

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS CHU CHIO, DEFENDANT AND APPELANT.

G. R. No. 3431. July 27, 1907

Ponente: TRACEY, J.

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TRACEY, J.:

The accused, together with Mariano Chu Licco, as accomplices, and Juan Quinio, as principal, were prosecuted for robbery. Quinio pleaded guilty and both the accomplices were convicted and sentenced to four months' imprisonment, but since the trial Chu Licco died and the appeal of Chu Chio alone is before this court. His conviction rests upon the testimony of Quinio, and upon his own confession made to a policeman while in prison.

Juan Quinio, who lived in Batangas, was a friend of one Tin Coaco and when in Manila was accustomed to live with him in Calle Rosario. Coaco, going to China, left Chu Chio in charge of his shop in Manila. One morning in April, 1905, Quinio arrived at the shop with a trunk. According to his story, on his arrival he told the other defendants, or, as he afterwards put it, told their servant, Bernardo Villanueva, who repeated, it to them, that the trunk was stolen and they, in his absence, while he was bathing, opened it and took from it P782 which, after some hours, they handed to him, telling him to give it to somebody else to keep. They denied opening the trunk or knowing what it contained and claimed that the money was first intrusted to them by Quinio; they also ordered the trunk taken away from their house, and it was brought to that of an acquaintance in Calle Anloague and they gave him a box in which to put his clothes.

The responsibility of this defendant depends upon his knowledge and motive in returning the money and sending away the trunk. The statement of Quinio that upon his arrival at the house he declared to these comparative strangers, or to their servant, that the trunk was stolen, is not only intrinsically improbable but is contradicted by the testimony of all three of these people, and by inconsistent incidents of the case. The circumstance of the additional box furnished Quinio does not appear to be of special significance.

The testimony of the other witnesses tends to support the story of this defendant, rather than Quinio's unless we accept the confession made in prison. Chu Chio claims that when he was arrested and for some time thereafter, he was informed that he was wanted only as a witness, being promised that he would be used only as such, and his claim to this effect, although contradicted by the detective, is sustained by the testimony of another Chinaman and by that of his counsel.

It does not, however, appear necessary in this action to determine whether the confession was "freely and voluntarily made and not the result of violence, intimidation, threat, menace, or of promises or offers of reward or leniency" (Act No. 619, sec. 41) for the reason that the confession was extrajudicial and was made, not immediately to the officer who testified, but through the medium of an interpreter. This renders it inadmissible, because the witness upon the stand did not swear of his own knowledge as to what the accused had said. Although the circumstances in this case indicate a suspicion on the part of the defendant as to the ownership of the property brought to the shop by Quinio, they fail to bring home to him guilty knowledge sufficient to justify his conviction

of crime. They are not altogether inconsistent with his innocence.

The sentence of the lower court is therefore hereby reversed and the defendant acquitted, with costs de oficio. So ordered.

Arellano, C. J., Torres, Johnson, and Willard, JJ., concur.

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