

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. GONZALO FUENTES, DEFENDANT AND APPELLANT.

G.R. No. 42290. February 16, 1935

Ponente: VICKERS, J.

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VICKERS, J.:

The defendant appeals from a decision of Judge Braulio Bejasa in the Court of First Instance of Capiz, finding him guilty of having violated section 416 of the Election Law by carrying a revolver within fifty meters of the polling place of precinct No. 5 in the municipality of Pilar on election day, and sentencing him to suffer imprisonment for thirty days and to pay a fine of P50, with subsidiary imprisonment in case of insolvency, and the costs.

The defendant, who was a special agent of the Philippine Constabulary, contends that he stopped his automobile in front of the municipal building of Pilar for the purpose of delivering to Major Agdamag a revolver that the defendant had taken that day from one Tomas de Martin, who had no license therefor; that he did not know there was a polling place near where he parked his motor car; that he was sixty-three meters from the electoral college when the revolver was taken from him by Jose E. Desiderio, a representative of the Secretary of the Interior.

The evidence shows, however, that the defendant was only ten or twelve meters from the polling place when he was found standing near his automobile with a revolver in his belt, and that the municipal building could not be seen from the polling place; that the defendant was at the time employed as a chauffeur by a senator for that district, and that he had been sent to Pontevedra, a municipality adjoining Pilar. The defendant did not arrest Tomas de Martin, nor does it appear that he caused him to be prosecuted. Tomas de Martin was not called as a witness in this case. Furthermore there is one other fact of record which completely discredits the testimony of the defendant. Major Agdamag, to whom the defendant claims he intended to deliver the revolver, was not the provincial commander of Capiz, but an officer sent from Cebu to Capiz for the purpose of supervising the elections in that province; and taking into consideration the intelligence of the defendant and the nature of his employment, we cannot believe that he did not know the location of the polling place in question. The intent of the defendant in carrying the revolver within the prohibited distance from the polling place is immaterial. (*People vs. Bayona*, p. 181, ante.)

The decision appealed from is affirmed, with the costs against the appellant.

Avanceña, C.J., Street, Abad Santos, and Hull, JJ., concur.

Judgment affirmed.

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