

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CATALINO GARCIA DEFENDANT AND APPELLANT.

G.R. No. 3207. September 20, 1907

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Catalino Garcia is accused of having aided and abetted, in the month of February and some time previously, the band of brigands led by the well-known bandits Julian Montalan, Aniceto Oruga, and Benito Natividad, furnishing them with money, rice, eggs, and other food for their subsistence, and even going to the extent of lodging in his house the notorious Carlos Oruga.

With regard to the first fact stated in the complaint— that is, the furnishing of money and food in February, 1905—two witnesses, Leoncio Opo and Raymundo Marasigan, have testified.

It results from the proceedings: (1) That with reference to the above-named witnesses, Estanislao Magpantay, a witness for the defense, testified that on a certain night in the month of October, 1905, between the 21st and the 29th, he went with Lieutenant Babiera, of the Constabulary, and two other men whom he did not know, to the house of the accused, and on being questioned by the fiscal as to what Lieutenant Babiera had done there, he replied that the latter approached the place where the accused was lying sick, and called the other two men and presented them to the defendant. This fact is confirmed by both the son of the accused, who, on being cross-examined by the fiscal as to who the two men accompanying Lieutenant Babiera were, replied that they were Leoncio Opo and Raymundo Marasigan, and Lieutenant Babiera himself, who stated that he had taken with him the said individuals Opo and Marasigan to the house of the accused in order to get better information; (2) that Opo and Marasigan testified in this cause that toward the middle of February, 1905, as Montalan's band, of which these witnesses were members, was at the place called Suplang, town of Tanauan, the accused arrived after 8 p. m. in company with another man, who was carrying a bag of rice, and that the rice as well as the cigarettes, matches, and money which the accused had with him were delivered by him to Montalan. Opo stated that he was then .at a distance of about five brazas and "noticed that the accused drew money from his pocket, the sound of which he heard, and gave it to Montalan, but he could not state how much it was nor in what sort of coin, whether it was in large pieces or in small change, because he only heard the sound of metal. The defense, however, called attention of this witness to what he had declared at the preliminary investigation, which he ratified, namely, that the money consisted of "new Philippine coins."

Raymundo Marasigan also testified that, at the time, he was within about five brasas; that he saw that the money amounted to 8 pesos more or less in whole pesos, half pesos, and pesetas. The attention of this witness was also called to what he had testified in the justice of the peace court, and which he ratified, that is, "that the accused handed 8 pesos in new coins of one peso," adding that he had only met the accused on that night, and that he next saw him "before testifying in the justice of the peace court, and for the third time when he made such declaration."

In view of the foregoing, the testimony of the witnesses for the defense and of Lieutenant Babiera, regarding the

presence of the witness at the house of the accused in the month of October, 1905, and the testimony given on the 11th of November following in the justice of the peace court, is plausible and very credible.

As to the second statement contained in the complaint— that is, the furnishing of victuals prior to February, 1905—and the third allegation, regarding the lodging given to Carlos Oruga at the house of the accused, the proceedings contain but isolated declarations of a single witness in reference to furnishing supplies at Bañas in August or September, 1904, the testimony of another single witness as to the supply made at Santor, and finally that of a single witness regarding another supply of materials at Sulpoc, all of said places being in the town of Tanauan, and, further, the testimony of the second witness concerning the lodging of Carlos Oruga and other brigands at the house of the accused.

In none of the individual declarations, except the plain statement of the incriminating fact, can the court find the least item worthy of credit, notwithstanding the prolixity of the examination made, considering that the parties making the charge had been brigands and the accused a secret agent of the Constabulary. None of the above declarations show the coherence and consistency which engender a conviction of the truth of the allegation, notwithstanding the rigid examination. All the declarations in this cause, with the exception of that of Epifanio Ofiño, who was not cross-examined, have disclosed contradictions which were not always slight, but many of them substantial, as to the possibility and certainty of the alleged act of the furnishing of supplies. Thus the mind is left in doubt, for to give credence to such evidence there exists no other reason or basis except the plain, individual affirmations in the case, without any further information corroborating or substantiating the truth of the charge.

The judgment appealed from is therefore reversed, and the accused, Catalino Garcia, is hereby acquitted, with the costs of both instances de oficio. So ordered.

Torres, Johnson, Willard, and Tracey, JJ., concur.

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