

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RUFINO RAMIREZ, VICTORIANO CORPUS AND PLACIDO DE OCAMPO, DEFENDANTS AND APPELLANTS.

G.R. No. 13997. March 08, 1919

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13997/>

MALCOLM, J.:

By appropriate information, Rufino Ramirez, Victoriano Corpus, and Placido de Ocampo were charged in the Court of First Instance of the city of Manila with the crime of abduction with force. The trial proceeded as to the defendants Corpus and De Ocampo, the other accused Ramirez not yet having been arrested. The trial court found the two defendants guilty as principals of the crime of frustrated abduction, with the aggravating circumstance of nocturnity, compensated by the extenuating circumstance provided by article 11 of the Penal Code as amended, and sentenced each of them to eight years and one day of prision mayor, with the corresponding accessory penalties, and to pay one third of the costs. This is an appeal from that judgment.

The facts established by the prosecution, no defense having been interposed, are the following: Rufino Ramirez was, prior to October 13, 1916, an unsuccessful lover of a young lady named Regina Tolentino. In view of his disappointment, Ramirez sought the aid of Victoriano Corpus and Placido de Ocampo for the purpose of abducting the girl. On October 13, 1916, the three defendants hired an automobile, it then being nightfall, and proceeded toward the district of Santa Mesa, city of Manila, stopping at the Rotonda. Regina Tolentino, accompanied by a male companion, Francisco Malabunga, and a female companion, Marcelina Tolentino, while walking in Calle Santa Mesa, was suddenly grasped by Placido de Ocampo. Marcelina Tolentino and Regina Tolentino, amidst screams, struggled against Placido de Ocampo but without success. Regina was forcibly taken to the automobile where Rufino Ramirez waited for her. Victoriano Corpus, during this occurrence held Francisco Malabunga. To prevent Regina Tolentino from screaming any further, De Ocampo and Ramirez placed a handkerchief over her mouth. While in the automobile Regina fainted. Thus senseless the girl was taken by the accused in the automobile to a place near the cemetery of Balic-balic. Upon reaching this place, the chauffeur because of his suspicions deliberately ran the automobile into the mud, telling the accused that the automobile could not go any further. The two defendants thereupon, together with Rufino Ramirez, left the car and took Regina to the rice paddies. The girl who had just come to her senses renewed her screaming. The neighboring people responded promptly to the outcries for help, and the accused, upon seeing that many people were coming to the aid of the girl, fled.

Appellant's assignments of error divide into three main issues: (1) The refusal of the trial court to continue the case; (2) the presence of the essential elements that go to constitute the crime of abduction with force; and (3) the degree of the offense.

- CONTINUANCES.—The attorney for the appellants contends that the court erred in refusing to grant a further continuance with a view to giving the defense an opportunity to look for their material witness, who in the case at bar was also one of the accused. It is claimed by counsel that "It is the right of every accused to be able to

present as a witness any person whom he believes to be necessary for his defense," and that to deprive him of said right would be tantamount to denying him one of the means allowed by law for his defense. Before discussing this error let us notice briefly what the facts are.

The information was filed by the assistant fiscal of the city of Manila on October 18, 1916. The case came to trial on April 3, 1918. Between the day when the information was presented and the day of the trial about sixteen months had elapsed, during which time the defendants had obtained seven continuances. This was the situation when the case was called, and counsel for the defense asked for further time to find the coaccused Ramirez. This again was the situation when after the prosecution had presented its evidence counsel renewed the motion and the judge denied the same.

Applications for continuances are addressed to the sound discretion of the court. In this respect, it may be said that the discretion which the trial court exercises must be judicial and not arbitrary. It is, the guardian of the rights of the accused as well as those of the people at large, and should not unduly force him to trial, nor for light causes jeopardize the rights or interests of the public. Where the court conceives it to be necessary for the more perfect attainment of justice, it has the power upon the motion of either party to continue the case. But a party charged with a crime has no natural or inalienable right to a continuance.

The ruling of the court will not be disturbed on appeal in the absence of a clear abuse of discretion. When the discretion of the court is exercised with a reasonable degree of judicial acumen and fairness, it is one which the higher court is loathe to review or to disturb. The trial judge must be to a certain extent free to secure speedy and expeditious trials when such speed and expedition are not inconsistent with fairness. Since the court trying the case is, from personal observation, familiar with all the attendant circumstances, and has the best opportunity of forming a correct opinion upon the case presented, the presumption will be in favor of its action. It would take an extreme case of abuse of discretion to make the action of the trial court a denial of due process of law.

Other jurisdictions have held that three things are necessary to put off a trial on account of the absence of a witness: First, that the witness is really material and appears to the court to be so; second, that the party who applies has been guilty of no neglect; and third, that the witness can be had at the time to which the trial has been deferred, and incidentally, that no similar evidence could be obtained. (*Dyer vs. Rossy* [1916], 23 Porto Rico, 718.) A mere allegation that the postponement was requested on the ground that a witness important to the defendant's case was absent, is not sufficient to warrant the assertion that the court improperly exercised the discretionary power conferred upon it by law. (*People vs. Enrique Otero & Co.* [1912], 18 Porto Rico, 51.) There must be, in any case, in order to sustain the motion, facts from which the court can infer that there is a reasonable prospect that the attendance of the witness, or his testimony, can be procured at a future day. (*People vs. Ah Yute* [1879], 53 Cal., 613.) It has been held not to be error to refuse a continuance because of the absence of the accused's co-defendant then a fugitive from justice. (*People vs. Cleveland* [1875], 49 Cal., 577; *Ortiz vs. State* [1912], 151 S. W. [Tex.], 1056.)

