

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. PEDRO MADRANO Y TAPIT (ALIAS JOSE LUNOD), DEFENDANT AND APPELLANT.*G.R. No. 29242. August 25, 1928*

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-29242/>**OSTRAND, J.:**

The appellant Pedro Madrano y Tapit (alias Jose Lunod) is accused of the crime of qualified theft, it being alleged in the information "that on or about the 10th day of January, 1928, in the City of Manila, Philippine Islands, the said accused did then and there willfully, unlawfully, and feloniously, with intent of gain and without the consent of the owner thereof take, steal, and carry away the following personal property belonging to Potenciana A. Bumanlag, to wit: one (1) tan leather suit case, 24" by 18" by 15"; marked with 'G. B. B.' in black ink; valued at P120; containing one suit, sailor's uniform, white khaki drill valued at P10; one dark brown leather suit case, 20" by 15" by 15"; with mark 'G. B.' in red paint; valued at P18.50; containing one pair of black leather shoes, low cut, Hike (property of Jose Buco); valued at P9; total value, at P27, to the damage and prejudice of the said owner in the total sum of one hundred and fifty-seven pesos (P157), Philippine currency, equivalent to 785 pesetas. That the accused has heretofore been convicted twice for the same crime of theft; two times for estafa; and he is an habitual delinquent within the provisions of Act No. 3397."

Upon arraignment before the Court of First Instance the defendant pleaded guilty to the charge and was sentenced to four months and one day of arresto mayor, with the accessory penalties, to indemnify the offended party in the sum of P9, the value of a stolen pair of shoes which were not recovered, and to pay the costs. He was also given an additional penalty of sixteen years' imprisonment under Act No. 3397.

Upon appeal to this court the only point raised by counsel for the defendant is that the additional penalty imposed is excessive, cruel and unusual. This contention is without merit. The authorities are unanimous in holding that statutes which authorize the infliction of a more severe penalty upon one convicted of a second or subsequent offense are constitutional and are not objectionable upon the ground that they inflict cruel or unusual punishment (*U. S. vs. Moore*, 121 Mo., 514; *McDonald vs. Mass.*, 180 U. S., 311).

In the case of *Graham vs. West Virginia* (224 U. S., 616), Graham was sentenced, as an habitual criminal, to imprisonment for life under the statute of West Virginia which provided:

"23. When any person is convicted of an offense and sentenced to confinement therefor in the penitentiary, and it is alleged in the indictment on which he is convicted, and admitted, or by the jury found, that he had been before sentenced in the United States to a like punishment, he shall be sentenced to be confined five years in addition to the time to which he is or would be otherwise sentenced.

"24. When any such convict shall have been twice before sentenced in the United States to confinement in a penitentiary, he shall be sentenced to be confined in the penitentiary for life."

The Supreme Court of the United States in discussing the validity of the said statute said:

"1. The propriety of inflicting severer punishment upon old offenders has long been recognized in this country and in England. They are not punished the second time for the earlier offense, but the repetition of criminal conduct aggravates their guilt and justifies heavier penalties when they are again convicted. Statutes providing for such increased punishment were enacted in Virginia and New York as early as 1796 and in Massachusetts in 1804; and there have been numerous acts of similar import in many states. This legislation has uniformly been sustained in the state courts.

"3. What has been said, and the authorities which have been cited, sufficiently show that there is no basis for the contention that the plaintiff in error has been put in double jeopardy, or that any of his privileges or immunities as a citizen of the United States have been abridged. Nor can it be maintained that cruel and unusual punishment has been inflicted. (Re Kemmler, 136 U. S., 436; 34 L. ed., 519; 10 Sup. Ct. Rep., 930; Moore vs. Missouri, 159 U. S., 673; 40 L. ed., 301; 16 Sup. Ct. Rep., 179; McDonald vs. Massachusetts, 180 U. S., 311; 45 L. ed., 542; 21 Sup. Ct. Rep., 389; Howard vs. North Carolina, 191 U. S., 126; 48 L. ed., 121; 24 Sup. Ct. Rep., 49; Coffey vs. Harlan County, 204 U. S., 659; 51 L. ed., 666; 27 Sup. Ct. Rep., 305; Waters-Pierce Oil Co. vs. Texas, 212 U. S., 56, 111; 53 L. ed., 417, 430; 29 Sup. Ct. Rep., 220.)"

The Attorney-General calls attention to the fact that the information charges the defendant with the qualified theft of 785 pesetas and that the penalty therefor should be the next higher in degree than that prescribed by article 518 of the Penal Code, namely, presidio correccional in its medium degree to presidio mayor in its minimum degree, and that the appellant should have been sentenced for the qualified theft to four years, two months and one day of presidio correccional instead of to four months, and one day of arresto mayor. This point is well taken, and the judgment of the court below must be modified accordingly.

The appealed judgment is therefore modified by increasing the penalty imposed to four years, two months and one day of presidio correccional with the additional penalty of sixteen years. In all other respects the judgment is affirmed with the costs of this instance against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Romualdez, and Villa-Real, JJ., concur.

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.