the Japanese Subitai in San Carlos College where he was forwarded to the Kempei-Tai which maltreated him. He was boxed, beaten with the butt of the rifle by the Japanese officers and soldiers. He was asked with regard to his escape. He was kept by the Japanese Kempei-Tai until October 7, when he was sent to Manila. (102). He was sent with several co-prisoners under heavy guard in a steamship. On arriving in Manila on October 7, they were brought to the Japanese military administration, at the Marsman building. Then they were brought to the Bilibid Prison. (103) In December, 1942, he was court-martialed together with Jesus Campos and S. Campos for anti-Japanese propaganda and espionage. The charge was not true. It was not true that the accused is one of those who apprehended Jovita Soria, a school teacher of Clarin. The witness was one of the prisoners brought to Clarin under the custody of the Japanese Watanabe. it is not true that he arrested Cirilo Hercado, mayor of Sibonga. He had not killed Dodong Martinez whom he does not even know.. He was not present in the mass arrest in Basak on July 29, 1944, because he was sent back to the normal school building where he was imprisoned again. It is not true that he maltreated and tortured Jose de la Cerna. While the accused was in Basak, the Japanese asked him whether he knew de la Cerna, and he answered that he did not know him. (38). De la Cerna was asked if he knew the accused and he answered no. The Japanese ordered them to push each other. It is not true that the witness was present during the Basak massacre or that he had beaten de la Cerna with an iron pipe. (105). After the accused was court-martialed in Manila, he was sentenced to seven years imprisonment, and in January, 1943, he was sent to Bilibid Prison in Muntinlupa. (106). The court-martial was presided over by five

Japanese officers. There was an interpreter. There was no prosecutor. The interpreter acted at the same time as prosecutor. (108). There was no one who testified against the accused. He was made to answer the charges against him. No defense counsel was assigned to the accused. His witnesses were presented against the accused. (110). The accused was not allowed to present witnesses in his favor. The court-martial trial lasted for half an hour. (111).

Felipe C. Moreno, 41, married, goldsmith, Cebu City, testified that the accused was staying with him when Jesus Canipos ordered this arrest. (12C). The witness was not present when the arrest took place. (120, 121).

Cornelio C. de los Santos, 35, single, attorney-at-law, resident of Sibonga, testified that on July 16, 1942, when he was taken from Sibonga to Cebu City, he was placed in a cell where the accused and others were confined. They were together from July 16 to August 27 when the witness was transferred to the Cebu Provincial Jail, as a prisoner of war. (124, 125).

Margarito Campos, recalled, declared that there was a high ranking officer of the Philippine Army who was confined with him in the cell. It was Col. Emanuel Baja, who wrote a poem, one dedicated to his wife who was a hostage at Fort Santiago and the other "The Rosary" dedicated to Raymunda Guidote, his prisonmate inside the Bilibid Prison. They read as follows:

"PRISONER'S SONG (Dedicated to Mrs. Emmanuel Baja,  
Fort Santiago, Manila

"Resigned to fate and all I hope and pray  
Throughout the long weary hours of the day  
Thus I measured my time from morn till night  
Praying and hoping for the Division Light.

"A night of waiting is soon passed and gone  
Hopeless, yet a new hope comes with each dawn.  
Like waves although on shores or crags breaking  
Still keep on surging and keep on coming.

"As each hope dies one much stronger is born  
Too on the wings in the early morn  
Soaring heavenward and reaching the sky  
From whence it flies back to earth with a sigh.

"Though dreams would wither and hopes fade away  
Happy I greet the birth of a new day  
With brighter hope each time  
A prayer so sacred and more sublime.

"However thorny, rough and dark is my way  
Though cruel and brutal and bitter each  
passing day  
I do not lose hope till end of my trail  
Where naught prevails and prayer will avail.

"ROSARY (Dedicated to Raymunda Guidote)

"The Rosary your hands have wrought  
From old days in your prison cell  
Recalls my good old thoughts of stories Mother used to tell

Of parables told by Father, pious stories of olden time  
Of prayer songs sung by Mother and of church bells telling their chimes.

"As the Angelus ushers the night when old folks  
at home kneel and pray  
The vesper bells in the twilight at the close and end of the day  
Rosary, oppressed's salvation, you have coursed divine life, light and love  
The illumination, true devotion and the glows from high above  
And in my misery I pray a new Rosary day by day  
Be eternal, everlasting, forever and ever  
Amen.

"My guards may burn your Rosary  
They may tear cross and beads apart  
But it will remain in my memory  
For I enshrine it in my heart."

The evidence on record has proved conclusively that appellant, a Filipino citizen, as an undercover in the service of the Japanese, participated in the arrest of Jovito Soria, a teacher who was inducted as civilian soldier and a signal officer, in charge of the telephone of the resistance movement, and that he, on July 21, 1944, in the mountains of Toons, killed Dodong Martinez, one of the civilians who as guerrillas were arrested in Mambaling on July 21, 1944, and gathered first in the schoolhouse of Basak before being brought to the execution ground in the mountains. Jovito Soria and his wife Abundia have testified about the arrest of the first, and the killing of Dodong Martinez was testified to by Tereso Sanchez and Antonio de la Cerna. As regards the alleged arrest of Leonilo Mercado, there is no satisfactory evidence that the accused took part in it. There is conclusive evidence that he was one of those arrested and later confined in the Japanese garrison in Clarin, but there is nothing to show as to who actually effected his arrest.

The acts committed by appellant constitute the crime of treason as defined and punished by Article 194 of the Revised Penal Code. The lower court sentenced him correctly to suffer life imprisonment, which should be understood to be reclusion perpetua with the accessories of the law, and to pay a fine of P10,000 and the costs.

The appealed decision is affirmed.

Moran, C.J., Ozaeta, Paras, Feria, Pablo, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

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