

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE MAGNO, DEFENDANT AND APPELLANT.*G. R. No. 17312. October 12, 1921*

Ponente: JOHNSON, J.

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The defendant herein was charged with a violation of the Election Law (sec. 2639 of Act No. 2711), alleged to have been committed as follows:

"That on or about June 6, 1919, in the Municipality of Mangatarem, Province of Pangasinan, Philippine Islands, the said accused who was then the chairman of the Election Board of the 4th Electoral Precinct of Mangatarem, after the elections of June 3, 1919, had been finished and the three election inspectors, namely, the accused Jose Magno and Cenon Labrador and Guillermo Toledo had prepared and signed the corresponding Election return and the result of the election in said precinct in which the candidates for representative for the second district of Pangasinan (comprising said municipality), to wit, Alejandro de Guzman, Hilarion Magno, and Lamberto Siguion obtained 157, 168, and 35 votes respectively had been proclaimed, the aforesaid accused maliciously hid or retained in his possession the said Election Return and in lieu thereof he prepared, wrote and signed another return which he sent by registered mail to the Provincial Treasurer of Pangasinan in which return he voluntarily, illegally and criminally, and knowingly committed a falsehood in counting and certifying the number of votes received by the candidates and made and signed a false statement or declaration of the result of the election, to wit, by adjudicating to the candidate, Alejandro de Guzman 35 votes only instead of the 157 which the latter actually received in the election, by adjudicating to Hilarion Magno 68 votes instead of the 168 received by him, and to Lamberto Siguion 257 instead of the 35 votes cast for him by the voters and by this means the number of votes obtained by the last named candidate was increased by 222, and the accused committed the aforesaid acts for the purpose of favoring the said Lamberto Siguion in the canvass by the Provincial Board. In violation of law."

Upon the foregoing information the accused, defended by several attorneys, was tried in the Court of First Instance of the Province of Pangasinan. The trial consumed several days, and the transcript of the stenographic notes, together with the documentary evidence adduced, reached a considerable bulk. After the trial of the cause, the Honorable V. Nepomuceno, judge, in an exhaustive and very carefully prepared opinion, in which he analyzed in detail all of the evidence, arrived at the conclusion that the defendant was guilty of the crime charged in the complaint, and sentenced him to be imprisoned for a period of one year, to pay a fine of P500, with subsidiary imprisonment in case of insolvency, and to pay the costs. From that sentence the defendant appealed to this court.

Regardless of the documentary evidence consisting of plaintiff's Exhibits G, G-1 to G-5, K, K-1, L, and L-, which the appellant contends should not have been admitted by the lower court, we find that the following facts are proved beyond a reasonable doubt, and, indeed, are not seriously disputed:

- In the general elections held on June 3, 1919, in the Municipality of Mangatarem, Province of Pangasinan, the appellant Jose Magno was appointed chairman of the board of election inspectors of the fourth precinct of said municipality. Cenon Labrador and Guillermo Toledo were appointed members of said board.

- On the morning of June 4, upon the termination of the count of the votes, the appellant, as such chairman aforesaid, proclaimed the result of the elections in the said fourth precinct of Mangatarem; and, for the office of Representative, he announced that the following candidates obtained votes, respectively, as follows:

Alejandro de Guzman.....

157

Hilarion Magno.....

168

Lamberto Siguion

35

Aquilino Banaag.....

8

Victor Tomolden.....

1

There is not the slightest doubt in this case that the foregoing was the correct and true result of the election of Representative in the precinct in question. The correctness of such result of the election, so proclaimed by the appellant, as aforesaid, immediately upon the termination of the count of the votes, is conclusively corroborated (a) by Exhibit E—a tabulated result of the elections, prepared by the municipal treasurer of Mangatarem from the report furnished him by the election inspectors, among whom was the appellant, who according to said treasurer, gave him exactly the same result as that proclaimed by said appellant as above set forth; and (b) by Exhibit N—a record of the number of votes received by the different candidates in the precinct in question, which record was made, during the counting of the votes, by the watchers Paulino Seralde and Julian Olegario, and according to which the different candidates for Representative obtained, respectively, the number of votes which the appellant proclaimed as aforesaid.

