

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FERNANDO MONZONES AND JOAQUÍN CAPISTRANO, DEFENDANTS AND APPELLANTS.

G.R. No. 3726. September 23, 1907

Ponente: TRACEY, J.

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TRACEY, J.:

One Domingo Eodriguez, traveling through Batangas, was attacked by three robbers, who took from him his horse, his clothes, his cédula and one peso, and held him a prisoner, under guard of one of their number, for four hours in the woods. Eodriguez identified Capistrano as the robber who kept guard over him, but he did not recognize either of his two companions. One of these, Mauricio Zagala, 16 years of age, having been convicted and served an imprisonment of four months for the crime, positively identified Monzones as one of his companions, although he swore that the other was unknown to him. We should be reluctant to accept as sufficient this identification by an associate only were it not that his original story was corroborated in its details by the other testimony before us. In other cases, under like circumstances, we have not hesitated to convict on the testimony of an accomplice. (*The United States vs. Ocampo*, 4 Phil. Rep., 400; *The United States vs. Lim Tico*, 4 Phil. Rep., 440; *The United States vs. Yu-To Chay*, 4 Phil. Rep., 613; *The United States vs. Ocampo*, 5 Phil. Rep., 339; *The United States vs. Quiamson*, 5 Phil. Rep., 444; *The United States vs. Dadacay*, 6 Phil. Rep., 1.)

Both defendants offered proof of an alibi, not strong enough, however, to establish a defense. The trial court imposed a sentence of three years eight months and one day. We think that the circumstance of despoblado should be taken into consideration, and for this reason the sentence of both of the defendants is increased to six years ten months and one day of presidio mayor, and as so modified the sentence of the Court of First Instance of Batangas is affirmed, with the costs of this instance. So ordered.

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

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