THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANDRES SALAZAR, DEFENDANT AND APPELLANT.

G.R. No. 2555. January 04, 1906

Ponente: JOHNSON, J.

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JOHNSON, J.:

The defendant was charged with the crime of usurpation of public functions (usurpacion, de funciones) in the Court of First Instance of the Province of Iloilo, was found guilty of said crime, and sentenced by said court to be imprisoned in the provincial jail of Jaro, or such other prison as the law directs, for a term of two years and to pay the costs of prosecution.

This action was brought under article 328 of the Penal Code, which provides that—

"He who, without warrant or legitimate cause, shall exercise acts pertaining to an authority or public official, attributing to himself an official character, shall be punished with the penalty of prision correccional in its minimum and medium degrees."

The evidence shows that in the month of September, 1903, the defendant did on several occasions represent himself to be a member of the secret service connected with the Constabulary of the Province of Iloilo, while in truth and in fact he was not a member of such secret service, nor was he in fact connected in any way with the Constabulary and held no official rank whatever in said organization. These facts were supported by several witnesses on behalf of the prosecution.

The evidence adduced during the trial in the court below shows beyond peradventure of doubt that the defendant was guilty of the crime charged. The decision of the inferior court is therefore affirmed and the defendant is hereby sentenced to be imprisoned for a period of two years of prision correcional, but by virtue of article 93 of the provisional laws for the application of the Penal Code, the defendant is hereby given the benefit of half the period of imprisonment which he suffered prior to the time of trial in the inferior court. So ordered.

Arellano, C. J., Mapa, Carson, and Willard, JJ., concur.

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