- 3. After the proclamation of the result of the election by the appellant, the said inspectors prepared four copies of "Election Return," in due form. Two copies were signed by the three inspectors and retained by the appellant. The other two copies were signed only by the inspectors Cenon Labrador and Guillermo Toledo, for the reason that the appellant, Jose Magno, refused to sign them unless they were also delivered to him—a request to which his two colleagues did not accede. The said copies of election return contained the true and correct result of the elections in the precinct in question.

- Later, the appellant and his said colleagues delivered to the municipal secretary the ballot boxes, duly sealed, but not the election returns, the appellant alleging that they had not yet been signed.

- On June 10, 1919 (see Exhibit F) the provincial treasurer of Pangasinan received from the appellant, by registered mail, an election return (plaintiff's Exhibit B, fol. 86, rec), purporting to have been signed by Jose Magno, as chairman, and Cenon Labrador and Guillermo Toledo as members of the board of inspectors of the fourth precinct of Mangatarem. On the 9th day of June, there was also received in the Executive Bureau an election return (plaintiff's Exhibit D-3, fol. 93, rec), which is exactly similar in every respect to that received by the provincial treasurer (Exhibit B). The municipal secretary of Mangatarem also received from the appellant (the date not appearing of record) defendant's Exhibit 2 (fol. 223), a copy of election return identical to Exhibits B and D-3. All of these election returns (Exhibits B, D-3, and 2) give the result of the election for Representative in the

fourth precinct of Mangatarem, as follows:

Alejandro de Guzman..... 35 votes (instead of 157);

Hilarion Magno..... 68 votes (instead of 168);

Lamberto Siguion..... 257 votes (instead of 35);

Aquilino Banaag" 8 votes (no change);

Victor Tomelden..... 1 vote (no change).

It is these election returns (and particularly Exhibit B, which was received by the provincial treasurer from the appellant, by registered mail, as aforesaid) that the said appellant was accused of having falsified.

The only question presented by this appeal is that raised by appellant's second assignment of error, viz.: whether or not said election returns Exhibits B, D-3, and 2 are false and simulated.

It is admitted that the appellant's signature on each of said exhibits is genuine. And it is contended in his behalf that his coininspectors, Cenon Labrador and Guillermo Toledo, also signed said documents. Both of the latter, however, positively swear that they never signed any of said documents ; that their alleged signatures appearing thereon were forged or simulated; and that all of the copies of election return which they signed contained the number of votes for each of the candidates for Representative which was proclaimed by the appellant and reported to the municipal treasurer, as hereinbefore stated, and not the number of votes shown in said Exhibits B, D-3, and 2, as above set out.

There are various circumstances and indications which show beyond doubt that Exhibits B, D-3, and 2 are false. and that the inspectors Cenon Labrador and Guillermo Toledo did not sign them:

First. A comparison of the alleged signatures of Cenon Labrador and Guillermo Toledo appearing on said exhibits with the admittedly genuine signatures of the same persons appearing on Exhibits A and D, and especially the enlarged photographs of the said signatures (Exhibits H, H-1, H-2, I, I-1, I-2, J-1, J-2, and J-3), clearly shows, as the lower court found, that the alleged signatures of Cenon Labrador and Guillermo Toledo on Exhibits B, D-3, and 2 are forgeries. These forged signatures are clearly distinguishable from the genuine ones (a) by the unsteady and hesitating manner in which the former appear to have been written, in contrast with the apparently easy and natural way in which the latter appear to have been signed, and (b) by the notable difference between the formation and general appearance of the letters of the former and those of the latter.

Second. As heretofore indicated, appellant's coininspectors, Cenon Labrador and Guillermo Toledo, signed four copies of election return—two were also signed by the appellant and retained by him, and two, which were not signed by the appellant, were retained by the said Cenon Labrador and Guillermo Toledo, each taking one copy. All of said four copies, so signed by appellant's coininspectors, contained the true result of the election for Representative as proclaimed by the appellant, whereas Exhibits B, D-3, and 2, which appear to have been prepared by one and the same person, show a different result of such election, as hereinbefore contrasted.

