

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ALVARO PADLAN, DEFENDANT AND APPELLANT.

G.R. No. 3347. February 23, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

Seven men have been convicted in the Court of First Instance and in this court for robberies committed on the 17th of September, 1903, in the houses of Eusebio Estrada and Agustin Estrada. (United States vs. Estanislao Cagaoan et al.,[1] 5 Off. Gaz., 24.)

In the preliminary investigation held in that case shortly after the offense was committed, five of the defendants therein pleaded guilty and then testified that the defendant and appellant in this case, Alvaro Padlan, was with them on the night in question in the house of Leodegario Villanueva; that they all left Villanueva's house together; that when they arrived at a certain warehouse in Basing they separated from Padlan and left him there for the purpose of gambling; and that afterwards, Padlan not being with them, they went to the houses of Eusebio Estrada and Agustin Estrada under the leadership of Estanislao Cagaoan and Tiburcio Cagaoan and committed the robberies. In this preliminary investigation they made no statement that Padlan was with them at the time when the robberies were committed.

After the trial of the original case in the Court of First Instance, and after the reading of the judgment of conviction, these five defendants arose and stated that the appellant, Padlan, did take part with them in the commission of the offense. Padlan was thereupon arrested, and the complaint in this case filed against him. He was tried and convicted, and has appealed. At his trial in the court below these same five persons who were the defendants in the original case testified against him and stated that he did not separate from them at the warehouse in question, but went with them and, together with Villanueva, acted as leaders in the commission of the robberies. Padlan, the appellant, however, testified that he was at the house of Villanueva; that he left with the others; that he stopped at this warehouse with Tiburcio Cagaoan; that the latter went out to look for persons with whom they could gamble and did not return; and that he, Padlan, stayed there all night and the next morning went to his home in San Carlos. He, in short, testified to the same facts that the said five defendants, witnesses against him in this case, testified to in the preliminary examination in their own case.

In this case these five witnesses testified that after the robberies were committed they returned to the house of Villanueva and that Padlan returned with them. Villanueva was a witness for the Government in this case. He testified that Padlan was at his house with the rest upon the night in question and that he left with them, but he testified that Padlan did not return to his house against that night and that the others did.

There is another point in the testimony of these five witnesses which is worthy of attention. Neither in the preliminary examination above mentioned, nor in the trial of their own case in the Court of First Instance did they intimate in any way that Villanueva took any part in the robberies. Their testimony was to the effect that they left him in his house when they departed therefrom on the night in question and found him there when they returned

about 12 o'clock. At the trial of his case, however, they all testified that Villanueva went with them, took part in the robberies, and was, in fact, the chief of the band.

The two persons in whose houses the robberies were committed testified as witnesses in this case. They identified the seven defendants who were convicted in the original case. They said that they did not see either Padlan or Villanueva upon the night in question. One of the witnesses said that there were only seven persons there and he identified them all. These seven were the seven convicted in the other case.

Under the circumstances we do not think that the judgment of the court below can be sustained. We acquit the defendant, not because the testimony against him is given by accomplices, for we have frequently sustained convictions under those circumstances, but the radical defect in the Government's case is that its witnesses have, at the different trials, made statements which are entirely inconsistent with each other. When the matter first came before the courts for investigation, they testified as the appellant, Padlan, now testifies, and it was only after they had been convicted that they charged him with complicity in the event. In their two first appearances as witnesses they exonerated Villanueva completely. In their last appearance they implicated him. It is impossible to know upon which occasion these witnesses told the truth. It may be that the appellant is guilty, but we can not convict him upon such testimony. (U. S. vs. Ramirez,[1] 4 Off. Gaz., 170.)

The judgment of the court below is reversed and the appellant acquitted, with the costs of both instances de oficio.

After the expiration of ten days let judgment be rendered in accordance herewith, and ten days thereafter let the case be returned to the court from whence it came for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Tracey, JJ., concur.

[1] Page 207, supra.

[1] 4 Phil. Rep., 549.

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