

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SABAS DAVID, DEFENDANT-APPELLANT.*G.R. No. L-2472. April 25, 1950*

Ponente: MORAN, C.J.

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This is an appeal from a decision of the Court of First Instance of Quezon finding defendant-appellant guilty of the felony of treason on three counts, and sentencing him to suffer the penalty of reclusion perpetua, with the accessory penalties prescribed by law, to pay a fine of P5,000, and the costs.

It appears that appellant Sabas Davis, admittedly a Filipino citizen, was the barrio-lieutenant of barrio , Kilait, Atimonan, Quezon province, prior to the outbreak of the war in 1941. He then belonged to the Sakdal Party, which became the Ganap Party during the Japanese Occupation period.

After the occupation of Quezon province by the Japanese Forces, appellant David returned to his hometown of Kilait, Atimonan, and identified himself as a captain of the Makapili and Yoin pro-Japanese organizations. In fact, his office was labeled "Tanggapan ng Hukbong Makapili" and on his office table was a desk sign with the word "Yoin". He went about armed with a bolo and a revolver. These facts have been established by the testimonies of Bernardino V. Deseo, Wencaslao L. Altea, Guillermo Cervantes and Gil Marquez.

One day during the early part of February, 1943, appellant David, armed with a pistol and a bolo, went to the house of Bernardino V. Deseo with two companions and demanded that Deseo surrender his shotgun. When Deseo informed him that the firearm had already been surrendered to the Mayor, David replied, "I have the same right as the Mayor, why did you not surrender it to me?" When he was shown the receipt proving that the firearm had been surrendered to the Mayor, appellant David left with his companions. This fact has been proven by the testimonies of Bernardino Y. Deseo and Gil Marquez.

In the morning of January 31, 1945, a certain Melecio Alba went to the house of Wenceslao L. Altea in the poblacion of Atimonan and told Altea that he was wanted at the garrison. Arriving at the garrison, Altea was told to see the captain who turned out to be appellant David. When Altea asked David why he was summoned, David replied "Why are you discourteous. Do you know that I am the captain of the Yoin and Macapilis of this garrison?" Whereupon, David demanded that Altea surrender his revolver. When Altea replied that he had no revolver, David had him jailed and hanged by the neck and hands with his toes barely touching the floor. At this time, Gil Marquez, who came with Altea's wife to plead for the release of Altea, saw the latter hanging inside the cell. After about four hours in this position, Altea was released upon signing an affidavit pledging loyalty to the Japanese government. These facts have been proven by the testimonies of Wenceslao Altea himself, and Gil Marquez.

On a certain day in February of 1945, when Deseo went to make his periodic report at the office of appellant David, he saw Andres Parco inside a cell being maltreated by appellant's soldiers. Deseo saw that sometimes David would stay in his office and sometimes he would peep into the cell of Parco and give orders to the soldiers.

On the following day, when Deseo again went to appellant's office to present himself, he saw Parco confined in the same cell as the previous day. About eleven o'clock of that morning, Deseo was ordered by appellant to sign in a registry book, and then he was told to wait. At this moment, Deseo heard appellant say "It is already eleven o'clock. Take him out. Let him bring the shovel and iron bar (barita)." It was at this moment too that Gil Marquez who had come upon summons of appellant David, met Deseo in the same office and saw Andres Parco hanging inside a cell. Then, Marquez saw David proceed to the cell and order the guard "It is already late. Take him out" (referring to Parco). Deseo and Marquez then saw the soldiers bring out Parco with his left hand tied and carrying a crow bar and a shovel. About an hour later, Deseo and Marquez, who were still in the office of appellant, saw the soldiers returning without Parco and they themselves were carrying the crow bar and shovel which Parco carried when they first left the office. Ever since then Parco had never been seen again. These facts have been firmly proven by the testimonies of Deseo and Marquez.

During the trial in the lower court, after the prosecution had presented its evidence, the defense moved for dismissal on the ground of insufficiency of evidence. This motion was denied and upon resumption of trial, the defense rested its case without presenting any evidence.

This Court finds no reason for disturbing the findings of the trial court. All the elements of the crime of treason have been fully established.

FOR ALL THE FOREGOING, the judgment of the trial court, being in accordance with the law and its evidence, is hereby affirmed in toto.

IT IS SO ORDERED.

Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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