Third. That Exhibits B, D-3, and 2 were prepared or fabricated by one and the same person is shown (a) by the fact that they appear to be in the same handwriting; (b) by the poor orthography which may be noted in each of them—for instance, "Vice Presidente" is invariably written "Vese Presedinte," and "Aquilino Banaag" is invariably written "Aquilino Fanaag;" and (c) by the fact that the author of said documents had evidently forgotten, or unintentionally omitted at first, to set out the result of the election for vice-president and, so, had to insert an extra sheet, containing such result, next to the page containing some of the names of the candidates for governor; the page following the inserted sheet contains the names of the remaining candidates for governor. This

gross error, in our opinion, is eloquent to the nervousness and confusion which would naturally attend such a guilty act as the falsification of an important document. If with this we contrast the orderly and correct manner in which plaintiff's Exhibit A appears to have been prepared, the forgeries in question become even more palpable. (Plaintiff's Exhibit A is one of the two copies of election return which were signed by Cenon Labrador and Guillermo Toledo, and which contained the true result of the elections. It was personally handed by said two inspectors, in company with Mr. Alejandro de Guzman, to the secretary of the provincial board of canvassers, and was later produced and admitted in evidence during the trial of this cause.) It is also significant that the capital letter J, many times used in writing the names of candidates contained in Exhibits B, D-3, and 2, is peculiarly identical in appearance to the capital letter J in the signature of "Jose Magno" in each of said documents.

Thus, the conclusion is irresistible that Exhibits B, D-3, and 2 are forgeries. It is admitted that the appellant, Jose Magno, was the maker of Exhibit B; he sent it personally, by registered mail, to the provincial treasurer. And, although he denies authorship of Exhibits D-3 and 2, such denial is not only idle but serves as a reflection upon his truthfulness, because the said Exhibits D-3 and 2 are exactly identical to the said Exhibit B, and could not have been written by a person other than the author of the latter. Furthermore, even granting that appellant had nothing to do with the fabrication of Exhibits D-3 and 2, yet, having fabricated Exhibit B, he cannot escape criminal liability.

The appellant pleads that, being a brother of Hilarion Magno, one of the above-named candidates for Representative, he would have favored the latter and not Lamberto Siguion; and, therefore, he could not have been the author of the forgery in question. This circumstance cannot overcome the positive and conclusive proof of his guilt, appearing of record, especially if we take into account the explanation of the Attorney-General that the said brother of the appellant could not have won even if the election return had been altered in his favor, in view of the small number of votes received by him in other municipalities.

We are fully persuaded, therefore, that the appellant Jose Magno is guilty of the crime charged in the complaint. Before concluding this decision we might state that, as appears from the record, the ballot boxes were tampered with and the ballots cast in the precinct in question were altered (presumably with the intention of destroying one of the proofs of the falsity of the forged election returns here in question), and that the appellant herein, together with several others, was prosecuted for such criminal act (criminal case No. 6787 of the Court of First Instance of Pangasinan). It is exceedingly regrettable, indeed, that, as appears from the divers election cases brought to this court, like the present, many of our most intelligent voters—those who, because of their education and social position, ought to lead and guide their people in the maintenance of a clean government—have, apparently, very little respect for the sanctity of the popular will, the most essential factor in a democratic government. They have not, it seems, the slightest compunction in thwarting the will of the people by unduly influencing the voters, tampering with the ballots, or falsifying election returns, in order to attain their selfish personal ambitions. Needless to say, such persons deserve the severest penalty allowed by law. And it is equally regrettable, in our opinion, that the penalty prescribed by the Election Law for such nefarious crimes is comparatively too light. Take, for instance, the present case. The maximum penalty prescribed by the Election Law for the crime committed by the accused herein is only imprisonment for one year and a fine of P500. A person who falsifies a public document for the purpose of defrauding another of even a paltry amount is liable, under the Penal Code, to ten or twelve years imprisonment and a fine of about P2,000. Yet, under the Election Law, an election inspector who falsifies an election return for the purpose of defeating the sovereign will of the people is liable, at most, to imprisonment for one year and a fine of P500 only.

For all of the foregoing reasons, the sentence of the lower court is hereby affirmed, with costs. So ordered.

Araullo, Avancena, and Villamor, JJ., concur.

CONCURRING**STREET, J.,**

I concur and wish to add that the case against the accused is in my opinion fully made out, even supposing that the signatures of Cenon Labrador and Guillermo Toledo appearing on the false returns were actually affixed by them.

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