

**PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE,
VS. JOSE C. CASTRO AND JOHN DOE, DEFENDANTS. JOSE C. CASTRO,
APPELLANT.**

G.R. No. 31105. November 23, 1929

Ponente: JOHNS, J.

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JOHNS, J.:

In the Bar Examinations of August and September, 1926, an examination committee, as usual, was appointed by this court. Due to the unusually large number of applicants, and with a view of expediting the work, 14 correctors, 2 for each subject, were selected. The articles and decisions from which the questions were taken by the examiners were given to the correctors, to serve as a guide for them in grading the compositions. Pursuant to the instructions of the committee, the papers were separately graded by the correctors, each noting the partial ratings given to each answer. The correctors designated for the subject then met to compare the individual ratings which each had awarded to each distinct composition, to ascertain the final grade. Under the practice adopted, if the difference between the grades given by the two correctors in a given subject was less than 10 points, the difference was divided by 2 and the quotient became the final grade of the composition. After the final grade was ascertained, one of the correctors wrote the grade in words and figures, usually on the front cover of the composition, and the two correctors placed their initials just after or under the grade.

Five employees of this court prepared the tabulated list, known in the record as Exhibit X, which contained the names and official numbers, the ratings received in each subject, and the general average of each candidate. Juan Villaflores picked up the compositions from the floor in their numerical order. Mrs. Stevens, Miss Romualdez, and Miss Catalina Pons in turn read aloud the partial ratings that appeared on the front cover of the compositions as made by the correctors, while one of them inserted the respective grades in the tabulated list Exhibit X, under the proper column opposite the corresponding official numbers. Samson with an adding machine, took the partial grades which were thus read and computed the general averages, which were also inserted in the last column of Exhibit X. After this work was completed, the sealed envelopes, identifying the candidates by their respective names, were opened and inserted in Exhibit X opposite the corresponding official numbers. The defendant Castro took the Bar Examinations in that year, and his official number was 142 in the tabulated list Exhibit X thus prepared, and he obtained 50 per cent in Mercantile Law, 65 per cent in Remedial Law and 65 per cent in Legal Ethics. After the preparation of this list, known as Exhibit X, a typewritten list, containing the names of the candidates whose admission to the Bar was recommended by the committee, was submitted to this court, and this recommendation of the committee was not approved. As a result, the committee prepared another list, known in the record as Exhibit C-5, which contained the names only of such candidates as had obtained a general average of 75 per cent or more and without a grade of less than 60 per cent in any one subject, which list was ordered published by this court as the official list of those who passed the examination. In this list, which was made from the list Exhibit X, the name of the defendant did not appear, for the simple reason that he obtained a general average of less than 75 per cent, and because he received less than 60 per cent in Mercantile Law. About a week

later, a second tabulated list, Exhibit Z, was prepared, and in this tabulated list, Exhibit Z, the defendant appeared to have obtained the same grades as shown in Exhibit X, to wit: 50 per cent in Mercantile Law, 65 per cent in Remedial Law and 65 per cent in Legal Ethics. The following March, the defendant personally went over his papers and claimed that an error had been made in the addition of his grades, to which he called the attention of Samson, and on May 9, 1927, two months after the final results of the examination had been announced, the defendant filed a motion for reconsideration, which this court denied on July 21, 1927, and ordered an investigation of the matter by the clerk of this court, in which it was disclosed that according to the compositions exhibited during the trial, the defendant obtained the following ratings:

Per cent

Exhibit A-1 (Legal Ethics) 78

Exhibit A-2 (Mercantile Law) 89

Exhibit A-3 (Remedial Law) 82

instead of the ratings of 50 per cent in Mercantile Law, 65 per cent in Remedial Law and 65 per cent in Legal Ethics, as shown in Exhibits X and Z.

The prosecution contends that Exhibits A-1, A-2 and A-3 were not the true and genuine compositions submitted by the defendant in Legal Ethics, Mercantile Law and Procedural Law.

Several weeks before the trial of this case, Samson and Manalac, the original correctors in Legal Ethics, and who made the corrections shown in Exhibit X, graded Exhibit A-1 by the same tests as were used in Exhibit X, and each gave the defendant the grade of 93 per cent. It also contends that Exhibit A-2 is forged.

Vega and Amparo, who were the original correctors in Mercantile Law, each denied having written the word "Eighty-nine" and the figures "89," and the initials "F. Vega" as they now appear on the first page of Exhibit A-2, and it was shown that these words and figures had been traced from the genuine grades of candidate Joaquin Ramirez de Arellano, as they appeared on Exhibit B-1, and this contention was verified by the handwriting expert Anton Simkus. The same thing is true as to Exhibit A-3, which shows that the composition of the defendant in Remedial Law, of which Felix was the corrector, showed an average of 82 per cent, from all of which it is very apparent that there was a substitution and falsification of the original compositions of the defendant, and that what is known in the record as Exhibits A-1, A-2 and A-3 are not true and genuine. That fact must be conceded.

The question as to who committed the falsification, when it was done and why it was done is thus squarely presented. There is no claim or pretense that any one saw the defendant commit the crime alleged, yet it was committed in his original compositions and for his sole use and benefit.

It is the theory of the prosecution that there were at least two parties to the crime, and that one of them was a trusted employee of this court, who had access to its records and files, and is named John Doe in the information. It is and to conceive how the falsification and substitution could have been made without the actual aid and assistance of an employee of this court as during all of this time, both before, during and after the corrections, all examination papers were kept in the room of Justice Romualdez, to which nobody had access, except some trusted employee of the court. An examination of Exhibits A-4, A-5, A-6 and A-7, which are admittedly the original compositions of the defendant in Political Law, Penal Law, International Law and Civil Law, and of Exhibits A-1, A-2 and A-3, which the defendant claimed to be his, are conclusive evidence that all of them are in his own handwriting.

In his motion of May 9, 1927, the defendant stated that:

"He went to review his examination papers and found certain mistakes in the grades," in which motion he referred to, and claimed, Exhibits A-1, A-2 and A-3 as his own, and the records show that he was the one who personally prepared those exhibits, and that they are false, from which the conclusion is irresistible that he made the falsification and substitution.

The appellant had the use and benefit of able counsel and a well written brief, but the actual facts are conclusive of his guilt beyond a reasonable doubt.

The Attorney-General points out that the crime committed is punished by article 301 of the Penal Code, as amended by Act No. 2712, as it relates to article 300 of the Code, the penalty for which is prision correccional in its maximum degree and a fine ranging from 250 to 12,500 pesetas, and that in the absence of a mitigating or aggravating circumstance, the medium degree of the penalty of imprisonment should be imposed, or from four years, nine months, and eleven days to five years, four months, and twenty days.

For such reasons, the judgment of the lower court is modified and the penalty is increased, and the defendant is sentenced to five years of prision correccional, and in all other respects, the judgment of the lower court is affirmed, with costs. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, and Romualdez, JJ., concur.

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