

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ZACARIAS VALENCIA, DEFENDANT AND APPELLANT.

G.R. No. 3729. October 04, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

At the trial in the court below the parties agreed upon the following facts:

"That the municipal treasurer of Hagonoy, Mr. Eusebio Reyes, on the 25th day of August of this year, between 8 and 9 o'clock a. m., called the municipal treasurer of Paombong, Mr. Zacarias Valencia, by telephone, requesting him to send him the amount agreed upon;

"That the municipal treasurer of Paombong, Mr. Zacarias Valencia, between 11 and 12 o'clock of the same day, 25th of August, sent the sum of 800 pesos, Philippine currency, by messenger, to the municipal treasurer of Hagonoy, Mr. Eusebio Reyes, whose funds were then being counted; that after the counting of the funds of the municipal treasurer of Hagonoy, the latter returned the money—that is to say, the sum of 800 Philippine pesos, in paper money—to the municipal treasurer of Paombong; and

"That the funds of the municipal treasurer of Paombong, on being counted during the month of August of this year, did not show any deficit at the first counting, and that only a small deficit of about 3 pesos was found at the second examination."

In addition to these facts it was proved that the messenger of the defendant who carried the money to Hagonoy waited for it and brought it back about 3 or 4 o'clock in the afternoon of the same day; that the treasurer of Hagonoy used the money to cover a deficit which existed in his accounts, and that when his accounts were examined again two or three days later there was found a shortage therein of about 900 pesos.

The only question in the case is, Whether the money which the defendant sent to Hagonoy came from the municipal treasury or from his private funds? The testimony of his witnesses as to the way in which the 800 pesos was procured can not be believed.

The facts show the commission of the crime defined and punished in article 392, paragraph 3, of the Penal Code, and the judgment imposing a fine of 50 pesos upon the defendant and providing for his suspension from office for two years and one day is hereby affirmed, with the costs of this instance against the appellant. So ordered.

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

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