Rufino Ramirez, the coaccused, is admitted to be a fugitive from justice. Counsel, after seven continuances had been granted in the lower court, nowhere purposes to have said witness before the court at a specified time. At the trial the attorney upon being asked by the court to state whether or not he could make certain the attendance of the witness replied as follows: "I cannot bind myself to find him for the reason that we do not know his whereabouts." If continuances could be procured on the ground of the absence of one of the material witnesses without stating that the witness can be brought before the court at a reasonable time in the future, the delays in the administration of justice would soon become intolerable. Whilst great liberality should be extended to persons charged with crime in preparing their defense and particularly in procuring the attendance of witnesses, the rule must not be relaxed so as to defeat the ends of justice. (See generally the California and Porto Rico decisions hereinbefore

cited; U. S. vs. Jarandilla [1906], 6 Phil., 139; U. S. vs. Lorenzana [1908], 12 Phil., 64; Code of Civil Procedure, sec. 141> and 16 Corpus Juris, pages 460 et seq.)

It is held that the trial court committed no error in refusing to continue the case.

- ABDUCTION OP ARTICLE 445 OF THE PENAL CODE ANALIZED.—Article 445 of the Penal Code reads:

"The abduction of a woman againts her will and with lewd designs shall be punished by reclusion temporal.

"The same penalty shall be imposed in every case if the female abducted be under twelve years of age."

Both the civil and the common law authorities agree in the conclusion that the crime of abduction is one "sumamente grave y odioso" (highly serious and detestable.) The penal law regarding abduction, says the supreme court of Spain, was intended to punish the offense against public morality and the insult to the family of the abducted girl. (Decisions of the supreme court of Spain of November 30, X876; June 19, 1891; and June 15, 1895; U. S. vs. Bernabe [1912], 23 Phil., 154.) The abduction statutes, say the American authorities, were intended for the preservation of the peace of the home and the virtue of inexperienced females, and to save the members of the family from sorrow and disgrace. (People vs. Fowler [1891], 88 Cal., 136; State vs. Overstreet [1890], 43 Kan., 299; People vs. Bristol [1871], 23 Mich., 118; State vs. Chisenhall [1890], 106 N. C., 676; Rex vs. Pigot, 12 Modern 516, 88 Reprint, 1488.) The three elements in the crime punished "by article 445 of the Penal Code are: (1) That the person abducted be a woman; (2) that the abduction must have been against the will of the woman; and (3) that the abduction must have been for lewd or unchaste designs. (5 Viada, Codigo Penal, 143; U. S. vs. Borromeo [1912], 23 Phil., 279.)

That the first two elements are here present is incontestable. The "taking," as contemplated by the Code, is demonstrated by the force used in snatching the offended girl from a street in the city of Manila and carrying her to the rice paddies some distance away. Stress is laid by counsel for appellants on the absence of the third essential element, namely, lewd or unchaste designs. Necessarily, if this specific element is lacking, the defendant must be acquitted. (U. S. vs. Caido [1905], 4 Phil., 217.) It takes the concurrence of all three elements to constitute the crime.

In a criminal action for abduction, in order to demonstrate the presence of the lewd designs, actual illicit criminal relations with the person abducted need not be shown. (Decision of the supreme court of Spain, June 19, 1891; U. S. vs. Bernabe, supra; U. S. vs. Meneses [1909], 14 Phil., 151.) The intent to seduce the girl is sufficient. The evil purpose need not be established by positive evidence but may be inferred from acts or conduct proved. (People vs. Marshall [1881], 59 Cal., 386.)

The presence of the lewd designs is here revealed by¹ the actions of the accused. Among other indications of this intent can be mentioned the taking of the girl at night by the use of force and threats to overcome her resistance; the act of embracing her while in the automobile; the proposition to go to a house in Balic-balic; the beating of the chauffeur who did not want to start the engine of the automobile, and the fact that Rufino Ramirez had been making love to the girl prior to the abduction.

It is held that the trial court committed no error in finding the accused guilty of a violation of article 445 of the Penal Code.

- DEGREE OF THE OFFENSE.—It being conceded that sexual intercourse is not necessary in order to commit abduction wherein lewd designs is an essential element, the crime is a consummated one, for the reason that the evil which the law contemplated in providing for the offense has been effected. Although Rufino Ramirez appears as the moving spirit in the commission of the crime, nevertheless the present appellants Placido de

Ocampo and Victoriano Corpus are guilty as principals in that they took a direct part in the commission of the crime. (Decision of the supreme court of Spain of March 10, 1897; U. S. vs. Borromeo, supra.)

In the commission of the crime there was present the aggravating circumstance of nocturnity. It is clear that the appellants selected the night time for their detestable act, knowing that they could not accomplish it as easily or at all in the day time.

The trial court gave the appellants the benefit of the provisions of article 11 of the Penal Code as amended by Act No. 2142. This Court holds that the benefits of article 11, of the Penal Code as amended should not be extended to persons who commit crimes against chastity.

There being present in the commission of the crime one aggravating circumstance not compensated by any mitigating circumstance, the penalty provided by article 445 must be imposed in the maximum degree. In consonance with this result, judgment is reversed and each defendant and appellant is sentenced to seventeen years, four months, and one day of reclusion temporal, together with the corresponding accessory penalties, and to pay one third of the costs in the first instance and one half of the costs in this instance. So ordered.

Arellano, C.J., Torres, Carson, Araullo, Street, Avanceña, and Moir, JJ., concur.

Judgment reversed, penalty increased.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.