

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ANTONINO Cerdeña ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 28389, January 20, 1928

Ponente: ROMUALDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-28389/>

ROMUALDEZ, J.:

The accused appeal from the judgment of the Court of First Instance of Leyte rendered in the present case, sentencing Antonino Cerdeña to ten years and one day prision mayor and Serapion Palcone, Felixberto Moreno Aguilar and Agapito de la Peña to six years, ten months and one day presidio correccional, all to the accessories of the law, to indemnify Melecio Lerin in the sum of P70, to return the brass knuckle Exhibit 6, to Perfecto Cifra and to pay the costs.

The assignments of error on which they base their appeal relate principally to questions of fact.

The evidence of the prosecution shows that the accused, on the occasion in question, presented themselves on the boat named Kasilak manned by Melecio Lerin and his companions, and representing; themselves as agents of authority, armed with revolvers, made a prolonged and detailed search without finding anything contraband, while they appropriated a brass knuckle, and after threatening Melecio Lerin and his companions the accused Antonino Cerdeña finally demanded P100 from him, but obtained only P70, later telling the crew that they might leave and that nothing would come of it.

While they admit having made the search, the accused assert that it was done without Antonino Cerdeña who only came to the boat upon being called for by his policemen, who sent him a message in view of the finding of the brass knuckle called "ring fight" and twenty-six bolos. They deny that Antonino Cerdeña had demanded money from the crew or that he received any amount whatever. They also declare that they were then provided with a search warrant, which they claim is Exhibit 4, and that, according to them, Serapion Palcone showed it to Melecio and Generoso Lerin who read it before they made the search.

After carefully examining the evidence, we find it sufficiently proven that the accused, in spite of the demand made by Melecio Lerin, did not exhibit any search warrant to the latter or to his companions. It has not been sufficiently proven that the document Exhibit 4 was in the accused's possession on that occasion.

It has been proven, beyond a reasonable doubt, that the accused Antonino Cerdeña led the search of the ship in question and afterwards, by means of intimidation and taking advantage of his authority, obtained the sum of P70 from said crew without any justification therefor.

It not having been proven that there was any conspiracy between the accused Cerdeña and the other accused with regard to the robbery, nor cooperation on the part of the latter in taking the P70, nor participation in the said sum, we cannot hold the accused Agapito de la Peña, Felixberto Moreno Aguilar and Serapion Palcone guilty, beyond a reasonable doubt, of the crime of robbery in band with which they are charged in the complaint as principals, not

even as accomplices or accessories after the fact.

The fact of carrying revolvers and making a search of the boat, under orders of their chief, the accused Antonino Cerdeña, looking for possible contraband, in themselves alone cannot be considered as participation in the robbery of the P70 committed afterwards by their said chief, who, according to the evidence in the record, is the only one liable for said crime.

For these same reasons we do not find it proven by the evidence in the record that the robbery was committed in band as defined in article 505 of the Penal Code.

We do find present in the case here in question the aggravating circumstance of the accused Cerdeña having taken advantage of his office as chief of police in perpetrating the robbery, for which reason the proper penalty, which is that provided for in article 503, paragraph No. 5 of the Penal Code, should be imposed in its maximum degree.

The accused Agapito de la Peña, Felixberto Moreno Aguilar and Serapion Palcone are hereby acquitted with their proportional part of the costs de oficio and other favorable pronouncements; and Antonino Cerdeña is sentenced to ten years presidio mayor, with the accessories of the law, to indemnify Melecio Lerin in the sum of P70, to return the brass knuckle, Exhibit 6, to Perfecto Cifra, with one-fourth of the costs in both instances. So ordered.

Johnson, Street, Malcolm, Johns, and Villa-Real, JJ., concur.

CONCURRING AND DISSENTING

OSTRAND, J.:

I concur in the conviction of Antonino Cerdeña, but dissent from the acquittal of the other appellants.

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.